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10 Attorneys for Plaintiff ERICK TORRES,
on behalf of himself and all others similarly situated

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN BERNARDINO**

14 ERICK TORRES, on behalf of himself and all
15 others similarly situated,

16 Plaintiff,

17 v.

18 BECHTEL INFRASTRUCTURE AND
19 POWER CONSTRUCTION SERVICES, INC.,
a Delaware corporation, and DOES 1-50,
20 inclusive,

21 Defendants.
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Case No. CIVSB2134046

Assigned for All Purposes To:
Hon. Christian Towns
Dept.: S-26

**DECLARATION OF CHRISTINA M.
LUCIO IN SUPPORT OF MOTION FOR
APPROVAL OF SETTLEMENT
PURSUANT TO THE LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004 (LAB. CODE §§ 2698 ET SEQ.)**

Date: March 19, 2025
Time: 8:30 a.m.
Dept.: S-26

Complaint Filed: November 23, 2021
CMC: January 6, 2025
Trial: Not Set

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2. This declaration is made in support of the MOTION FOR APPROVAL OF SETTLEMENT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (LAB. CODE §§ 2698 ET SEQ.) filed concurrently herewith.

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5. On November 22, 2021, Plaintiff filed an amended notice to the LWDA to add additional allegations and violations, including violations of Labor Code section 6300 et seq. and section 3395, including, specifically, Labor Code sections 6400, 6401, 6401.7, 6402, and 6403, through a representative PAGA action, on behalf of himself and the State of California as well as on behalf of other potentially aggrieved employees (the “Amended LWDA Notice”). On

1 November 23, 2021, Plaintiff filed this Action, a representative complaint captioned *Erick Torres*
2 *v. Bechtel Infrastructure and Power Construction Services, Inc.*, CIV SB 2134046, Superior Court
3 of the State of California County of San Bernardino. Plaintiff's Representative Complaint, which
4 is currently the operative complaint, seeks civil penalties under PAGA for Defendant's alleged
5 failure to: (1) pay minimum wages; (2) pay overtime wages; (3) provide lawful meal periods; (4)
6 authorize and permit lawful rest periods; (5) timely pay wages owed at separation; (6) comply with
7 itemized employee wage statement provisions; (7) reimburse necessary expenses; (8) record and
8 pay sick leave; and (9) keep accurate records. Plaintiff also sought all penalties and sums available
9 under Labor Code section 2698 et seq., attorneys' fees, and costs. Attached as **Exhibit 5B** is the
10 amended PAGA notice submitted.

11 6. On March 24, 2022, the Court entered an order in Case No. CIV SB 2126754
12 granting Plaintiff's request for dismissal of class action allegations pursuant to CRC 3.770 without
13 prejudice and dismissal of individual Labor Code and unfair competition claims without prejudice
14 after Defendant presented Plaintiff with a class action waiver in an arbitration agreement that
15 Plaintiff executed during the course of his employment with Defendant.

16 7. On June 14, 2023, pursuant to the Parties' joint stipulation, the Court compelled
17 Plaintiff's PAGA claim to individual arbitration and stayed the representative PAGA claim
18 pending the outcome of the arbitration.

19 8. On November 9, 2023, Plaintiff and Defendant commenced arbitration on
20 Plaintiff's individual claims, including individual Labor Code and PAGA claims. The arbitration
21 case is captioned *Erick Torres v. Bechtel Infrastructure and Power Construction Services, Inc.*,
22 JAMS Case No. 5230000245.

23 9. On August 6, 2024, the Parties attended an all-day mediation with experienced
24 wage-and-hour mediator Hon. Joan M. Lewis (Ret.). At the mediation, and with significant
25 assistance from the mediator, the Parties reached an agreement to resolve the PAGA-only claims
26 in Case No. CIV SB 2134046 and Plaintiff Erick Torres' individual Labor Code claims in JAMS
27 Case No. 5230000245. The Parties executed an MOU memorializing the main deal points shortly
28 thereafter.

1 10. On or about December 2, 2024, the Parties executed a long-form PAGA Settlement
2 Agreement ("PAGA Settlement"). A true and correct copy of the PAGA Settlement is attached
3 hereto as **Exhibit 1**. Also, on December 4, 2024, the Parties submitted a stipulation and order to
4 the Court seeking leave for the filing of an amended complaint to add claims arising from the
5 allegations in the Amended LWDA Notice. A true and correct copy of the Amended Complaint
6 is attached hereto as **Exhibit 2**.

7 ***Investigation Into the Claims; Settlement***

8 11. Plaintiff's counsel engaged in extensive investigation and research in connection
9 with the allegations in this Action and the related arbitration. Plaintiff's counsel reviewed policy
10 documents, time cards, exit forms, acknowledgments, personnel documents, wage statements,
11 onboarding documents, and other policy and procedure documents. Plaintiff and Defendant also
12 engaged in extensive informal discovery prior to resolving the Action, which included the
13 production by Defendant of, among other things: time records, pay records, and sample wage
14 statements for Plaintiff and a sampling of Aggrieved Employees, as well as Bechtel's Handbooks,
15 incentive plans, policies, procedures, work rules, and other documentation pertaining to the claims
16 at issue. Defendant also provided relevant data points including the number of potentially
17 aggrieved employees and the number of pay periods at issue.

18 12. Based on these records and in consultation with their expert consultant, Plaintiff's
19 counsel was able to extrapolate all pertinent data through the date of mediation, including the
20 approximate number of shifts worked, the possible number of Labor Code violations, including
21 without limitation the possible number of meal period violations, the possible number of rest
22 period violations, the number of aggrieved employees eligible for wage statement penalties and
23 waiting time penalties, among others.

24 13. The August 6, 2024, mediation with Hon. Joan M. Lewis (Ret.) was successful and
25 the Parties were eventually able to reach a settlement to resolve Plaintiff's Representative and
26 Individual claims alleged against Defendant.

27 14. Counsel believes the proposed settlement is fair, reasonable, and adequate in view
28 of PAGA's purposes in light of the complexities of the case, the uncertainties of further litigation,

1 and that it represents a fair and reasonable recovery for the State of California and the aggrieved
2 employees. The Parties have not engaged in any collusion or improper negotiations. The Parties
3 do not have any agreements regarding the proposed settlement that are not reflected in the PAGA
4 Settlement.

5 ***Summary of the Settlement Terms***

6 15. Key provisions of the proposed settlement include the following:

- 7 a. "Aggrieved Employees" means all current and former non-exempt employees
8 who worked for Defendant, in California during the PAGA Period from
9 September 16, 2020, through the date that the Court enters a judgment in this
10 PAGA action. (Ex. 1, PAGA Settlement, ¶1.4)
- 11 b. Defendant agrees to pay the Gross Settlement Amount of \$447,500.00, which
12 includes Individual PAGA Payments to Aggrieved Employees, the PAGA
13 Representative Service Payment to Plaintiff, PAGA Counsel Fees Payment and
14 PAGA Counsel Litigation Expenses Payment, Administration Expenses
15 Payment, and the LWDA PAGA Payment. (Ex. 1, PAGA Settlement, ¶¶1.12,
16 3.1)
- 17 c. PAGA Penalties: Approximately \$267,283.33 will be available for distribution
18 to the Aggrieved Employees and the LWDA as the PAGA Penalties. (Ex. 1,
19 PAGA Settlement, 3.2.4) Of this amount, the LWDA will receive 75%, or
20 approximately \$200,462.50 as the LWDA Payment, and Aggrieved Employees
21 will receive 25%, or approximately \$66,820.83 as Individual PAGA Payments.
22 (Ex. 1, PAGA Settlement, ¶3.2.4)
- 23 d. Defendant shall fund the Gross Settlement Amount within 14 days of the
24 Effective Date. (Ex. 1, PAGA Settlement, ¶4.3)
- 25 e. Within 7 days of Defendant funding the Gross Settlement Amount, the
26 Administrator will issue checks for the Individual PAGA Payments, PAGA
27 Representative Service Payment, LWDA Payment, Administration Expenses
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1 Payment, PAGA Counsel Fees Payment, and PAGA Counsel Litigation
2 Expenses Payment. (Ex. 1, PAGA Settlement, ¶4.4)

- 3 f. Defendant agrees not to oppose Plaintiff's request for a PAGA Representative
4 Service Payment of up to \$2,500.00. (Ex. 1, PAGA Settlement, ¶3.2.1) If this
5 request is not approved or is reduced by the Court, any amount not approved
6 will be included in the PAGA Penalties. (Ex. 1, PAGA Settlement, ¶3.2.1)
- 7 g. PAGA Counsel will not seek more than one-third of the Gross Settlement
8 Amount (estimated \$149,166.67) for the PAGA Counsel Fees Payment. (Ex.
9 1, PAGA Settlement, ¶3.2.2)
- 10 h. PAGA Counsel will not seek more than \$25,000.00 for the PAGA Counsel
11 Litigation Expenses Payment. (Ex. 1, PAGA Settlement, ¶3.2.2)
- 12 i. Notice to Aggrieved Employees and administration of this Settlement will be
13 handled by ILYM Group, Inc. as the Settlement Administrator. (Ex. 1, PAGA
14 Settlement, ¶1.2) The Administration Expenses Payment shall not exceed
15 \$3,550.00 except for good cause and as approved by the Court. (Ex. 1, PAGA
16 Settlement, ¶3.2.3)
- 17 j. In exchange for the settlement consideration, Defendant shall be entitled to a
18 release of the Released PAGA Claims from the LWDA, Aggrieved Employees,
19 and Plaintiff. (Ex. 1, PAGA Settlement, ¶5)

20 16. Plaintiff and his counsel have diligently investigated the claims in this matter.
21 Plaintiff and PAGA Counsel concluded, after considering the disputed factual and legal issues, the
22 substantial risks of further prosecution (including possible summary judgment efforts), and the
23 substantial benefits to be received under the Settlement, that settlement on the agreed terms is in
24 the best interest of Plaintiff, the Aggrieved Employees, and the LWDA, and is fair and reasonable.
25 PAGA Counsel brought extensive experience with wage and hour actions to the negotiation of this
26 Settlement.

27 17. Resolution at this time will avoid the need for additional expensive and time-
28 consuming litigation that could result in a less satisfactory outcome than proposed under this

1 Settlement. The Settlement is objectively reasonable and benefits the Aggrieved Employees and
2 the State of California by providing recovery without additional years of delay. The efficiency of
3 this litigation benefits the Court, the Parties, and their counsel. A settled resolution is the most
4 realistic method for addressing the claims raised.

5 18. In this Action, as set forth in the PAGA notices submitted to the LWDA, Plaintiff
6 alleges Defendant committed a number of Labor Code violations during the Settlement Period as
7 a result of its: (1) failure to accurately calculate and pay all wages owed, including minimum
8 wages and overtime wages; (2) failure to provide lawful meal periods and authorize and permit
9 rest periods; (3) failure to provide compensation when lawful meal and rest periods were not
10 provided; (4) failure to timely pay all owed wages during employment and at termination; (5)
11 failure to pay the correct regular rate; (6) failure to indemnify employees for necessary expenses;
12 (6) failure to provide accurate, itemized wage statements and payroll records; (7) failure to keep
13 accurate records; (8) failure to pay sick or vacation pay; (9) failure to provide suitable facilities
14 for meal and rest periods; (10) failure to provide a place of employment that is safe and healthful;
15 (11) failure to furnish and use safety devises and safeguards and adopt practices to make a place
16 of employment safe and healthful and to protect the life, safety, and health of employees; (12)
17 failure to implement and maintain an effective written illness prevention program; (13) requiring
18 or permitting employees to work in a place of employment that is not safe and healthful; and (14)
19 failure to provide, encourage, and permit recovery periods. Plaintiff contends that he and the
20 Aggrieved Employees are entitled to recover penalties because of the violations. Plaintiff alleges
21 that these violations occurred as a result of Defendant's unlawful policies and practices. Defendant
22 denies Plaintiff's allegations, denies that it violated any law, and contends that it maintains lawful
23 policies and practices with respect to its employees. Nevertheless, Defendant has agreed to pay a
24 Gross Settlement Amount of \$447,500 to settle this Action and to avoid the expense and disruption
25 of ongoing litigation.

26 19. In connection with these allegations and prior to mediation, the Parties engaged in
27 necessary investigation and information exchange, including Defendant's production of policies,
28 Aggrieved Employee data, and a sampling of payroll and timekeeping records. The information

1 produced was sufficient for PAGA Counsel to adequately evaluate the Settlement. Plaintiff had
2 ample information to evaluate a fair and reasonable settlement amount. After such review, the
3 Parties concluded that while the expense, complexity and duration of future litigation was to some
4 extent unknown, establishing the foundational violations to support a substantial penalty award
5 would certainly require tremendous time and expense.

6 20. The Settlement provides a significant monetary benefit within "the range of an
7 acceptable settlement" under the circumstances, the standard on which this Settlement must be
8 judged. Courts have held that a settlement may be fair and reasonable even if it provides only a
9 fraction of what could be obtained at trial.

10 21. The Settlement is the product of arm's-length negotiations between the Parties
11 occurring throughout the litigation. In light of the uncertainties of protracted litigation and the
12 legal positions of the Parties, the settlement amount reflects the best feasible recovery. The
13 settlement amount is a compromise figure that took into account risks related to liability, damages,
14 and Defendant's asserted defenses. Given the strong case Defendant could present, this is a
15 consequential settlement.

16 ***Estimated Maximum Potential Recovery***

17 22. Prior to mediation, Defendant provided Aggrieved Employee data for the relevant
18 time period, including the total number of Aggrieved Employees and PAGA Pay Periods, as well
19 as policy documents, time cards and wage statements. This enabled Plaintiff's counsel to analyze
20 the data and prepare a comprehensive damage analysis for mediation purposes. (Ex. 1, PAGA
21 Settlement, ¶2.12)

22 23. Defendant estimates that there are approximately 175 Aggrieved Employees who
23 worked a total of 12,062 PAGA Pay Periods. (Ex. 1, PAGA Settlement, ¶4.1)

24 24. Per PAGA, for the first pay period, the PAGA penalty is \$100 and for each
25 subsequent pay period, the PAGA penalty is \$200 per pay period. If Plaintiff could prove that
26 Defendant committed each of the violations each pay period, and the Court applied the initial \$100
27 penalty for each violation but declined to exercise its discretion to reduce the penalty, Plaintiff
28 contends that Defendant's potential exposure is \$19,299,000 (\$100/pay period x 12,062 pay

periods x 16 violations.) Defendant, however, believes that no PAGA penalties are likely to be awarded and, even if they were, the maximum exposure calculated by Plaintiff's Counsel is vastly overstated. Defendant defends that PAGA penalties cannot and should not be stacked and that even if they could, very few Courts have ever exercised discretion to stack them. Defendant also denies that even a single violation for each pay period can be established. Defendant also contends that the underlying merits of the claims fail and are subject to a litany of defenses as set forth below. Defendant further asserts that individualized issues predominate the PAGA claims, making them unmanageable for trial (despite Plaintiff's contention that there is no manageability requirement for trial). Finally, Defendant points out that there is no conduct shown by Plaintiff that would demonstrate any Labor Code violations by Defendant are knowing and intentional such that PAGA penalties would be justified. Defendant insists a Court is unlikely to exercise its discretion to award any PAGA penalties in this Action where Defendant contends it acted in good faith and any violation (which it denied) is not willful.

25. Based on the strength of the defenses articulated and the risks of continued litigation (including risks to the PAGA statute at the time, the judge's discretion, issues of proof, appellate issues, potential summary judgment, and others), Plaintiff believes that the maximum reasonable potential award that could be reasonably achieved for all Aggrieved Employees if he were to prevail on the PAGA claim at trial is as follows:

Estimated Reasonable Potential Recovery		
Assumptions During PAGA Period (based on time/payroll data provided by Defendants)		
Total Pay Periods During PAGA Period: 12,062		
Claim (Labor Codes)	Estimated Potential Civil Penalties	Calculations for Estimated Potential Recovery
Violations of Labor Code sections 2698, <i>et seq.</i>	\$1,206,200	12,062 pay periods x \$100/pay period
TOTAL	\$1,206,200	

Risks of Continued Litigation and Discounts in Settlement

26. Plaintiff further recognizes the challenge in establishing liability on the underlying wage and hour claims. Continuing litigation will also drive up costs for both sides to amounts exceeding the potential recovery in relation to the number of Aggrieved Employees. Assuming Plaintiff could prove at least one violation per pay period and the Court awarded \$100.00 in PAGA penalties for each of the 12,062 pay periods during the PAGA Period, the total penalties would be approximately \$1,206,200. Thus, when the risks of litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are considered, it is clear that the settlement amount of \$447,500 is reasonable and in the best interest of the state and the public. In that respect, the Gross Settlement Amount represents a very fair recovery of approximately 37.1% of the potential maximum realistic civil penalties.

27. Furthermore, Plaintiff must prevail at a trial on the merits. In addition to having to prove that Plaintiff and the Aggrieved Employees were not paid for all hours worked, were not provided meal and rest periods, and were not provided with lawful working conditions, Defendant contends that Plaintiff must establish willfulness to establish a violation under Labor Code Section 203 and a knowing and intentional violation under Labor Code Section 226 to obtain penalties for violations under these Labor Code sections.

28. With respect to the claims asserted on behalf of the Aggrieved Employees, there are significant risks that support the compromise of the claims and the reasonableness of the Settlement. These risks include, but are not limited to:

- a. The risk that Plaintiff would be unable to establish liability for allegedly unpaid wages. (See *Duran v. US Bank Nat'l Ass'n*, 59 Cal.4th 1, 39 & fn. 33 (2014) ("*Duran*"), citing *Dilts v. Penske Logistics, LLC* 2014 WL 205039 (S.D. Cal. 2014).) Defendant contends that Plaintiff and Aggrieved Employees were paid for all hours worked, and that any off-the-clock work was done without Defendant's knowledge.
- b. The risk that Plaintiff would not be able to prove liability for alleged meal and rest break violations; or that establishing such liability would require an individualized

1 inquiry presenting evidentiary issues at trial and potentially inconsistent testimony.
2 Defendant alleges its policies were compliant, that Plaintiff and Aggrieved
3 Employees acknowledged being provided compliant meal and rest breaks, and that
4 any non-compliant breaks were due to the employee's voluntary choice. Defendant
5 maintained that the Aggrieved Employees largely worked in small crews in the
6 field and were free to take meal and rest breaks in accordance with its lawful
7 policies. Defendant also produced several policies requiring its employees to
8 maintain truthful and accurate timekeeping and advising them of the timing and
9 availability of meal and rest breaks.

- 10 c. The risk that Defendant would prevail on its defenses and contention that its written
11 policies and training procedures were lawful, and that any deviation from said
12 policies was a matter of individual choice and could not establish widespread
13 liability.
- 14 d. The risk that Plaintiff would not recover waiting time and wage statement penalties
15 under Labor Code sections 203 and 226. Plaintiff might not prove that Defendant
16 acted with the intent necessary for penalties under Labor Code sections 203 and
17 226. Section 203 requires showing the employer committed a "willful" violation in
18 withholding wages, and a good faith dispute that wages are due precludes waiting
19 time penalties. (8 Cal. Code Regs. § 13520.) Similarly, section 226 penalties
20 require a "knowing and intentional" violation. Defendant contends it would present
21 good faith defenses precluding a finding of willfulness under section 203. (See
22 *Naranjo v. Spectrum Security Services, Inc.*, Case No. S279397 (Cal. S. Ct. May 6,
23 2024)) Any good faith dispute could preclude penalties.
- 24 e. The risk that any PAGA civil penalties could be reduced by the Court in its
25 discretion, which would materially impact the Aggrieved Employees' recovery.
26 (See Labor Code § 2699(e)(1).)
- 27 f. The risk that lengthy appellate litigation could ensue, with associated risks and
28 costs, enhances the value of a confirmed settlement over unpredictable litigation.

1 g. The PAGA penalty amount is always within the Court's discretion. Labor Code §
2 2699(e)(2) states:

3 In any action by an aggrieved employee seeking recovery of a civil penalty
4 available under subdivision (a) or (f), a court may award a lesser amount than
5 the maximum civil penalty amount specified by this part if, based on the facts
6 and circumstances of the particular case, to do otherwise would result in an
award that is unjust, arbitrary and oppressive, or confiscatory.

7 Subdivision (a) states,

8 Notwithstanding any other provision of law, any provision of this code that
9 provides for a civil penalty to be assessed and collected by the Labor and
10 Workforce Development Agency or any of its departments, divisions,
11 commissions, boards, agencies, or employees, for a violation of this code, may,
as an alternative, be recovered through a civil action brought by an aggrieved
employee on behalf of himself or herself and other current or former employees
pursuant to the procedures specified in Section 2699.3.

12 Subdivision (f) specifies the penalties in instances where the underlying statute does
13 not specify any civil penalty. In other words, where the facts and circumstances of the
14 particular case demonstrate that an unreduced award would be “unjust, arbitrary and
15 oppressive, or confiscatory,” the court (or arbitrator) may reduce the award so as to
16 ameliorate any such finding. (*See Carrington v. Starbucks Corp.* (2018) 30
17 Cal.App.5th 504, (reducing the civil penalties by 90% of the maximum penalty for all
18 proven violations at trial); *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016,
19 No. 15-CV-02198-EMC) 2016 WL 5907869, at *8 (noting that courts often exercise
20 discretion to reduce PAGA verdicts below the statutory penalty).)

21 h. Plaintiff faced the risk of being held liable for Defendants’ attorneys’ fees and costs if
22 this case had been unsuccessful.

23 i. The risk that Plaintiff might not establish that he is an aggrieved employee and or
24 prevail in arbitration.

25 29. Each of these factors bore heavily on the negotiations leading to the Settlement. In
26 view of these risks, the Settlement reflects a fair, adequate, and reasonable compromise amount
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1 for these claims and warrants preliminary approval. Indeed, while the risks listed herein are far
2 from exhaustive, they show that the Settlement is fair, adequate, and reasonable in view of them.

3 30. In these respects, Defendant strongly denied any liability. Continued litigation of
4 this lawsuit presented Plaintiff and Defendant with substantial legal risks that were (and continue
5 to be) very difficult to assess.

6 31. In light of the uncertainties of protracted litigation, the Settlement amount reflects
7 a fair and reasonable recovery for the State of California and the Aggrieved Employees. The
8 Settlement amount is, of course, a compromise figure. By necessity, it took into account risks
9 related to liability, trial manageability, discretionary penalties, and all the defenses asserted by
10 Defendant as to all such matters.

11 ***Fairness of Distribution***

12 32. The proposed method of distribution is fair and reasonable because each Aggrieved
13 Employee's actual potential penalties vary proportionally based on the number of PAGA Pay
14 Periods worked during the PAGA Period. (Ex 1, PAGA Settlement, ¶1.13) An Aggrieved
15 Employee who worked a greater number of PAGA Pay Periods will have a larger potential claim
16 than one who worked fewer PAGA Pay Periods and will likewise receive a proportionately greater
17 share of the PAGA Penalties allocated to the Aggrieved Employees as their Individual PAGA
18 Payment.

19 ***Attorney's Fees***

20 33. Here, the Parties' agreement to pay PAGA Counsel fees of up to one-third
21 (estimated \$149,166.67) of the Gross Settlement Amount is reasonable, as counsel's lodestar is
22 significantly in excess of the requested fee.

23 34. Our office has done extensive work in connection with this case, including but not
24 limited to: conducting due diligence, conducting the initial investigation of the case and
25 developing the facts and theories regarding the alleged Labor Code violations; preparing the
26 PAGA letter; preparing the class and PAGA complaints; engaging in information exchange and
27 informal discovery to obtain applicable policies, Aggrieved Employee data, and a sampling of
28 time and pay records; reviewing documents obtained from Defendant, analyzing the data and

1 records to prepare a damages analysis, drafting a mediation brief, strategy and conferences,
2 conferences with clients, witness interviews, filing the demand for arbitration, appearing at
3 arbitration proceedings, motion practice, research regarding claims and defenses, participating in
4 a mediation, meeting and conferring regarding the claims and defenses, attending case
5 management conferences, day to day case management, correspondence, revising the
6 memorandum of understanding, revising the settlement agreement, preparing settlement notices
7 and stipulations, preparing the PAGA Settlement and related documents, and preparing the motion
8 for approval and supporting papers for PAGA settlement approval.

9 35. Farnaes & Lucio APC prosecuted this matter on a contingent basis, meaning the
10 firm would have received no compensation or reimbursement of costs if the case were
11 unsuccessful. The time spent on the litigation diverted considerable time and effort from other fee-
12 generating work. In addition, Farnaes & Lucio incurred costs in the amount of \$127.95. Attached
13 as **Exhibit 3** is a true and correct itemization of the costs incurred in connection with the
14 prosecution of the claims in this action.

15 36. I have reviewed the work performed and billing entered by the attorneys at my firm
16 for this case. The table below summarizes the hours worked. My firm's lodestar is currently
17 \$89,964.50 not including the additional time that will be spent on appearing at the hearing on this
18 motion and monitoring the administration process. It also does not include the time invested in
19 the case by our co-counsel.

20 37. The estimated lodestar for Plaintiff's attorneys and our paralegals in this matter is
21 as follows:

Lodestar Summary				
Timekeeper	Years	Hours	Rate	Total
Christina M. Lucio	17	75.5	\$775	\$58,512.00
Paul Brown	3	45.5	\$475	\$21,612.50
Paralegals		49.2	\$200	\$9,840.00
TOTALS		170.2		\$89,964.50

38. PAGA Counsel anticipates spending several additional hours communicating with the Settlement Administrator, appearing at the approval hearing, responding to Aggrieved Employee inquiries, and appearing at the final accounting hearing, if necessary.

39. The billed hours represent time spent on tasks essential to the litigation and settlement. The standard hourly rates for PAGA Counsel - ranging from \$475 to \$ 1050 for attorneys - are reasonable. PAGA Counsel's rates align with those charged by experienced wage and hour lawyers practicing on a national scale and fall within the range approved by courts in similar circumstances. The 2023-2024 Adjusted Laffey Matrix sets forth hourly rates from \$437 to \$1057 for attorneys with similar experience levels. (<http://www.laffeymatrix.com/see.html>.); see also *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480, 504-05 (2016) (holding that the court may consider various factors in determining the reasonableness of the fees); *PLCM Group v. Drexler*, 22 Cal. 4th 1084, 1096-97 (2000) (using prevailing hourly rate in community for comparable legal services even though party used in-house counsel). See **Exhibits 6 and 7** to the concurrently submitted Hawkins Declaration.

Experience of Plaintiff's Counsel

40. In 2003, I graduated magna cum laude from the University of California, Riverside with a Bachelor of Arts Degree. Following graduation, I attended the University of Southern California, Gould School of Law (USC Law School). At various points during law school, I worked with the USC Post-Conviction Justice Project, the Western Center for Disability Rights and the Barrister's Domestic Violence Clinic. During the Summer of 2005, I was a law clerk for the Law Offices of Bruce Austin (Safeco Insurance).

41. In 2007, while a full-time law student, I was also a Judicial Extern for the Honorable Sandra Ikuta, United States Court of Appeals, Ninth Circuit. Thereafter, in 2007, I graduated from the USC Law School. The same year, I was admitted to practice law in the State of California.

42. From 2007 until 2010, I was an associate with Troutman Sanders LLP in San Diego (formerly Ross, Dixon, & Bell). As an associate, I assisted with the litigation of general business and labor & employment matters on an individual and class-wide basis. I assisted with the

1 representation of both employers and employees. I also assisted employers on issues related to
2 compliance with employment laws.

3 43. From 2011 until 2012, I was an associate with Wilson Turner Kosmo LLP. As an
4 associate, I assisted with the litigation of labor & employment matters on an individual and class-
5 wide basis solely on the side of management. I also assisted employers on issues related to
6 compliance with employment laws.

7 44. From 2012, I was a named partner at Farnaes and Lucio, APC, a law firm based
8 out of Encinitas, California. At Farnaes and Lucio, I litigated a wide variety of matters on both
9 the plaintiff and defense side. I eventually spearheaded the employment department litigating
10 plaintiff related employment issues such as: Wrongful Termination, Age Discrimination,
11 Disability, Wage and Hour and Sexual Harassment claims.

12 45. I have also worked in an Of Counsel capacity with James Hawkins APLC on certain
13 cases since 2015.

14 46. Since 2015, I have spent the majority of my practice litigating Wage and Hour
15 Class and representative actions.

16 47. I have a great deal of experience in wage and hour class action and representative
17 action litigation. I have obtained certification of numerous classes and have obtained resolutions
18 of numerous other class actions and representative actions. I have also been approved as class
19 counsel in other wage/hour class actions, and I am currently litigating numerous others. As a
20 class/representative action plaintiffs' attorney, I have been involved in litigating, mediating and
21 settling numerous wage and hour class actions dealing with class sizes ranging from several
22 hundred to several thousand class members resulting in settlements ranging from six figures to
23 multimillion dollar settlements. I was also co-lead trial counsel in a federal court jury trial in a
24 wage and hour class action, which resulted in a \$8.5 million settlement. *Vigueras v. Red Robin*
25 *Int'l*, No. SACV 17-1422 JVS (DFMx), 2020 U.S. Dist. LEXIS 262135 (C.D. Cal. Dec. 2, 2020).

26 48. I have successfully litigated dozens of class and PAGA actions through Farnaes
27 & Lucio, APC and with James Hawkins APLC, as one of the counsels of record. Each of the
28 following cases successfully resolved on a class-wide or PAGA basis. This is not an all-

1 inclusive list. My experience includes, without limitation:

- 2 o *Arteaga-Villagomez v. Insultech, LLC*, Orange County Superior Court Case No.
3 30-2012-00617802-CU-OE-CXC;
- 4 o *Quevedo v. Mercial, Inc.*, Orange County Superior Court Case No. 30-2015-
5 00776171-CU-OE-CXC;
- 6 o *Placencia v. Amcor Packaging Distribution, Inc.*, Orange County Superior Court
7 Case No. 30-2013-00694012-CU-OE-CXC;
- 8 o *Trani v. Lisi Aerospace, et al.*, Los Angeles Superior Court Case No. BC495527;
- 9 o *Galvan v. Goodwin Co.*, Orange County Superior Court Case No. 30-2013-
10 00637062-CU-OE-CXC;
- 11 o *Reyes v. Bristol Fiberlite*, Orange County Superior Court Case No. 30-2013-
12 00653425-CU-OE-CXC;
- 13 o *Gutierrez v. HMT Tank*, USDC Central Dist. Case No. CV14-1967-CAS(MANx);
- 14 o *Vigueras v. Red Robin International, Inc*, USDC Central Dist. Case No. SACV
15 17-1422 JVS (DFMx);
- 16 o *Smith v. Space Exploration Technologies Corp.*, Los Angeles Superior Court,
17 Case No. BC55429;
- 18 o *Williams v. Il Fornaio America Corp.*, Sacramento County Superior Court Case
19 No., 34-2011-0009616;
- 20 o *Aguilar v. 7-Eleven, Inc.*, Orange County Superior Court Case No. 30-2009-
21 002687141-CU-OE-CXC;
- 22 o *Madrigal v. Huntington Beach Market Broiler, Inc.*, Orange County Superior
23 Court Case No. 30-2012-00611260;
- 24 o *Vang v. Jazz Semiconductor, Inc.*, Orange County Superior Court Case No. 30-
25 2011-00460278;
- 26 o *Cano v. Financial Statement Services, Inc.*, Orange County Superior Court, Case
27 No. 30-2013-00653349-CU-OE-CXC;
- 28

- o *Mendez v. Liberty Glass Fabricators, Inc.*, Riverside County Superior Court Case No. RIC1800119;
- o *Attia v. Neiman Marcus Group, Inc.*, United States District Court for the Central District of California Case No. 8:16-cv-001504-DOC-FFM;
- o *Dougan v. Healthy Living at Home*, San Diego Superior Court, Case No. 37-2020-00018447-CU-OE-CTL;
- o *Mauleon v. Hanken Cono Assad & Co.*, San Diego Superior Court, Case No. 37-2020-00015364-CU-OE-CTL;
- o *Johnson v. U.S. Bank National Association*, United States District Court for the Southern District of California Case No. 19-CV-00286-JLS-LL;
- o *McGrath v. Wyndham Resort Development*, United States District Court for the Southern District of California Case No. 15-CV-1631-JM (KSC);
- o *Ainsworth v. Sea Coast Hospice Care, Inc., et al.*, San Diego County Superior Court Case No. 37-2020-00039584;
- o *Payne v. Marriott Ownership Resorts, Inc.*, San Diego Superior Court Case No. 37-2018-0015175-CU-OE-CTL;
- o *Keody v. Davis Trucking, LLC*, San Diego County Superior Court Case No. 37-2014-00029149-CU-OE-CTL;
- o *O'Brien, et al. v. Cerida Investment Corp.*, Santa Clara Superior Court Case No. 21CV384527;
- o *Gonzalez v. Quality Aluminum Forge, LLC*, Orange County Superior Court Case No. 30-2015-00817941;
- o *Shay v. Apple, Inc.*, United States District Court for the Southern District of California Case No. 3:20-cv-1629-JO-BLM;
- o *Milligan v. CWI, Inc.*, San Bernardino Superior Court Case No. CIVDS 2013999;
- o *Aguilar v. LDI Mechanical, Inc.*, Riverside County Case No. RIC1610019;
- o *Abron v. University Healthcare Alliance*, Alameda County Superior Court Case No. RG20066438;

- o *Benson v. F21 Opco, LLC*, San Diego Superior Court Case No. 37-2021,00024619-CU-OE-CTL;
- o *Allen v. Creative Stone Mfg., Inc.*, San Bernardino County Superior Court Case No. CIVSB2201498;
- o *Santamaria v. Bright Horizons Children's Center*, San Bernardino County Superior Court Case No. CIVSB2210140;
- o *Yniguez v. Airgas USA, LLC*, Los Angeles County Superior Court Case No. 20STCV18190;
- o *Cervantez v. Genuine Parts Company*, Los Angeles County Superior Court Case No. 22STCV00981;
- o *Robles v. Jetro Holdings, LLC*, San Diego Superior Court Case No. 37-2021-00015414-CU-OE-CTL;
- o *Hernandez v. Euromarket Designs, Inc.*, Santa Clara County Superior Court Case No. 20CV3770922;
- o *Ayala v. Veg-Land, et al.*, Orange County Superior Court Case No. 30-2014-00738775-CU-OE-CXC;
- o *Puente v. Sully-Miller Contracting Co.*, Orange County Superior Court Case No. 30-2015-00792088-CU-OE-CXC;
- o *Garcia v. Revolution Foods, Inc.*, Los Angeles Superior Court Case No. BC579142;
- o *Attaway, et al. v. Alliance Residential, LLC*, Santa Clara County Superior Court Case No. 20CV365134;
- o *Bowman v. Delta Dental of California*, Alameda County Superior Court Case No. RG21108230;
- o *Hernandez v. Burrtec Waste & Recycling Services, LLC*, United States District Court for the Central District of California Case No. 5:21-CV-001490-JWH-SP;
- o *Grant v. T-Mobile USA, Inc.*, United States District Court for the Central District of California Case No. 2:21-CV-02268;

- o *Dawson v. Wonderful Pistachios and Almonds, LLC*, Kern County Superior Court Case No. BCV-17-100848;
- o *Hamilton, et al. v. Michael Kors Stores (California), Inc.*, Los Angeles County Superior Court Case NO. 19STCV37061;
- o *Ross v. Stater Bros.*, San Bernardino Superior Court Case No. CIVDS1902518;
- o *Walker v. Barrett Business Services, Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV39172;
- o *Benitez, et al. v. Medtronic, Inc., et al.*, Orange County Superior Court Case No. 30-2019-01069185-CU-OE-CXC;
- o *Montgomery v. Copart, Inc.*, Sacramento County Superior Court Case No. 34-2020-00280733-CU-OE-GDS;
- o *Vizcarra-McNamee v. Nordstrom, Inc.*, Orange County Superior Court Case No. 30-2020-01141916-CU-OE-CXC;
- o *Ayers v. Cherry Hill Programs, Inc.*, Fresno County Superior Court Case No. 20CECG00821;
- o *Sleeper v. Boot Barn, Inc.*, Sacramento County Superior Court Case No. 34-2019-00272000-CU-OE-GDS;
- o *Pulido-Dias v. Dirt Cheap, Inc.*, San Bernardino County Superior Court Case No. CIVDS1719694;
- o *Villanueva v. Nordstrom, Inc.*, San Bernardino County Superior Court Case No. CIVDS1918706;
- o *Bryson v. Madame Tussauds, et al.*, Los Angeles County Superior Court Case No. 19STCV33514
- o *Hightower v. Levy Premium, et al.*, Santa Clara County Superior Court Case No. 19CV359262;
- o *Marquez v. Maxim Crane Works, L.P., et al*, Los Angeles County Superior Court Case No. 19STCV39548;

- o *Rovira v. Silverado Senior Living Management, Inc.*, Orange County Superior Court Case No. 30-2020-01136565-CU-OE-CXC;
- o *Hallum, et al. v. FCA US, LLC*, San Bernardino County Case No. CIVDS1936782;
- o *Martinez v. Placer Title Co., et al.*, Kern County Case No. BCV-19-103486;
- o *Torres v. Van Law Food Products, Inc.*, Orange County Case No. 37-2017-00946312-CU-OE-CXC;
- o *Holmes v. Pet Food Express, LLC*, Alameda County Case No. 22CV014140;
- o *Ventura v. Conduent Commercial Solutions, LLC*, Kern County Case No. BCV-22-102043;
- o *Ramirez v. CSI Electrical Contractors, Inc.*, Fresno County Superior Court Case No. 18CECG04150;
- o *Magana v. Eibach Springs, Inc.*, Riverside County Superior Court Case No. RIC1708917;
- o *Knox v. Express Messenger Systems, Inc.*, San Bernardino County Superior Court Case No. CIVDS1932323;
- o *Corona, et al. v. G&M Oil Company, Inc.*, Los Angeles County Superior Court Case No. BC640876
- o *Aguilar v. Peach Home Services, Inc., et al.*, Riverside County Superior Court Case No. RIC1823057;
- o *Wilson v. M.C. LLC*, Orange County Superior Court Case No. 30-2019-01103382-CU-OE-CXC;
- o *Nunez v. Nevell Group, Inc.*, Orange County Superior Court Case No. 30-2015-00783269;

49. I am currently litigating at least forty other wage and hour class and PAGA actions in State and Federal courts in the state of California.

50. Our firm and/or I have settled many high-stakes class and representative actions. Our settlements have directly compensated thousands of California workers and consumers, and have provided millions to the State of California in PAGA penalties. Our actions have also forced

1 employers to modify their policies for the benefit of employees including changing the
2 compensation structure for certain employees and changing practices to ensure that workers will
3 be able to take timely rest and meal breaks.

4 51. Based on our experience, demonstrated competence, resources to prosecute the
5 claims at issue and reputation among our colleagues in the both the defense and plaintiffs' bar, I
6 respectfully submit that our firm's experience in the field of wage and hour cases provides us the
7 ability to prosecute claims swiftly and often times without the need for protracted litigation.

8 ***Reasonableness of PAGA Representative Service Payment***

9 52. Plaintiff's request for a PAGA Representative Service Payment of \$2,500 is fair
10 and reasonable in view of his efforts in this case, the risks he undertook, and the results he
11 achieved. Courts routinely approve service awards to compensate representative plaintiffs for their
12 services and risks incurred during representative action litigation, often in higher amounts than
13 sought here. (See, e.g., *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding
14 "service payments" to named plaintiffs for their efforts); *Van Vranken v. Atlantic Richfield Co.*
15 (N.D. Cal. 1995) 901 F. Supp. 294 (approving \$50,000 enhancement award).)

16 53. The PAGA Settlement provides that Plaintiff may seek a PAGA Representative
17 Service Payment of up to \$2,500. (Ex. 1, PAGA Settlement, ¶ 3.2.2) This amount is approximately
18 0.5% of the Gross Settlement Amount .

19 54. The Substantial Time and Effort Plaintiff Expended on This Lawsuit Justifies the
20 PAGA Representative Service Payment:

- 21 j. Awarding Plaintiff approximately 0.5% of the Gross Settlement Amount is entirely
22 reasonable given Plaintiff's efforts undertaken on behalf of the State of California
23 and the Aggrieved Employees. In this case, Plaintiff devoted approximately 30–40
24 hours advancing the interests of the Aggrieved Employees and the LWDA by,
25 among other things, retaining experienced counsel, providing PAGA Counsel with
26 extensive information about his work history with Defendant and Defendant's
27 policies and practices related to the alleged Labor Code violations, and being
28 actively involved in the settlement process to ensure a fair result for the Aggrieved

1 Employees and the State of California. (Declaration of Plaintiff Erick Torres, ¶¶9–
2 10 (“Torres Decl.”)).

3 55. Plaintiff's Heavy Fiduciary Responsibilities Justify the PAGA Representative
4 Service Payment:

5 k. As a representative, Plaintiff agreed to: (1) consider the interests of the State of
6 California and the Aggrieved Employees as he would his own interests and, at
7 times, put their interests before his own; (2) actively participate in the lawsuit as
8 needed, including answering discovery, producing documents, and giving
9 deposition and trial testimony if requested; (3) travel to give such testimony; (4)
10 recognize that any dismissal or settlement of the lawsuit is subject to court approval
11 and must be in the best interest of the Aggrieved Employees and the State of
12 California; (5) follow the lawsuit's progress and provide all relevant facts to PAGA
13 Counsel; (6) champion others with similar claims because of the case's importance
14 and the need for all Aggrieved Employees and the State of California to benefit;
15 and (7) fight for a resolution in which individual recoveries to each Aggrieved
16 Employee and the State of California, including Plaintiff, may be relatively small.
17 Plaintiff agreed to these responsibilities in exchange for a proportionate share of
18 funds made available for distribution to the Aggrieved Employees and LWDA,
19 with no guarantee of a service payment. This justifies the requested service
20 payment. (See Torres Decl., ¶¶9–10)

21 56. The Risks that Plaintiff Undertook Justify the PAGA Representative Service
22 Payment:

23 1. In taking these actions, Plaintiff exposed himself to significant risks, including
24 potentially being ordered to pay Defendant's attorneys' fees and costs if the action
25 was unsuccessful under Labor Code §§ 218.5 and 218.6, California's fee and cost-
26 shifting statutes for wage disputes. California courts have ordered wage and hour
27 plaintiffs to pay substantial fee and cost awards for unsuccessful claims, such as:
28

- i. *Zalewa v. Tempo Research Corp.* (CA 2nd Dist. March 1, 2013) No. B238142, 2013 WL 766535 (employee ordered to pay employer \$2,210,360 in fees for unsuccessful suit for unpaid bonuses);
- ii. *Cun v. Caf Tiramisu LLC* (CA 1st Dist. Nov. 30, 2011) No. A131241, 2011 WL 5979937 (employee ordered to pay \$36,612.50 in fees and costs for unsuccessful suit for unpaid wages);
- iii. *Csaszi v. Sharp Healthcare* (CA 4th Dist. Feb. 18, 2003) No. D038558, 2003 WL 352422 (employee ordered to pay \$20,269 in fees and costs for unsuccessful suit for unpaid wages and overtime).

m. Such cost awards are substantially higher than Plaintiff's likely share of the Gross Settlement Amount as an Aggrieved Employee. It is unfair, given the risk of an adverse fee or cost award of thousands of dollars, for Plaintiff to receive only slightly more than an individual Aggrieved Employee for taking that risk. Even the lowest cost awards above would devastate Plaintiff given his modest earnings.

57. Plaintiff's Share of the Gross Settlement Amount Could Be Less Than Some Aggrieved Employees' Shares:

- a. Plaintiff's individual recovery could be less than some Aggrieved Employees' shares. Under the Settlement, each Aggrieved Employee receives a share based on the number of PAGA Pay Periods worked compared to the total PAGA Pay Periods worked by all Aggrieved Employees. Aggrieved Employees who worked more PAGA Pay Periods will receive more than those who worked fewer. There will likely be Aggrieved Employees who worked more pay periods than Plaintiff and will thus receive larger shares - even though they did not actively participate in the lawsuit. While Plaintiff assumed this risk in bringing the action, it seems unfair to limit his service payment to an amount not much greater than a non-participating Aggrieved Employee's share. To encourage employees to represent others and advance the important policies behind representative actions, the Court should award Plaintiff an additional amount for his willingness to receive less than some

1 Aggrieved Employees and his willingness to bring this action on behalf of the State
2 for the recovery of penalties for the State.

3 58. The Public Policy Behind Representative Actions Justifies the PAGA
4 Representative Service Payment:

- 5 b. The public policy behind representative actions seeking an aggregate recovery of
6 small individual amounts has been recognized by the courts. "The policy at the core
7 of the class action mechanism is to overcome the problem that small recoveries do
8 not provide the incentive for any individual to bring a solo action prosecuting his
9 or her rights. A class action solves this problem by aggregating the relatively paltry
10 potential recoveries into something worth someone's (usually an attorney's) labor."
11 (*Amchem Products, Inc. v. Windsor* (1997) 521 U.S. 591 (quoting *Mace v. Van Ru*
12 *Credit Corp.* (1997) 109 F.3d 338, 344).) "A company which wrongfully exacts a
13 dollar from each of millions of customers will reap a handsome profit; the class
14 action is often the only effective way to halt and redress such exploitation." (*Blue*
15 *Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381.) "A current employee who
16 individually sues his or her employer is at greater risk of retaliation. We have
17 recognized that retaining one's employment while bringing formal legal action
18 against one's employer is not a viable option for many employees." (*Gentry v.*
19 *Superior Court* (2007) 42 Cal.4th 443.) If would-be PAGA representative plaintiffs
20 are not adequately incentivized to assume the risk of a substantial cost award, they
21 are unlikely to bring such lawsuits.
- 22 c. The average Aggrieved Employee here would be unlikely to pursue individual
23 claims against Defendant because such claims would be too small to justify the cost
24 and risk. An individual Aggrieved Employee would be unlikely to find an attorney
25 willing to pursue the claims because they are too small to justify the extensive legal
26 work required. Only the representative action vehicle, which allows aggregating
27 hundreds of small, risky claims, makes the claims advantageous for an attorney to
28 pursue on contingency. There can be no PAGA action without an aggrieved

employee assuming the significant fiduciary responsibilities of a representative. This Court should allow the requested service payment; otherwise, employees (and attorneys) will be discouraged from bringing representative actions.

- d. If would-be PAGA plaintiffs are not adequately incentivized to advance the public policy behind PAGA actions despite the time and risk involved, they are unlikely to bring such lawsuits. Once employers realize this, they will lack incentive to comply with wage and hour laws.

59. The Risk of Impairment to Plaintiff's Job Prospects Justifies the PAGA Representative Service Payment:

- a. Plaintiff faced the risk of worsened career prospects for suing a former employer for Labor Code violations and serving as the plaintiff in a PAGA action. Because he filed a public lawsuit, a record now exists that Plaintiff sued his employer - a fact prospective employer, especially in the same industry, will notice. Common sense dictates an employer will hesitate to hire someone who sued their last employer. California has laws to address this risk: Labor Code § 1102.5 prohibits retaliation against employees who report Labor Code violations and § 98.6 prohibits discrimination against employees who report violations to the Labor Commissioner. The risks to Plaintiff's future employment prospects show the requested service payment is fair, adequate, reasonable, and warrants Court approval.

60. [Intentionally Omitted]

61. PAGA Counsel's Dependence on Plaintiff Justifies the PAGA Representative Service Payment:

- a. PAGA Counsel depended heavily on Plaintiff's input to prosecute this action on behalf of the State and the Aggrieved Employees. Plaintiff made this case possible by challenging Defendant's allegedly unlawful practices. Plaintiff provided PAGA Counsel with detailed information about Defendant's business operations, employee hours and scheduling, and the nature of the work performed

62. [Intentionally Omitted]

PAGA Counsel Litigation Expenses

63. In addition to the costs incurred by James Hawkins APLC, Farnaes & Lucio incurred costs in the amount of \$127.95. Attached as **Exhibit 3** is a true and correct itemization of the costs incurred in connection with the prosecution of the claims in this action.

Settlement Administrator

64. The Parties propose ILYM Group, Inc. as the Administrator. PAGA Counsel obtained bids from at least two established settlement administrators and selected ILYM Group, Inc. as the most cost-effective. ILYM Group, Inc. is an experienced administrator. Based on my experience, ILYM Group, Inc.'s bid of \$3,550 for 175 Aggrieved Employees (the count provided by Defendant) is reasonable for a settlement this size.

LWDA Notice

65. A copy of the PAGA Settlement was submitted to the LWDA on December 10, 2024. A true and correct copy of the LWDA's email confirming submission is attached as **Exhibit 4**.

Executed on December 10, 2024, in Encinitas, California

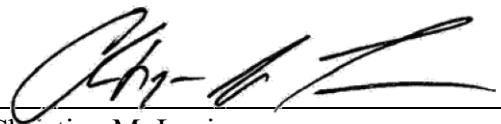
By: 
Christina M. Lucio

EXHIBIT 1

PAGA SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release (“Settlement” or “PAGA Settlement” or “PAGA Settlement Agreement” or “Agreement”) is made and entered into by and between Plaintiff Erick Torres (“Plaintiff”) as a private attorney general on behalf of the State of California pursuant to Labor Code section 2698 *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant Bechtel Infrastructure & Power Construction Services, Inc. (“Bechtel” or “Defendant”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Settlement shall be binding on Plaintiff, the State of California, and the Aggrieved Employees Plaintiff represents (as defined below) and on Defendant, subject to the terms and conditions hereof and the approval of the Court and entry of final judgment in this case and the occurrence of the Effective Date (as defined below).

1. DEFINITIONS

1.1 “**Action**” means the PAGA-only case entitled *Erick Torres v. Bechtel Infrastructure and Power Construction Services, Inc.*, CIV SB 2134046, filed on November 23, 2021, in the Superior Court of the State of California County of San Bernardino.

1.2 “**Administrator**” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “**Administration Expenses Payment**” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.

1.4 “**Aggrieved Employee**” means all current and former non-exempt employees who worked at Bechtel in California at any time from September 16, 2020, through the date that

the Court enters a judgment in the PAGA action in accordance with the material terms of this Agreement. Defendant estimates that there are approximately 175 Aggrieved Employees.

1.5 **“Aggrieved Employee Data”** means Aggrieved-Employee identifying information in Bechtel’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, hire dates, termination dates (as applicable) and re-hire dates (as applicable).

1.6 **“Aggrieved Employee Address Search”** means the Administrator’s investigation and search for current Aggrieved Employees’ mailing addresses using all the National Change of Address database.

1.7 **“Bechtel” or “Defendant”** means Bechtel Infrastructure & Power Construction Services, Inc., the defendant in the Action.

1.8 **“Court”** means the Superior Court of California, County of San Bernardino.

1.9 **“Defense Counsel”** means Malcolm A. Heinicke and David W. Moreshead of Munger, Tolles & Olson, LLP.

1.10 **“Effective Date”** means the date by when both of the following have occurred: (a) the Court enters a Judgment approving the PAGA Settlement; and (b) the Judgment is Final.

1.11 **“Final”** means the point at which the Judgment has become final and irreversible because either: (i) no appeal has been taken from the Judgment within 60 days of its entry; or (ii) an appeal or other review proceeding of the Judgment having been commenced, such appeal or other review is finally concluded and is no longer subject to review, whether by direct appeal, writ of certiorari, motion for reconsideration, or otherwise, and such appeal or other review has been finally resolved in a manner that materially affirms the Judgment. Notwithstanding the foregoing, any proceeding or order, or any appeal or petition for a writ pertaining solely to the award of attorneys’ fees or costs shall not, by itself, in any way delay or preclude the Judgment from becoming Final.

1.12 **“Gross Settlement Amount”** means Four Hundred Forty-Seven Thousand Five Hundred and 00/100 United States dollars (\$447,500.00), which is the total maximum, gross amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8.2 below. The Gross Settlement Amount will be used to pay the LWDA PAGA Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, the Administrator’s Expenses Payment, the PAGA Service Payment, and Individual PAGA payments to Aggrieved Employees.

1.13 **“Individual PAGA Payment”** means each Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.14 **“Judgment”** means the judgment to be entered by the Court pursuant to this Agreement in the same or substantially the same manner as set forth in Exhibit A, approving the Settlement and entering the associated judgment in this matter.

1.15 **“LWDA”** means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.16 **“LWDA PAGA Payment”** means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.17 **“Net Settlement Amount”** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, the Administration Expenses Payment, and the PAGA Service Payment. The Net Settlement Amount is equal to the total of all Individual PAGA Payments and the LWDA PAGA Payment, and thus the Net Settlement Amount is equal the amount of the PAGA Penalties.

1.18 **“Operative Complaint”** means the Representative Complaint filed in this Action on November 23, 2021.

1.19 **“PAGA Counsel”** means Christina M. Lucio and Paul A. Brown of Farnaes & Lucio, APC and James R. Hawkins of James Hawkins APLC, collectively. The term “PAGA Counsel” shall be used synonymously with the term “Plaintiff’s Counsel.”

1.20 **“PAGA Counsel Fees Payment”** and **“PAGA Counsel Litigation Expenses Payment”** mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute this Action.

1.21 **“PAGA Pay Period”** or **“Pay Period”** means any pay period during the PAGA Period which an Aggrieved Employee worked for Defendant in California at least one (1) day during the PAGA Period, based on hire dates, termination dates (if applicable) and re-hire dates (if applicable).

1.22 **“PAGA Period”** means the period from September 16, 2020, through the date that the Court enters a judgment in the PAGA action in accordance with the material terms of this Agreement, unless extended pursuant to Paragraph 8.2.

1.23 **“PAGA”** means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.24 **“PAGA Notices”** means Plaintiff’s letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a). Plaintiff filed these PAGA Notices on September 16, 2021, September 22, 2021, and November 22, 2021.

1.25 **“PAGA Penalties”** means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount, allocated 25% to the Aggrieved Employees (the sum of all Individual PAGA Payments) and the 75% to LWDA in settlement of PAGA claims (LWDA PAGA Payment).

1.26 **“PAGA Representative Service Payment”** means the payment to Plaintiff Erick Torres for providing services in support of this Action.

1.27 **“Plaintiff”** means Erick Torres, the plaintiff in the Action.

1.28 **“Released PAGA Claims”** means the claims being released by the Plaintiffs, all of the Aggrieved Employees, the State of California, and PAGA Counsel as described in Paragraph 5 below.

1.29 **“Released Parties”** means Defendant and its predecessors and successors, corporate parents, corporate subsidiaries, corporate affiliates (including, without limitation, Bechtel Corporation, Bechtel Power Corporation, Bechtel Global Corporation, Bechtel Energy, Inc., and Bechtel National, Inc.) and all of its and those entities’ former and present directors, officers, employees, managing agents, shareholders, owners, members, attorneys, consultants, accountants, insurers, reinsurers, predecessors, successors, and assigns.

1.30 **“Settlement Notice”** means the letter to be sent by the Administrator with each Individual PAGA Payment to each Aggrieved Employee, in the same or substantially the same form as Exhibit B.

2. RECITALS

2.1 Plaintiff began working for Bechtel on or around April 23, 2018, as a Tower Climber, which is a craft (or manual) position, within Bechtel’s California market. Plaintiff’s job required him to climb power poles and perform manual work at the top of the pole. Plaintiff’s employment ended in or about May 2021.

2.2 Bechtel maintained different California project locations employing several types of individuals. The potentially aggrieved employees Plaintiff seeks to represent are employees spanning sixteen different positions, including Tower Climbers, Crew Leaders, Civil Crewman, Electric (or RF) Technicians, Administrative Assistants, Field Coordinators, Foremen, Wireless Field Technicians, Leadmen, Warehouse Employees, and Safety Specialists. The vast majority of the potentially aggrieved employees Plaintiff seeks to represent were craft employees who worked in small crews at varying worksites throughout California.

2.3 On September 16, 2021, Plaintiff sent his first notice to the Labor and Workforce Development Agency (“LWDA”) of his intent to pursue a representative PAGA action, on behalf of himself and the State of California as well as on behalf of other potentially aggrieved employees.

2.4 On September 17, 2021, Plaintiff filed a putative class action against Defendant seeking damages for various Labor Code and Wage Order violations and for an unfair competition law violation. The case is entitled *Erick Torres v. Bechtel Infrastructure and Power Construction Services, Inc.*, CIV SB 2126754, Superior Court of the State of California County of San Bernardino.

2.5 On September 22, 2021, Plaintiff sent supplemental notice to the LWDA to add additional allegations and violations through a representative PAGA action, on behalf of himself and the State of California as well as on behalf of other potentially aggrieved employees.

2.6 On November 22, 2021, Plaintiff filed an amended notice to the LWDA to add additional allegations and violations, including violations of Labor Code section 6300 *et seq.* and section 3395, through a representative PAGA action, on behalf of himself and the State of California as well as on behalf of other potentially aggrieved employees.

2.7 On November 23, 2021, Plaintiff filed this Action, a representative complaint seeking only civil penalties under PAGA against Defendant for failure to: (1) pay minimum wages; (2) pay overtime wages; (3) provide lawful meal periods; (4) authorize and permit lawful rest periods; (5) timely pay wages owed at separation; (6) comply with itemized employee wage statement provisions; (7) reimburse necessary expenses; (8) record and pay sick leave; and (9) keep accurate records. (See Labor Code §§ 201–204, 218.5, 218.6, 221–224, 226, 226.3, 226.7, 246, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195, 1197, 1198, 2802, and applicable IWC California Wage Orders and California Code of Regulations, Title 8, §§ 11000 *et seq.*) Plaintiff also sought all penalties and sums available under Labor Code section 2698 *et seq.*, attorneys’ fees, and costs. The case is entitled *Erick Torres v. Bechtel Infrastructure and Power*

Construction Services, Inc., CIV SB 2134046, Superior Court of the State of California County of San Bernardino.

2.8 On March 24, 2022, the Court entered an order in Case No. CIV SB 2126754 granting Defendant's request for dismissal of class action allegations pursuant to CRC 3.770 without prejudice and dismissal of individual Labor Code and unfair competition claims without prejudice.

2.9 On June 14, 2023, pursuant to the Parties' joint stipulation, the Court compelled Plaintiff's PAGA claim to individual arbitration and stayed the representative PAGA claim pending the outcome of the arbitration.

2.10 On November 9, 2023, Plaintiff and Defendant commenced arbitration on Plaintiff's individual claims, including individual Labor Code and PAGA claims. The arbitration is entitled *Erick Torres v. Bechtel Infrastructure and Power Construction Services, Inc.*, JAMS Case No. 5230000245. In connection with this Settlement and the separate settlement agreement encompassing Plaintiff's claims, Plaintiff will dismiss this individual arbitration with prejudice to Plaintiff's individual claims.

2.11 On August 6, 2024, the Parties attended an all-day mediation with experienced wage-and-hour mediator Hon. Joan M. Lewis (Ret.) to try and fully resolve the PAGA-only claims in Case No. CIV SB 2134046 and Plaintiff Erick Torres' individual Labor Code claims in JAMS Case No. 5230000245. At the mediation, and with significant assistance from the mediator, the Parties reached an agreement. Following the mediation, the Parties reached an agreement as to the primary terms of the settlement through a Memorandum of Understanding. The final terms of the agreement are memorialized in this Settlement document.

2.12 In advance of the mediation, the Parties engaged in informal discovery including the production by Defendant of, among other things, the following: (1) time records, pay records, and sample wage statements for Plaintiff and a sampling of Aggrieved Employees; (2) Bechtel's

Handbooks, policies, procedures, and other documentation pertaining to the claims at issue; and
(3) the number of potentially aggrieved employees and the number of pay periods at issue.

Based on these records and in consultation with their expert consultant, Plaintiff's counsel was able to extrapolate all pertinent data through the date of mediation, including the approximate number of shifts worked, the possible number of Labor Code violations, including without limitation the possible number of meal period violations, the possible number of rest period violations, the number of aggrieved employees eligible for wage statement penalties and waiting time penalties, among others.

2.13 In addition to and separate from this PAGA Settlement Agreement, Plaintiff Torres has separately agreed to execute a general release of all known and unknown claims he may have against Bechtel arising out of his employment (the "Individual Settlement Agreement").

3. MONETARY TERMS

3.1 **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8.2 below, Defendant promises to pay Four Hundred Thousand and Ninety-Five and 00/100 United States dollars (\$447,500.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement and unless and until the Effective Date of the Settlement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2 **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Judgment:

3.2.1 **To Plaintiff Erick Torres:** PAGA Representative Service Payment to Plaintiff Torres of \$2,500.00. If the Court approves a PAGA Representative Service Payment less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the PAGA Representative Service Payment using IRS Form 1099. Plaintiff Torres assumes full responsibility and liability for any taxes owed on the PAGA Representative Service Payment.

3.2.2 **To PAGA Counsel:** A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$149,166.67, as well as PAGA Counsel Litigation Expenses Payment of not more than \$25,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel arising from any claim to any portion of any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. The allocation as between PAGA Counsel of the amounts awarded for the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall be the sole

responsibility of PAGA Counsel, who shall provide written instruction to the administrator and Defendant on the allocation before it is paid. Payment shall not be made to PAGA Counsel unless and until such written allocation, and any pertinent tax reporting documents, are provided to the administrator. PAGA Counsel assume full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Released Parties harmless, and indemnifies Released Parties, from any dispute or controversy regarding any division or sharing of any of these Payments, or any taxes due or claimed to be due thereon.

3.2.3 **To the Administrator:** An Administrator Expenses Payment not to exceed \$3,550.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$3,550.00, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.4 **To the LWDA and Aggrieved Employees:** PAGA Penalties in the estimated amount of approximately \$267,283.33 to be paid from the Gross Settlement Amount, with (a) 75% allocated to the LWDA PAGA Payment and (b) 25% allocated to the Individual PAGA Payments, with this second amount referred to as the “Net Penalty Amount”.

3.2.5 **Net Penalty Calculation:** The Administrator will calculate each Individual PAGA Payment by (a) dividing the Net Penalty Amount by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their

Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. Assuming the payments to Plaintiff Erick Torres, PAGA Counsel, and the Administrator are approved in full by the Court, Defendant estimates that the average amount the Aggrieved Employees will receive as their share of the settlement distribution, assuming 175 Aggrieved Employees, is \$381.83.

4. SETTLEMENT FUNDING PAYMENTS

4.1 **Aggrieved Employee Pay Periods.** Based on a review of its records to date, Defendant presently estimates that as of August 6, 2024, there are 175 Aggrieved Employees who worked a total of 12,062 PAGA Pay Periods.

4.2 **Aggrieved Employee Data.** Within 14 days of the Effective Date, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. The Court's approval of this Settlement shall constitute authorization to share this information with the Administrator, including Social Security Numbers. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform duties under this Agreement. The Parties and their counsel will use best efforts, in good faith, to address and resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3 **Funding of Gross Settlement Amount.** Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks or otherwise make payment for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Representative Service Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment.

4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (180 days after the date of mailing) when the check will become void. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator shall update the recipients' mailing addresses using the National Change of Address Database. Such payment checks will be sent with the Settlement Notice. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check. The date of the initial mailing of the payment check shall be conclusively determined according to the records of the Administrator.

4.4.2 The Administrator shall conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without a USPS forwarding address. Within 7 days of receiving a returned check, the Administrator shall re-mail checks to the USPS forwarding address provided or to an address ascertained through an Aggrieved Employee Address Search (provided, however, that no further action shall be required if neither method yields a new mailing

address). The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, if requested by the Aggrieved Employee prior to the void date.

4.4.3 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS

On the Effective Date, all of the Aggrieved Employees, the State of California, and PAGA Counsel will release claims against all Released Parties as follows:

5.1 **Release by Plaintiff, Aggrieved Employees, the State of California, and the Labor and Workforce Development Agency.** Upon the entry of Judgment in accordance with this Settlement and payment of the Gross Settlement Amount, Plaintiff, all of the Aggrieved Employees, the State of California, and the Labor and Workforce Development Agency will fully release the Released Parties and be forever barred from pursuing against them, for the duration of the PAGA Period: (a) all claims for civil penalties or relief of any kind under PAGA that were alleged, or reasonably could have been alleged based on the facts stated in the

Operative Complaint or the PAGA Notices, including, but not limited to, all claims for or relating to (1) regular, overtime, or premium wages; (2) failure to compensate Aggrieved Employees for all hours worked; (3) failure to pay the appropriate regular rate of pay; (4) failure to comply with payroll or wage record-keeping documentation or wage statement itemization requirements; (5) failure to provide sufficient meal and/or rest periods or pay premiums in lieu thereof; (6) failure to timely pay wages due at termination or otherwise; (7) failure to furnish accurate wage statements; (8) failure to pay minimum wages; (9) failure to reimburse business or other expenses and costs; (10) failure to pay sick or vacation pay; (11) failure to provide suitable facilities for meal and rest periods; (12) failure to provide a place of employment that is safe and healthful; (13) failure to furnish and use safety devices and safeguards and adopt practices to make a place of employment safe and healthful and to protect the life, safety, and health of employees; (14) failure to implement and maintain an effective written illness prevention program; (15) requiring or permitting employees to work in a place of employment that is not safe and healthful; and (16) failure to provide, encourage, and permit recovery periods; and (b) any claims for PAGA penalties that could have been awarded pursuant to Labor Code sections 201, 201.3, 202, 203, 204, 210, 216, 218.5, 218.6, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227.3, 246, 256, 510, 512, 516, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2441, 2699, 2802, 6400, 6401, 6401.7, 6402, 6403, and 3395, and applicable IWC California Wage Orders and California Code of Regulations, Title 8, §§ 11000 *et seq.*

5.2 **Release by PAGA Counsel:** PAGA Counsel and their present and former attorneys, employees, agents, successors and assigns hereby release the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint, the facts stated in the Operative Complaint or the PAGA Notices. Nothing herein precludes PAGA Counsel from seeking to enforce their rights under this Agreement.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 **Plaintiff's Responsibilities.** Plaintiff will prepare and file, and will provide Defense Counsel at least five days to review and comment on, all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2) including (i) a draft motion for approval of the PAGA Settlement as well as the Judgment to be submitted with it per the terms of this Agreement; (ii) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve, competency, operative procedures for protecting the security of Aggrieved Employee Data, amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance, all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA, and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator.

6.2 **Responsibilities of PAGA Counsel.** To comply with the requirements of California Labor Code Section 2699(l), Plaintiff shall file this Agreement and an associated Motion to Approve PAGA Settlement (the “Approval Motion”) with the Court and shall concurrently submit this Stipulation of Settlement to the LWDA as required by PAGA. As stated above, PAGA Counsel shall ensure that Counsel for Defendant will have five days to review and comment on the draft Approval Motion, in substantially final form, prior to its being filed with the Court. Defendant shall not oppose the Approval Motion provided it comports with the terms of this Settlement.

6.3 **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

6.4 **LWDA Notice.** Labor Code section 2699(1)(3) requires notice to the LWDA of an order or judgment approving the settlement. PAGA Counsel shall submit the Judgment to the LWDA within seven days of entry.

7. SETTLEMENT ADMINISTRATION

7.1 **Selection of Administrator.** The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 **Employer Identification Number.** The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 **Qualified Settlement Fund.** The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 **Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES

8.1 Based on its records, Defendant has estimated that there were approximately 175 Aggrieved Employees who worked approximately 12,062 PAGA Pay Periods from September 16, 2020 to August 6, 2024.

8.2 The Parties further agree that in the event the number of PAGA Pay Periods exceeds 12,062 by more than 5.15% (meaning more than 12,700 PAGA Pay Periods (the “Mutually-Agreed Overage Amount”)), then Defendant will have the option in its sole discretion to either (i) increase the Gross Settlement Amount on a pro-rata basis to cover additional PAGA periods; or (ii) end the PAGA Period on the date that the number of PAGA Pay Periods is no more than 12,700 pay periods in which case there will be no increase to the Gross Settlement Amount.

8.3 Except for any dollar increase pursuant to this section, Defendant will not in any event pay more than the Gross Settlement Amount.

9. CONTINUING JURISDICTION OF THE COURT

9.1 The Parties agree that, as per Code Civ. Proc. Section 664.6, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.2 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate

proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADMINISTRATOR DECLARATION

No later than fourteen (14) calendar days prior to any status conference set by the Court following its approval of the settlement, the Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the completion of the notice and payment process, including the number of attempts to obtain valid mailing addresses for and re-sending of any returned PAGA Payment Letters. PAGA counsel shall promptly file such declaration with the Court, together with a notice acknowledging satisfaction of the Judgment.

11. ADDITIONAL PROVISIONS

11.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint or PAGA letters have merit or that Defendant or any Released Parties have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to contest Defendant's defenses. The Judgment will have no collateral estoppel, res judicata or other preclusive effect establishing liability on the part of, or any requirement to make payment by, Defendant or any Released

Parties; the only preclusive effect of the Judgment shall be to establish the dismissal with prejudice and release of the Released Claims and to preclude such claims in the future. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement, including without limitation efforts by Defendant to effectuate the dismissal of the Other Actions based on the preclusive effect of the Judgment and this Settlement).

11.2 **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

11.3 **Attorney Authorization.** PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement, to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

11.4 **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of the mediator (Judge Lewis (Ret.)) and/or the Court for resolution.

11.5 **No Prior Assignments.** The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,

or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.6 No Tax Advice. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. The Parties make no representations to one another or to any Aggrieved Employee as to the tax treatment or legal effect of the payments called for hereunder, and Aggrieved Employees are not relying on any statement or representation by the Parties, PAGA Counsel, or Defense Counsel in this regard. Aggrieved Employees understand and agree that they will be responsible for the payment of any taxes and penalties assessed on the payments to them described herein and will hold the Parties, PAGA Counsel and Defense Counsel free and harmless from and against any claims, liabilities, costs and expenses, including attorney's fees, resulting in any way from personal tax treatment of the payments made pursuant to this Settlement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Neither the Parties, PAGA Counsel, nor Defense Counsel are responsible for any Aggrieved Employee's tax obligations arising from the settlement payments.

11.7 Modification of Agreement. This Agreement may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

11.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

11.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement. Plaintiffs and PAGA Counsel agree that prior to moving for approval of this Settlement, they shall not publicize any terms of this Settlement. After filing the motion for approval of this Settlement, Plaintiffs and PAGA Counsel shall not publicize the Settlement or the terms thereof via the following methods that reveal the Defendant's name, other information that could identify Defendant in any way, or the case name or number: (a) written or oral press releases, (b) internet or social media postings, or (c) other communications with the media. Nothing herein shall prohibit PAGA Counsel from discussing this case or any aspect of this Settlement with Plaintiffs or any Aggrieved Employee or from disclosing any publicly available information.

11.12 Use of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152 or otherwise provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and for no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

11.13 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

11.14 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the

third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Christina M. Lucio
clucio@farnaeslaw.com
Farnaes & Lucio APC
2235 Encinitas Blvd., Suite 210
Encinitas, California 92024

James R. Hawkins
james@jameshawkinsaplc.com
James Hawkins APLC
9880 Research Drive
Irvine, CA 92618

To Defendant:

MALCOLM A. HEINICKE
malcolm.heinicke@mto.com
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, California 94105-2907
Telephone: (415) 512-4029

DAVID W. MORESHEAD
david.moreshead@mto.com
MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th floor
Los Angeles, California 90071-3426
Telephone: (213) 683-9100

11.15 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.16 Stay of Litigation. The Parties agree that upon the execution of this Agreement, the Action shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree, upon the signing of this Agreement and pursuant to CCP section 583.330, to tolling of the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process, for this Action.

11.17 Effect of Court's Denial of Approval. If the Court denies approval of this Settlement due to concerns that the Parties cannot address through non-material or otherwise mutually agreeable modifications of this Stipulation of Settlement, (i) this Settlement shall be null and void; (ii) neither this Stipulation of Settlement nor any of the related negotiations or proceedings shall have any force or effect; (iii) the Parties shall stand in the same position, without prejudice, as if this Settlement had been neither entered into nor filed with the Court; and (iv) the terms and negotiation of this Stipulation of Settlement shall remain subject to Federal Rule of Evidence 408 and California Evidence Code sections 1119 and 1152. Plaintiff and PAGA Counsel understand and agree that this Stipulation of Settlement does not mean that Defendant cannot contest whether this action can go forward on a representative basis in the event the Settlement is not approved by the Court or litigation otherwise resumes (including without limitation on the ground that representative claims would be unmanageable), and Plaintiff and PAGA Counsel agree not to argue otherwise; provided, however, that Plaintiff and PAGA Counsel reserve the right to contend that litigation of the suit on a representative basis would be appropriate independent of this Stipulation of Settlement and do not waive the right to so contend.

11.18 Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and PAGA Counsel, on behalf of the Parties and the Aggrieved Employees, mutually

elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

DATED: 11/18/24 _____


Erick Torres (Nov 18, 2024 17:28 PST)

ERICK TORRES,
as PAGA Representative

DATED: _____, 2024

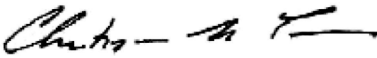
BECHTEL INFRASTRUCTURE & POWER
CONSTRUCTION SERVICES, INC.

By: _____
ROBERT DEATHERAGE
Vice President

APPROVED AS TO FORM:

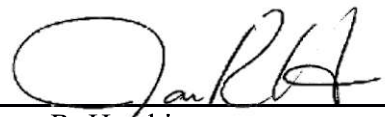
DATED: November 19, 2024

FARNAES & LUCIO APC

By: 
CHRISTINA M. LUCIO
Attorney for Plaintiff
Erick Torres and the Aggrieved Employees

DATED: November 19, 2024

JAMES HAWKINS APLC

By: 
James R. Hawkins
Attorney for Plaintiff
Erick Torres and the Aggrieved Employees

DATED: _____, 2024

MUNGER, TOLLES & OLSON LLP

By: _____
MALCOLM A. HEINICKE
DAVID W. MORESHEAD
Attorneys for Defendant
Bechtel Infrastructure & Power Construction
Services, Inc.

elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

DATED: _____, 2024

ERICK TORRES,
as PAGA Representative

DATED: December 2, 2024

BECHTEL INFRASTRUCTURE & POWER
CONSTRUCTION SERVICES, INC.

By:



ROBERT DEATHERAGE
Vice President

APPROVED AS TO FORM:

DATED: _____, 2024

FARNAES & LUCIO APC

By: _____

CHRISTINA M. LUCIO
Attorney for Plaintiff
Erick Torres and the Aggrieved Employees

DATED: _____, 2024

JAMES HAWKINS APLC

By: _____

James R. Hawkins
Attorney for Plaintiff
Erick Torres and the Aggrieved Employees

DATED: December 2, 2024

MUNGER, TOLLES & OLSON LLP

By: _____

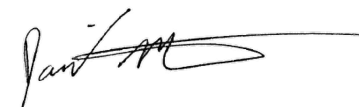

MALCOLM A. HEINICKE
DAVID W. MORESHEAD
Attorneys for Defendant
Bechtel Infrastructure & Power Construction
Services, Inc.

EXHIBIT A

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

ERICK TORRES, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

BECHTEL INFRASTRUCTURE AND POWER
CONSTRUCTION SERVICES, INC., a
Delaware corporation, and DOES 1-50,
inclusive,

Defendants.

Case No. CIVSB2134046

Assigned for All Purposes To:
Hon. Christian Towns
Dept.: S-26

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND JUDGMENT**

Complaint Filed: November 23, 2021
CMC: January 6, 2025
Trial: Not Set

1 **[PROPOSED] ORDER GRANTING APPROVAL OF PAGA SETTLEMENT**
2 **AND JUDGMENT**

3 The Court, having considered the Plaintiff's Motion for Approval of the Parties' PAGA
4 Settlement and Release Agreement pursuant to California's Private Attorneys General Act,
5 California Labor Code § 2698 *et seq.* ("PAGA"), as well as the PAGA Settlement and Release
6 Agreement (attached as Exhibit 1 to the Declaration of Christina M. Lucio), the papers filed in
7 support of the motion, and the arguments of counsel, has determined that the Settlement provides
8 genuine and meaningful relief under PAGA and is fair, adequate, and reasonable. Therefore, the
9 Court hereby ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:

10 1. The Court has jurisdiction over the subject matter of this Action and over all Parties
11 to the Action.

12 2. This Order incorporates the PAGA Settlement Agreement and Release
13 ("Settlement" or "Settlement Agreement") agreed to between Plaintiff, on behalf of himself, the
14 State of California, and Aggrieved Employees, on the one hand, and Defendant Bechtel
15 Infrastructure & Power Construction Services, Inc., on its own behalf and on behalf of the Released
16 Parties, on the other hand. Unless otherwise provided herein, all capitalized terms used herein shall
17 have the same meaning as defined in the Settlement Agreement.

18 3. The Court hereby finds that Plaintiff notified the Labor and Workforce
19 Development Agency ("LWDA") of the Settlement in accordance with the notice requirements of
20 California Labor Code § 2699(s). The Court has received no objection from the LWDA regarding
21 the Settlement.

22 4. The Court finds that the Settlement has been reached as a result of serious and non-
23 collusive, arm's-length negotiations. The Court has considered the nature of the claims, the
24 procedural history of this case, the amounts paid in settlement, and the allocation of settlement
25 proceeds among the LWDA and the Aggrieved Employees. The Court hereby finds the Settlement
26 involves the resolution of a bona fide dispute, was entered into in good faith, and provides genuine
27 and meaningful relief under PAGA. The Court therefore approves the Settlement as fair, adequate,
28

1 and reasonable and directs the Parties to effectuate the Settlement according to the terms outlined
2 in the Settlement Agreement.

3 5. Defendant will not be required to pay any additional amounts in connection with
4 the Settlement other than the Gross Settlement Amount specifically set forth in the Settlement
5 Agreement and this Order, which shall not exceed \$447,500.00.

6 6. The Court awards a PAGA Counsel Fees Payment to PAGA Counsel, Farnaes &
7 Lucio, APC and James Hawkins APLC, in the total amount of \$_____ (requested
8 up to 1/3 of the Gross Settlement Amount or \$149,166.67). The PAGA Counsel Fees Payments
9 shall be divided 50% to Farnaes & Lucio, APC and 50% to James Hawkins APLC. The Court
10 also awards a PAGA Counsel Litigation Expenses Payment in the total amount of
11 \$_____ (requested up to \$25,000). The PAGA Counsel Fees Payment and the PAGA
12 Counsel Litigation Expenses Payment are to be paid from the Gross Settlement Amount.

13 7. The Court awards a PAGA Representative Service Payment to Plaintiff Erick
14 Torres for his services in the amount of \$_____ (requested up to \$2,500) to be paid from the
15 Gross Settlement Amount. Plaintiff submitted a declaration detailing the ways in which he assisted
16 PAGA Counsel in the litigation of the Action, and the award is appropriate in light of the stated
17 purpose of PAGA.

18 8. The Court appoints ILYM Group, Inc. to serve as the Settlement Administrator.
19 The Court concludes that the Administration Expenses Payment in the amount of
20 \$_____ (requested up to \$3,550.00) are reasonable and necessary to administer the
21 Settlement and shall be paid from the Gross Settlement Amount.

22 9. The Net Penalty Amount of \$_____ (estimated \$267,283.33) shall
23 be allocated as follows: 75% of the PAGA Settlement Amount, or
24 \$_____ (estimated \$200,462.50), will be paid to the LWDA, and the remaining
25 25%, or \$_____ (estimated \$66,820.83), will be paid to all Aggrieved Employees
26 pursuant to the calculation set forth in the Settlement Agreement for calculating Individual PAGA
27 Payments.
28

1 10. The Court directs that the Administrator send the Notice, attached as Exhibit B to
2 the Settlement Agreement, to the Aggrieved Employees with the Individual PAGA Payments to
3 be disseminated pursuant to the Settlement.

4 11. Upon the Effective Date, the terms of the Settlement Agreement, and this Order
5 and Judgment, shall be binding on the Parties. Plaintiff and the Aggrieved Employees shall be
6 bound by the releases set forth in the Settlement Agreement. Specifically:

7 a. Upon the Effective Date and contingent upon payment of the Gross Settlement
8 Amount, Plaintiff will be deemed to have provided a Complete and General Release
9 to the Released Parties.

10 b. Upon the Effective Date and contingent upon payment of the Gross Settlement
11 Amount, Plaintiff, the State of California, all Aggrieved Employees, and the Labor
12 and Workforce Development Agency will fully release the Released Parties and be
13 forever barred from pursuing against them, for the duration of the PAGA Period:
14 (a) all claims for civil penalties or relief of any kind under PAGA that were alleged,
15 or reasonably could have been alleged based on the facts stated in the Operative
16 Complaint or the PAGA Notices, including, but not limited to, all claims for or
17 relating to (1) regular, overtime, or premium wages; (2) failure to compensate
18 Aggrieved Employees for all hours worked; (3) failure to pay the appropriate
19 regular rate of pay; (4) failure to comply with payroll or wage record-keeping
20 documentation or wage statement itemization requirements; (5) failure to provide
21 sufficient meal and/or rest periods or pay premiums in lieu thereof; (6) failure to
22 timely pay wages due at termination or otherwise; (7) failure to furnish accurate
23 wage statements; (8) failure to pay minimum wages; (9) failure to reimburse
24 business or other expenses and costs; (10) failure to pay sick or vacation pay; (11)
25 failure to provide suitable facilities for meal and rest periods; (12) failure to provide
26 a place of employment that is safe and healthful; (13) failure to furnish and use
27 safety devises and safeguards and adopt practices to make a place of employment
28

1 safe and healthful and to protect the life, safety, and health of employees; (14)
2 failure to implement and maintain an effective written illness prevention program;
3 (15) requiring or permitting employees to work in a place of employment that is
4 not safe and healthful; and (16) failure to provide, encourage, and permit recovery
5 periods; and (b) any claims for PAGA penalties that could have been awarded
6 pursuant to Labor Code sections 201, 201.3, 202, 203, 204, 210, 216, 218.5, 218.6,
7 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227.3, 246, 256, 510, 512, 516, 558,
8 1174, 1174.5, 1175, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2441, 2699, 2802,
9 6400, 6401, 6401.7, 6402, 6403, and 3395, and applicable IWC California Wage
10 Orders and California Code of Regulations, Title 8, §§ 11000 et seq. The PAGA
11 Period means the period from September 16, 2020 through the date the Court enters
12 this Judgment.

13 c. The releases provided under the settlement shall have *res judicata* effect on
14 Plaintiff, the State of California, and the Aggrieved Employees, as well as their
15 heirs, executors, administrators, successors, and assigns in all pending and future
16 claims, lawsuits, or other proceedings maintained by or on behalf of any such
17 persons, to the extent those claims, lawsuits or other proceedings fall within the
18 scope of claims released as set forth in the Settlement Agreement.

19
20 12. Without affecting the finality of this order and entry of judgment, the Court retains
21 exclusive and continuing jurisdiction over this Action for purposes of supervising, administering,
22 implementing, and enforcement of this Order, the Settlement and the Judgment pursuant to
23 California Code of Civil Procedure section 664.6.

24 13. Nothing in this Order or the Settlement shall be construed as an admission or
25 concession by any party. The Settlement and this resulting Order and entry of judgement simply
26 represent a compromise of disputed allegations.

27 14. Upon completion of the Settlement, the Administrator will provide written
28 certification of the completion to the Court and counsel for the Parties which shall be filed with

1 the Court on or before _____, 2025 (suggested 16 days prior to compliance
2 hearing). The Court sets a final accounting hearing to assess compliance with this Order and the
3 Settlement Agreement for _____ (proposed May 2025) at _____ a.m./p.m.

4 15. The entire Action will be dismissed, with prejudice, at the final accounting hearing
5 and upon the terms set forth in the Settlement Agreement, assuming full compliance with this
6 Order and the Settlement Agreement by that date.

7 16. Plaintiff is directed to submit a copy of this Order to the LWDA within ten calendar
8 days after the entry of this Order.

9 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

10
11 Dated: _____

By: _____

Honorable Judge of the Superior Court

EXHIBIT B

[Mailing Date]

[RETURN ADDRESS OF SETTLEMENT ADMINISTRATOR]

Re: *Erick Torres v. Bechtel Infrastructure and Power Construction Services, Inc.*, Case No. CIVSB2134046, Superior Court of the State of California, County of San Bernardino, filed on November 23, 2021

To [MERGE NAME]:

Plaintiff Erick Torres (“Plaintiff”) filed the above-referenced lawsuit against Defendant Bechtel Infrastructure and Power Construction Services, Inc. (“Bechtel” or “Defendant”). The lawsuit asserted wage and hour claims and sought penalties under the California Private Attorneys General Act of 2004 (“PAGA”). Plaintiff was employed in California as a tower climber, and pursued claims on behalf of himself and other hourly employees of Defendant in California (the “Covered Employees”).

Bechtel strenuously denies Plaintiff’s allegations and contends that it has at all times complied with California law. The court has not made any determination that Plaintiff’s claims have merit. Nevertheless, Bechtel highly values its employees and has chosen to resolve this matter and make payments to its employees rather than incur further disruption and expense in this litigation. Bechtel has not admitted to any liability by entering into this settlement.

The Covered Employees are all persons employed by Defendant in California and classified as a non-exempt, hourly-paid employee during the PAGA Period, which is the period between September 16, 2020, through <the date the Court enters Judgment>. You have been identified as one of the Covered Employees entitled to receive proceeds from the settlement.

On [DATE], the California Superior Court for the County of San Bernardino approved the resolution of this matter. Pursuant to this resolution, payments are being made to the Covered Employees on a pro-rata basis calculated according to the number of pay periods each Covered Employee worked between September 16, 2020, and <the date the Court enters Judgment>. This resolution and resulting judgment extinguish all claims for civil penalties under PAGA that Plaintiff, the Covered Employees, and the State of California may have arising from the allegations in the lawsuit or that could have been asserted based on the facts alleged in the lawsuit.

Upon the entry of Judgment in accordance with this Settlement and payment of the amounts due under the Settlement, Plaintiff, all of the Aggrieved Employees, the State of California, and the Labor and Workforce Development Agency will fully release the Released Parties and be forever barred from pursuing against them, for the duration of the PAGA Period: (a) all claims for civil penalties or relief of any kind under PAGA that were alleged, or reasonably could have been alleged based on the facts stated in the Operative Complaint or the PAGA Notices, including, but not limited to, all claims for or relating to: (1) regular, overtime, or premium wages; (2) failure to compensate Aggrieved Employees for all hours worked; (3) failure to pay the appropriate regular rate of pay; (4) failure to comply with payroll or wage record-keeping documentation or wage statement itemization requirements; (5) failure to provide sufficient meal and/or rest periods or pay premiums in lieu thereof; (6) failure to timely pay wages due at termination or otherwise; (7) failure to furnish accurate wage statements; (8) failure to pay minimum wages; (9) failure to

reimburse business or other expenses and costs; (10) failure to pay sick or vacation pay; (11) failure to provide suitable facilities for meal and rest periods; (12) failure to provide a place of employment that is safe and healthful; (13) failure to furnish and use safety devices and safeguards and adopt practices to make a place of employment safe and healthful and to protect the life, safety, and health of employees; (14) failure to implement and maintain an effective written illness prevention program; (15) requiring or permitting employees to work in a place of employment that is not safe and healthful; and (16) failure to provide, encourage, and permit recovery periods; and (b) any claims for PAGA penalties that could have been awarded pursuant to Labor Code sections 201, 201.3, 202, 203, 204, 210, 216, 218.5, 218.6, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227.3, 246, 256, 510, 512, 516, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2441, 2699, 2802, 6400, 6401, 6401.7, 6402, 6403, and 3395, and applicable IWC California Wage Orders and California Code of Regulations, Title 8, §§ 11000 *et seq.*

The “Released Parties” are Defendant and its predecessors and successors, corporate parents, corporate subsidiaries, corporate affiliates (including, without limitation, Bechtel Corporation, Bechtel Power Corporation, Bechtel Global Corporation, Bechtel Energy, Inc., and Bechtel National, Inc.) and all of its and those entities’ former and present directors, officers, employees, managing agents, shareholders, owners, members, attorneys, consultants, accountants, insurers, reinsurers, predecessors, successors, and assigns.

Your enclosed check, payable in the gross amount of [\$ Amount], is valid for one hundred and eighty (180) days from the date of its issuance. After that date, it will be null and void, the check will be canceled, and the funds from the canceled check will be tendered to the State Controller’s Office, Unclaimed Property Fund in the your name. Covered Employees who do not cash their checks will remain subject to the judgment and the release of PAGA claims described above.

Bechtel encourages you to cash this check, and it will not take any adverse action against you for doing so.

If you have any questions regarding the settlement, please contact the Settlement Administrator at [INSERT ADDRESS [AND PHONE] INFORMATION].

EXHIBIT 2

1 Malte L. L. Farnaes, Esq. (SBN 222608)

malte@farnaeslaw.com

2 Christina M. Lucio, Esq. (SBN 253677)

clucio@farnaeslaw.com

3 **FARNAES & LUCIO, APC**

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Telephone: (760) 942-9431

5 James R. Hawkins (SBN 192925)

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6 **JAMES HAWKINS APLC**

9880 Research Drive, Suite 200

7 Irvine, California 92618

8 Telephone: (949) 387-7200

Facsimile: (949) 387-6676

9 Attorneys for Plaintiff ERICK TORRES,
10 on behalf of himself and all others similarly situated

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN BERNARDINO**

13 ERICK TORRES, on behalf of himself
14 and all others similarly situated,

15 Plaintiff,

16 v.

17 BECHTEL INFRASTRUCTURE AND
18 POWER CONSTRUCTION SERVICES,
INC., a Delaware corporation, and DOES
1-50, inclusive,

19 Defendants.

Case No. CIVSB2134046

Assigned for All Purposes To:
Hon. Christian Towns
Dept.: S-26

REPRESENTATIVE COMPLAINT

COMPLAINT FOR:

- 1) **Civil Penalties Under the Private
Attorneys' General Act, Labor Code
Section 2698 et seq.**

1 Plaintiff ERICK TORRES (“Plaintiff”), an individual, assert claims against defendant
2 BECHTEL INFRASTRUCTURE AND POWER CONSTRUCTION SERVICES, INC., a
3 Delaware Corporation, and DOES 1-50, inclusive (collectively “BECHTEL” or “Defendant(s)”) as
4 follows:

5 INTRODUCTION

6 1. This is a representative action for recovery of penalties under the Private Attorneys
7 General Act of 2004 (“PAGA”), Cal. Lab. Code section 2698 *et seq.* PAGA permits “aggrieved
8 employees” to bring a lawsuit as a representative action on behalf of themselves and all other
9 current and former employees, to recover civil penalties and address an employer’s violations of
10 the California Labor Code.

11 2. Plaintiff brings this action pursuant to the PAGA on a representative basis on behalf
12 of himself and any and all persons who are or were employed by Defendants as non-exempt
13 employees, however titled, in California during the liability period (as tolled by Emergency Rule
14 9) (the “Aggrieved Employees” or “Non-Exempt Employees”).

15 3. Plaintiff alleges that Defendants consistently maintained and enforced against their
16 Non-Exempt Employees, among others, the following unlawful practices and policies, in violation
17 of California state wage and hour laws: a) Failure to Pay Minimum Wage; b) Failure to Pay
18 Overtime Wages; c) Failure to Provide Lawful Meal Periods; d) Failure To Authorize And Permit
19 Rest Periods; e) Failure to Timely Pay Wages Owed Upon Separation From Employment; f) Failure
20 to Furnish Accurate Itemized Wage Statements; g) Failure to Reimburse Necessary Expenses; h)
21 Failure to Record, Report, and Pay Sick Leave, i) Failure to Keep Accurate Records, j) Failure to
22 Provide Cool Down and Recovery Periods; k) Failure to Provide A Place Of Employment that is
23 Safe And Healthful in violation of Labor Code §6400 *et seq.*

24 4. Such actions and policies, as described above and further herein, were and continue
25 to be in violation of the California Labor Code. Plaintiff, on behalf of himself and all Aggrieved
26 Employees, bring this action pursuant to the California Labor Code, including but not limited to,
27 sections 201, 202, 203, 204, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 246, 510, 512, 516, 558,
28 1174, 1194, 1194.2, 1195, 1197, 1198, 2802, 6400 *et seq.*, 6401, 6401.7, 6402, 6403, and 3395

1 applicable IWC California Wage Orders and California Code of Regulations, Title 8, section 11000
2 *et seq.* Plaintiff seeks all penalties and sums available under Labor Code section 2698 *et seq.*,
3 attorneys' fees, and costs.

4 **JURISDICTION AND VENUE**

5 5. This Court has jurisdiction over this action pursuant to the California Constitution
6 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
7 those given by statute to other courts. The statutes under which this action is brought do not give
8 jurisdiction to any other court.

9 6. This Court has jurisdiction over Defendants because, upon information and belief,
10 each Defendant is either a resident of California, has sufficient minimum contacts in California, or
11 otherwise intentionally avails itself of the California market so as to render the exercise of
12 jurisdiction over them by the California Courts consistent with traditional notions of fair play and
13 substantial justice. Defendants have done and are doing business throughout California.

14 7. The unlawful acts alleged herein have a direct effect on Plaintiff and the other
15 similarly situated Non-Exempt Employees within San Bernardino County and it is believed that
16 Defendants have employed over one hundred Aggrieved Employees as Non-Exempt Employees
17 throughout the state.

18 8. Venue is proper in this Court because one or more of the Defendants reside, transact
19 business, or have offices in this County, and the acts or omissions alleged herein took place in this
20 County.

21 **PARTIES**

22 9. Bechtel Infrastructure and Power Construction Services, Inc. is a Delaware
23 corporation in good standing that is authorized to do business throughout the state. Bechtel's
24 headquarters are located at 12011 Sunset Hills Road, Suite 110, Reston, VA 20190.

25 10. Bechtel operates in California from numerous locations providing
26 telecommunications services and related infrastructure.
27
28

1 11. Plaintiff Erick Torres is and during the liability period has been, a resident of Los
2 Angeles, California.

3 12. Plaintiff was employed by Defendants during the liability period as non-exempt
4 employee with the title of Tower Technician and was based out of Chino, CA.

5 13. Plaintiff and the members of the Aggrieved Employees were employed by
6 defendants as non-exempt, hourly employees by Defendants, however titled, (the “Aggrieved
7 Employees” or “Non-Exempt Employees”) during the liability period in the State of California.

8 14. Whenever in this complaint reference is made to any act, deed, or conduct of
9 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through
10 one or more of Defendants’ officers, directors, agents, employees, or representatives, who was
11 actively engaged in the management, direction, control, or transaction of the ordinary business and
12 affairs of Defendants.

13 15. The true names and capacities of Defendants, whether individual, corporate,
14 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
15 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure §
16 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
17 capacities of the Defendants designated hereinafter as DOES when such identities become known.

18 16. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are
19 the partners, agents, or principals and co-conspirators of Defendants and of each other; that
20 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided
21 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits
22 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the
23 liability of the Defendants as alleged herein.

24 17. Plaintiff is further informed and believes, and thereon alleges, that at all times
25 material herein, each Defendant was completely dominated and controlled by its co-Defendants
26 and each was the alter ego of the other. Whenever and wherever reference is made in this complaint
27 to any conduct by Defendant or Defendants, such allegations and references shall also be deemed
28 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.

1 Whenever and wherever reference is made to individuals who are not named as Defendants in this
2 complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times
3 acted on behalf of Defendants named in this complaint within the scope of their respective
4 employments.

5 **FACTUAL ALLEGATIONS**

6 18. During the relevant time frame, Defendants compensated Plaintiff and the Non-
7 Exempt Employees based upon an hourly wage.

8 19. Plaintiff and the Aggrieved Employees were, and at all times pertinent hereto,
9 have been non-exempt employees within the meaning of the California Labor Code, and the
10 implementing rules and regulations of the IWC California Wage Orders. They are subject to the
11 protections of the IWC Wage Orders and the Labor Code.

12 20. Plaintiff was employed as an hourly, non-exempt employee in the position of Tower
13 Technician from April 23, 2018, through May 2021. Plaintiff provided technician services at
14 various locations while based out of Defendant's location in Chino, CA.

15 21. The members of the aggrieved group were non-exempt, hourly employees of
16 Defendants throughout the state of California during the liability period.

17 22. Plaintiff typically worked five to six days per week averaging over 50 hours a week.

18 23. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
19 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the
20 requirements of California's wage and employment laws.

21 24. All Aggrieved Employees, including Plaintiff, are similarly situated in that they
22 are all subject to Defendants' uniform policies and systemic practices as specified herein.

23 25. Plaintiff and the Aggrieved Employees were not properly compensated for all hours
24 worked, in part because they were frequently required to work off the clock before and after shifts,
25 and during purported meal periods.

26 26. Moreover, upon information and belief, Defendants automatically deducted
27 purported meal periods from the hours worked by employees regardless of whether such meal
28

1 periods were lawfully provided.

2 27. In addition, Plaintiff and the Aggrieved Employees were routinely not compensated
3 for all hours worked because Defendants unlawfully rounded their time in/out and for lunch against
4 employee interests.

5 28. In fact, upon information and belief, Defendants frequently failed to record shift in
6 and out time punches and lunch in and out time punches as a matter of Defendants' policy and
7 practice.

8 29. Plaintiff and Aggrieved Employees were also required to remain on-call, but were
9 not paid for said on call shifts as hours worked.

10 30. Moreover, the Aggrieved Employees frequently worked in excess of eight (8)
11 hours a day and/or over forty (40) hours in a workweek, but were not properly paid for such time
12 at a rate of time and one-half the employee's regular rate of pay per hour. Plaintiff and the
13 Aggrieved Employees also often worked in excess of twelve (12) hours in one day and/or over
14 eight (8) hours on the seventh day of the workweek, but were not properly paid for such time at a
15 rate of two times the employee's regular rate of pay per hour.

16 31. In addition, Defendants failed to incorporate all forms of compensation, including
17 without limitation, incentives, bonuses, and differentials into the regular rate. Thus, Plaintiff and
18 the Aggrieved Employees were routinely undercompensated for overtime hours worked and
19 premiums.

20 32. By way of example only, Plaintiff was paid a \$1000 bonus the first year he worked
21 for Bechtel and then went on to get a longevity bonus of \$800 every six months. These bonuses
22 were not blended into the overtime rate as required by law.

23 33. Plaintiff and the Aggrieved Employees were also regularly required to work shifts
24 in excess of five hours without being provided a lawful meal period and over ten hours in a day
25 without being provided a second lawful meal period as required by law.

26 34. Indeed, during the relevant time, as a consequence of Defendants' staffing and
27 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
28 Defendants frequently failed to provide Plaintiff and the Aggrieved Employees timely, legally

1 complaint uninterrupted 30-minute meal periods on shifts over five hours and second meal
2 periods on shifts over ten hours as required by law.

3 35. In addition, meal periods, when provided, were frequently untimely.

4 36. On information and belief, Plaintiff and Aggrieved Employees did not waive their
5 rights to meal periods under the law.

6 37. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-
7 duty meal periods.

8 38. Despite the above-mentioned meal period violations, Defendants failed to
9 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,
10 one additional hour of pay at their regular rate as required by California law when meal periods
11 were not timely or lawfully provided in a compliant manner.

12 39. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
13 should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees
14 were entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7
15 but were not receiving such compensation.

16 40. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
17 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
18 period for every four hours worked or major fraction thereof, which is a violation of the Labor
19 Code and IWC wage order.

20 41. Defendants maintained and enforced scheduling practices, policies, and imposed
21 work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful,
22 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
23 requisite rest periods were not timely authorized and permitted.

24 42. Moreover, Plaintiff and the Aggrieved Employees were required to incur necessary
25 expenses in the discharge of their duties, including without limitation cell phone expenses,
26 uniforms, boots, uniform maintenance, mileage and tools, but were not reimbursed for such
27 necessary expenses.

28 43. In addition, Aggrieved Employees were not allowed to leave the premises during

1 rest breaks or meal breaks.

2 44. Despite the above-mentioned rest period violations, Defendants did not
3 compensate Plaintiff, and on information and belief, did not pay Aggrieved Employees one
4 additional hour of pay at their regular rate as required by California law, including Labor Code
5 section 226.7 and the applicable IWC wage order, for each day on which lawful rest periods were
6 not authorized and permitted.

7 45. Defendants also failed to provide accurate, lawful itemized wage statements to
8 Plaintiff and the Aggrieved Employees in part because of the above specified violations. In
9 addition, upon information and belief, Defendants omitted an accurate itemization of total hours
10 worked, the applicable hourly rates, the number of hours worked at each rate, the name and
11 address of the legal entity that is the employer, gross pay and net pay figures from Plaintiff, and
12 the Aggrieved Employees' wage statements. Such actions were and continue to be in violation
13 of the California Labor Code and applicable IWC Wage Orders.

14 46. Defendants have also made it difficult to determine applicable hourly rates of pay,
15 total hours worked, and account with precision for the unlawfully withheld wages and deductions
16 due to be paid to Non-exempt Employees, including Plaintiff, during the liability period because
17 they did not implement and preserve a lawful record-keeping method to record all hours worked,
18 meal periods, and non-provided rest and meal periods owed to employees as required for non-
19 exempt employees by 29 U.S.C. section 211(c), California Labor Code section 226, and
20 applicable California Wage Orders.

21 47. Plaintiff is informed and believes, and thereon alleges, that at all times herein
22 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
23 thereof for resignations without prior notice as the case may be) they had a duty to accurately
24 compensate Plaintiffs and Aggrieved Employees for all wages owed including minimum wages,
25 straight time wages, overtime, meal and rest period premiums, and that Defendants had the financial
26 ability to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed
27 to do so in part because of the above-specified violations.

28 48. Plaintiff and the Field Aggrieved Employees were often required to work in

1 temperatures of 95 degrees and above without receiving statutorily required “cool-down rest
2 periods” every two hours during their shifts.

3 49. Defendants knew or should have known that Plaintiff and the Field Aggrieved
4 Employees were entitled to “Cool-down rest periods” and knowingly and intentionally failed to
5 provide and permit these rest periods. This constitutes a violation of Labor Code §3395, Wage
6 Orders 1 and 4, and Labor Code section 226.7 and 1198.

7 50. Plaintiff and the Field Aggrieved Employees were further required, by the above
8 violations and numerous others, to go or be in an employment or place of employment that was
9 neither safe nor healthful.

10 51. Defendants requirement and permission of employees to go or be in any
11 employment or place of employment which is not safe and healthful is a violation of Labor Code
12 §6402.

13 52. Defendants failed to provide a place of employment that is safe and healthful.
14 Defendants further failed to furnish and use safety devices and safeguards, and adopt and use
15 practices, means, methods, operations, and processes which are reasonably adequate to render such
16 employment and place of employment safe and healthful as required under Labor Code §6400 et
17 seq.

18 ***FAILURE TO PAY MINIMUM WAGE***

19 53. At all times relevant, Labor Code §1194 provides that any employee receiving less
20 than the legal minimum wage or the legal overtime compensation applicable to the employee is
21 entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or
22 overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.

23 54. Labor Code §1197 states: “The minimum wage for employees fixed by the
24 commission is the minimum wage to be paid to employees, and the payment of a less wage
25 than the minimum so fixed is unlawful.”

26 55. Cal. Lab. Code § 1198 further states that the employment of an employee for longer
27 hours than those fixed by the Industrial Welfare Commission is unlawful.

28 56. The IWC Wage Orders similarly require that employees be paid on the established

1 payday for the period involved, not less than the applicable minimum wage for all hours worked in
2 the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

3 57. At all times relevant, as more extensively set forth above, Plaintiff and Aggrieved
4 Employees consistently worked hours for which they were not paid because Plaintiff and the
5 Aggrieved Employees were required to work off the clock, including, without limitation, to
6 perform tasks off the clock, and during purported on call time and purported meal periods.

7 58. Plaintiff is informed and believes that Defendants and its managers were aware
8 that Plaintiff and the Aggrieved Employees were working off the clock and that they should have
9 been paid for this time.

10 59. Further, at all times relevant, as more extensively set forth above, Plaintiff and
11 Aggrieved Employees consistently worked hours for which they were not paid because
12 Defendants consistently rounded hours worked against the interests of Plaintiff and the Aggrieved
13 Employees.

14 60. Defendants' failure to pay Plaintiff and Aggrieved Employees the unpaid balance of
15 wages owed violates the provisions of Labor Code §510, §1194, §1197, §1198, and the applicable
16 IWC wage orders and is therefore unlawful.

17 61. Accordingly, Defendants owe Plaintiff and Aggrieved Employees wages, including
18 minimum wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and
19 Aggrieved Employees the wages owed.

20 62. Pursuant to Labor Code §1194, Plaintiffs and Aggrieved Employees are entitled to
21 recover their unpaid compensation, as well as interest, costs, and attorneys' fees.

22 63. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Aggrieved
23 Employees are entitled to "recover liquidated damages in an amount equal to the wages
24 unlawfully unpaid and interest thereon."

25 64. Also, pursuant to Labor Code §1197.1, Plaintiff and the Aggrieved Employees
26 are entitled to claim all applicable civil penalties as a direct result of Defendants' policy and
27 practice of paying a wage less than the minimum fixed by an order of the commission.
28

FAILURE TO PAY OVERTIME WAGES

65. At all times relevant, pursuant to Labor Code section 510, 1194, and the IWC wage orders applicable to Plaintiff's and the Aggrieved Employees' employment by Defendants provided that employees working for more than eight (8) hours in a day or forty (40) hours in a work week are entitled to overtime compensation at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week. An employee who works more than twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a particular work week is entitled to overtime compensation at a rate of twice the regular rate of pay.

66. The IWC Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

67. In some instances, Plaintiff and the Aggrieved Employees worked in excess of eight (8) hours in a day and/or forty (40) hours in a week, and on occasion over twelve hours in a day or over eight hours on the seventh day of work in a particular workweek without being paid all wages owed as required by law as a result of Defendants' unlawful practices as set forth herein.

68. As set forth above, Plaintiff and the Aggrieved Employees were required to perform work off the clock and had their hours worked consistently rounded against their interests. Some of these hours worked were entitled to payment at overtime or double time rates.

69. In addition, Plaintiff is further informed and believes that Defendants failed to compensate Aggrieved Employees for all overtime hours worked at the proper regular rate, as Defendant failed to include all forms of remuneration in the regular rate.

70. Upon information and belief, Defendants knew or should have known Plaintiff and the Aggrieved Employees were undercompensated. Defendants' failure to pay Plaintiffs and Aggrieved Employees the unpaid balance of wages owed violates the provisions of Labor Code §510, §1194, §1197, §1198, and the applicable IWC wage orders and is therefore unlawful.

71. Accordingly, Defendants owe Plaintiff and Aggrieved Employees wages, including

1 overtime wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and
2 Aggrieved Employees the wages owed.

3 72. Pursuant to Labor Code §1194, Plaintiffs and Aggrieved Employees are entitled to
4 recover their unpaid compensation, as well as interest, costs, and attorneys' fees.

5 73. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Aggrieved
6 Employees are entitled to "recover liquidated damages in an amount equal to the wages
7 unlawfully unpaid and interest thereon."

8 74. Also, pursuant to Labor Code §1197.1, Plaintiff and the Aggrieved Employees
9 are entitled to claim all applicable civil penalties as a direct result of Defendants' policy and
10 practice of paying a wage less than the minimum fixed by an order of the commission.

11 ***FAILURE TO PROVIDE LAWFUL MEAL PERIODS***

12 75. Pursuant to Labor Code § 512, no employer shall employ an employee for a work
13 period of more than five (5) hours without providing a meal break of not less than thirty (30)
14 minutes in which the employee is relieved of all of his or her duties, except that when a work period
15 of not more than six (6) hours will complete the day's work the meal period may be waived by
16 mutual consent of the employer and employee.

17 76. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee
18 for a work period of more than ten (10) hours without providing a second meal break of not less
19 than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal
20 break may only be waived by mutual consent, and if the employee did not waive his or her first
21 meal period, and the employee's work day will not exceed twelve hours.

22 77. During the relevant time, Defendants failed to provide Plaintiff and Aggrieved
23 Employees timely and uninterrupted first meal periods of not less than thirty (30) minutes within
24 the first five hours of a shift.

25 78. During the relevant time, Defendants also failed to provide Plaintiff and Aggrieved
26 Employees timely and uninterrupted second meal periods of not less than thirty (30) minutes on
27 shifts longer than ten hours.

1 79. Indeed, during the relevant time, as a consequence of Defendants' staffing and
2 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
3 Plaintiff and the Aggrieved Employees were not provided with legally required meal periods.

4 80. On information and belief, Plaintiff and Aggrieved Employees did not waive their
5 rights to meal periods under the law.

6 81. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-
7 duty meal periods.

8 82. In addition, upon information and belief, Plaintiff and the Aggrieved Employees
9 were not allowed to leave the premises during meal periods.

10 83. Plaintiff and the Aggrieved Employees were not paid one hour of pay at their regular
11 rate for each day that a first or second meal period was not lawfully provided.

12 84. As a proximate result of the aforementioned violations, Plaintiff and the Aggrieved
13 Employees have been damaged in an amount according to proof at time of trial.

14 85. Pursuant to Labor Code § 226.7, Plaintiff and Aggrieved Employees are entitled to
15 recover one (1) hour of premium pay for each day in which a meal period violation occurred. The
16 failure to said sums at the proper rate constitutes a separate and independent violation of the Labor
17 Code.

18 ***FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS***

19 86. Pursuant to the IWC wage orders applicable to Plaintiff's and Aggrieved
20 Employees' employment by Defendants, "Every employer shall authorize and permit all employees
21 to take rest periods, which insofar as practicable shall be in the middle of each work period....
22 [The] authorized rest period time shall be based on the total hours worked daily at the rate of ten
23 (10) minutes net rest time per four (4) hours worked or major fraction thereof.... Authorized rest
24 period time shall be counted as hours worked, for which there shall be no deduction from wages."

25 87. Labor Code §226.7(a) prohibits an employer from requiring any employee to work
26 during any rest period mandated by an applicable order of the IWC.

27 88. Defendants were required to authorize and permit employees such as Plaintiff and
28 Aggrieved Employees to take rest periods during shifts in excess of 3.5 hours, based upon the total

1 hours worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction
2 thereof, with no deduction from wages.

3 89. Despite said requirements of the IWC wage orders applicable to Plaintiff's and
4 Aggrieved Employees' employment with Defendants, Defendants failed and refused to authorize
5 and permit Plaintiff and Aggrieved Employees to take lawful, net ten (10) minute rest periods for
6 every four (4) hours worked, or major fraction thereof.

7 90. In addition, upon information and belief, Plaintiff and the Aggrieved Employees
8 were not allowed to leave the premises during rest periods.

9 91. Defendants did not pay Plaintiff one additional hour of pay at his regular rate of pay
10 for each day that a rest period violation occurred. On information and belief, the other members of
11 the Aggrieved Group endured similar violations as a result of Defendants' rest period policies and
12 practices and Defendant did not pay said Aggrieved Employees premium pay as required by law.

13 92. By their failure to authorize and permit Plaintiff and the Aggrieved Employees to
14 take a lawful, net ten (10) minute rest period free from work duties every four (4) hours or major
15 fraction thereof worked, including failure to provide two (2) total rest periods on six to ten hour
16 shifts and three (3) total ten (10) minute rest periods on days on which Plaintiff and the other
17 Aggrieved Employees work(ed) work a third rest period for shifts in excess of ten (10) hours, and
18 by their failure to provide compensation for such unprovided rest periods as alleged herein,
19 Defendants willfully violated the provisions of Labor Code sections 226.7 and the applicable IWC
20 Wage Order(s).

21 93. Pursuant to Labor Code § 226.7, Plaintiff and Aggrieved Employees are entitled to
22 recover one (1) hour of premium pay for each day in which a rest period violation occurred. The
23 failure to said sums at the proper rate constitutes a separate and independent violation of the Labor
24 Code.

25 ***FAILURE TO TIMELY PAY WAGES OWED AT SEPARATION***

26 94. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages
27 due at termination or within seventy-two (72) hours of separation of employment, as the case may
28 be.

1 95. Section 203 of the Labor Code provides that if an employer willfully fails to timely
2 pay such wages the employer must, as a penalty, continue to pay the subject employee's wages
3 until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days
4 of wages.

5 96. Plaintiff and Aggrieved Employees are entitled to compensation for all forms of
6 wages earned, including but not limited to minimum wages, overtime, and premium meal and rest
7 period compensation, but to date have not received such compensation, therefore entitling them to
8 Labor Code § 203 penalties.

9 97. More than thirty (30) days have passed since affected Aggrieved Employees have
10 left Defendants' employ, and on information and belief, they have not received payment pursuant
11 to Labor Code sections § 201-203.

12 98. Plaintiff and Aggrieved Employees are thus entitled to penalties for violation of
13 Labor Code sections 201-202, and the failure to pay 30 days' wages as a penalty under Labor Code
14 § 203.

15 ***KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED***
16 ***EMPLOYEE WAGE STATEMENT PROVISIONS***

17 99. Labor Code section 226(a) reads in pertinent part: "Every employer shall,
18 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
19 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
20 when wages are paid by personal check or cash, an accurate itemized statement in writing
21 showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions...
22 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
23 name of the employee and only the last four digits of his or her social security number or an
24 employee identification number other than a social security number, (8) the name and address of
25 the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the
26 pay period and the corresponding number of hours worked at each hourly rate by the
27 employee....".

28 100. Further, the IWC Wage Orders require in pertinent part: Every employer shall

1 keep accurate information with respect to each employee including the following: (3) Time
2 records showing when the employee begins and ends each work period. Meal periods, split shift
3 intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the
4 payroll period and applicable rates of pay....”

5 101. Labor Code section 1174 of the California also requires Defendants to maintain
6 and preserve, in a centralized location, among other items, records showing the names and
7 addresses of all employees employed and payroll records showing the hours worked daily by, and
8 the wages paid to, its employees. On information and belief and based thereon, Defendants have
9 knowingly and intentionally failed to comply with Labor Code section 1174, including by
10 implementing the policies and procedures and committing the violations alleged in the preceding
11 causes of action and set forth herein. Defendants’ failure to comply with Labor Code section
12 1174 is unlawful pursuant to Labor Code section 1175.

13 102. Defendants have failed to record many of the items delineated in applicable
14 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section
15 1174, including by virtue of the fact that each wage statement which failed to accurately
16 compensate Plaintiff and Aggrieved Employees for all hours worked and for missed and non-
17 provided meal and rest periods, or which failed to include compensation for all minimum wages
18 earned or overtime hours worked, was an inaccurate wage statement.

19 103. On information and belief, Defendants failed to implement and preserve a lawful
20 record-keeping method to record all hours worked, meal periods, and non-provided meal and rest
21 periods owed to employees, as required for Non-Exempt Employees under California Labor Code
22 section 226 and applicable California Wage Orders. In order to determine if they had been paid
23 the correct amount and rate for all hours worked, Plaintiff and Aggrieved Employees have been,
24 would have been, and are compelled to try to discover the required information missing from
25 their wage statements and to perform complex calculations in light of the inaccuracies and
26 incompleteness of the wage statements Defendants provided to them.

27 104. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC
28 Wage Orders, Defendants did not and still do not furnish each of the members of the Aggrieved

1 Group with an accurate itemized statement in writing accurately reflecting all of the required
2 information. Specifically, Defendants have also omitted accurate itemizations of total hours
3 worked, the name and address of the legal entity that is the employer, the hours worked at each
4 rate, the applicable hourly rates, and gross pay from Plaintiff and the Aggrieved Employees'
5 wage statements. In addition, Defendants have failed to provide accurate itemized wage
6 statements as a consequence of the above-specified violations for failure to accurately pay all
7 wages owed, accurately record all hours worked, and failure to pay meal and rest period
8 premiums as required by law.

9 105. Moreover, upon information and belief, as a pattern and practice, in violation of
10 Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain
11 accurate records pertaining to the total hours worked for Defendants by the members of the
12 Aggrieved Group, including but not limited to, beginning and ending of each work period, meal
13 period and split shift interval, the total daily hours worked, and the total hours worked per pay
14 period and applicable rates of pay.

15 106. Further, at all relevant times, under Labor Code section 226 (a), all deductions
16 made from payment of wages shall be recorded in ink or other indelible form, properly dated,
17 showing the month, day, and year, and a copy of the statement and the record of the deductions
18 shall be kept on file by the employer for at least three years at the place of employment or at a
19 central location within the State of California.

20 107. Plaintiff alleges, upon information and belief, that Defendants failed to retain the
21 documents required by Labor Code 226(a) in ink or other indelible format as required by statute.

22 108. Plaintiff further alleges that Defendants failed to comply with the requirements of
23 Labor Code section 226(a) to furnish wage statements semimonthly or at the time of each
24 payment of wages because Defendants did not provide said statements to employees, and
25 electronic access methods were not reliable and prevented employees from accessing said
26 statements on their own.

27 109. Accordingly, Defendants have violated Labor Code section 226, 1174, 1198, and
28 the Wage Order.

1 ***FAILURE TO REIMBURSE NECESSARY EXPENSES***

2 110. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Aggrieved
3 Employees for necessary expenditures incurred in direct consequence of the discharge of his or
4 her duties.

5 111. Plaintiff and the members of the Aggrieved Group were required to incur expenses
6 in the performance of their assigned job duties. For example, Plaintiff and the Indemnification
7 Aggrieved Employees were required to incur numerous out of pocket expenses, including without
8 limitation, cellular phone expenses, application expenses, uniforms, mileage, boots, and tools, in
9 direct consequence of the discharge of their duties.

10 112. Upon information and belief, the Defendants did not reimburse Plaintiff or the
11 Plaintiff's aggrieved group for such expenses in violation of Labor Code §2802.

12 ***FAILURE TO RECORD AND PAY SICK LEAVE***

13 113. In addition to the violations specified above, Plaintiff alleges that Defendants
14 failed to pay sick leave pay to Plaintiff and the Aggrieved Employees at the proper rate.

15 114. Labor Code § 246(a)(1) provides: An employee who, on or after July 1, 2015,
16 works in California for the same employer for 30 or more days within a year from the
17 commencement of employment is entitled to paid sick days as specified.

18 115. Labor Code 246(l) provides: "For calculations: (1) Paid sick time for nonexempt
19 employees shall be calculated in the same manner as the regular rate of pay for the workweek in
20 which the employee uses paid sick time, whether or not the employee works overtime in that
21 workweek. (2) Paid sick time for nonexempt employees shall be calculated by dividing the
22 employee's total wages, not including overtime premium pay, by the employee's total hours
23 worked in the full pay periods of the prior 90 days of employment."

24 116. In this case, Plaintiff alleges that Defendant failed to pay sick leave at the proper
25 rate because it failed to take all forms of compensation, including incentives, bonuses,
26 commissions, differentials, and other wages into account in calculating the regular rate. This
27 constitutes a violation of Labor Code.

28 117. Moreover, as a separate and independent violation, Plaintiff alleges that

1 Defendants violated Labor Code §246(i) by failing to record and report sick leave as required by
2 law.

3 118. Labor Code §246(i) provides that “an employer shall provide an employee with
4 written notice that sets forth the amount of paid sick leave available, or paid time off leave an
5 employer provides in life of sick leave, for use on either the employee’s itemized wage statement
6 described in Section 226 or in a separate writing provided on the designated pay date with the
7 employee’s payment of wages. If an employer provides unlimited paid sick leave or unlimited
8 paid time off to an employee, the employer may satisfy this section by indicating on the notice or
9 the employee’s itemized wage statement ‘unlimited’. The penalties described in this article for a
10 violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.”

11 119. Here, Plaintiff asserts that Defendant violated Labor Code § 246(i) because
12 Defendant frequently omitted sick leave from the wage statements of Plaintiff and the other
13 Aggrieved Employees.

14 120. Plaintiff further alleges that Defendants’ failure to timely and properly pay sick
15 leave as required by Healthy Workplace Healthy Family Act of 2014 (HWHFA), the Families
16 First Coronavirus Response Act (FFCRA) and California Covid-19 Supplemental Paid Sick
17 Leave laws also constituted violations of Labor Code section 1194 and 1197 because Defendants
18 failed to pay sick leave at the proper rates required by statute.

19 121. Further, the failure to timely and properly pay sick leave when taken according to
20 the timelines set forth in Labor Code §204 constituted a violation of Labor Code §204 and
21 subjects Defendants to penalties under Labor Code §210.

22 122. Former employees are also entitled to penalties under Labor Code section 203 for
23 the failure to properly pay all sick leave wages owed for sick leave taken during employment in
24 violation of Labor Code §§ 201-202.

25 ***FAILURE TO KEEP ACCURATE RECORDS***

26 123. In addition, Plaintiff also contends that Defendants failed to keep accurate records
27 as required by Wage Order 4-2001, 16-2001, Labor Code §§ 1174, and 1198.

28 124. IWC Wage Order 4-2001, and 16-2001, required in pertinent part: Every employer

1 shall keep accurate information with respect to each employee including the following: (3) Time
2 records showing when the employee begins and ends each work period. Meal periods, split shift
3 intervals, and total daily hours worked shall also be records...(5) Total hours worked in the
4 payroll period and applicable rate of pay..."

5 125. Labor Code § 1174 also requires Defendants to maintain and preserve, in a
6 centralized location, among other items, records showing the names and addresses of all
7 employees employed and payroll records showing the hours worked daily by, and the wages paid
8 to, its employees.

9 126. On information and belief and based thereon, Defendants have knowingly and
10 intentionally failed to comply with Labor Code § 1174, including by implementing without
11 policies and procedures and committing the violations alleged in the complaint, including without
12 limitation failing to keep records of meal periods and all wages earned at the proper rates.

13 127. Defendants' failure to comply with Labor Code section 1174 is unlawful pursuant
14 to Labor Code § 1175.

15 ***VIOLATION OF LABOR CODE §§ 6300 ET SEQ.***

16 128. Labor Code § 6300 states: "The California Occupational Safety and Health Act of
17 1973 is hereby enacted for the purpose of assuring safe and healthful working conditions for all
18 California working men and women by authorizing the enforcement of effective standards,
19 assisting and encouraging employers to maintain safe and healthful working conditions, and ...
20 enforcement in the field of occupational safety and health."

21 129. Plaintiff alleges that Defendants violated the California Occupational Safety and
22 Health Act of 1973 ("OSHA") by failing to:

- 23 a. Certify the Field Aggrieved Employees to climb cell phone towers and provide
24 requisite training for the Field Aggrieved Employees to safely and properly
25 climb said towers;
- 26 b. Certify the Field Aggrieved Employees to safely and properly work in power
27 plants, and provide requires training;
- 28 c. Provide the Field Aggrieved Employees with a functional RF (Radio

Frequency Radiation) monitor;

d. Provide the Field Aggrieved Employees with bathroom facilities and appropriate rest facilities.

130. Labor Code §6400(a) states: “Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein.” Defendants above stated failures resulted in violations of Labor Code §6400 (a).

131. Defendant’s failure to “furnish and use safety devices and safeguards, and adopt and use practices; means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful” violates Labor Code §6401. Labor Code §6401 also states that every employer has a responsibility to “do every other thing reasonably necessary to protect the life, safety, and health of employees.”

132. Labor Code §6401.7 (a) states that “every employer shall establish, implement, and maintain an effective injury prevention program.”

133. Plaintiff contends that Defendants failed to establish, implement, and/or maintain an effective injury prevention program in relation to Plaintiff and the Field Aggrieved Employees’ work assignments.

134. Labor Code §6401.7 (c) states that “every employer shall train...all new employees, and all employees given a new job assignment, and shall train employees whenever new...processes, procedures, or equipment are introduced...and represent a new hazard.”

135. Defendant’s failure to provide requisite training to Field Aggrieved Employees to safely and properly perform work duties, including but not limited to climbing towers and working in power plants, constitutes a violation of Labor Code §6401.7.

136. Defendants’ requirement for Plaintiff and Field Aggrieved Employees to work in a place of employment which is not safe and healthful is a violation of Labor Code §6402.

137. Labor Code §6403 states: “No employer shall fail or neglect to do any of the following:

a. To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

1 b. To adopt and use methods and processes reasonably adequate to render the
2 employment and place of employment safe.

3 c. To do every other thing reasonably necessary to protect the life, safety, and
4 health of employees.”

5 138. Defendants’ failure and/or neglect to provide and use reasonably adequate safety
6 devices and safeguards or adopt or use reasonably adequate methods and processes, or to do
7 every other thing reasonably necessary to protect the life, safety, and health of employees
8 constitutes a violation of Labor Code §6403.

9 ***FAILURE TO PROVIDE RECOVERY PERIODS***

10 139. Plaintiff and the Field Aggrieved Employees were often required to work in
11 temperatures of 95 degrees Fahrenheit or above.

12 140. Labor Code §3395 states that “when temperatures reach 95 degrees or above, the
13 employer shall ensure that the employees takes a minimum ten minute net preventative cool-
14 down rest period every two hours....if the workday will extend beyond eight hours, then an
15 additional preventative cool-down rest period will be required at the conclusion of the eighth hour
16 of work.”

17 141. Defendants failed to provide Plaintiff, and upon information and belief, the Field
18 Aggrieved Employees with “cool-down rest periods” when the temperature was above 95
19 degrees, in violation of Labor Code §3395., Wage Orders 1 and 4, and Labor Code sections 226.7
20 and 1198.

21 **CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**

23 **THE PRIVATE ATTORNEYS GENERAL ACT – LABOR CODE §§2698, ET SEQ.**

24 142. Plaintiff incorporates by reference and realleges each and every allegation
25 contained above, as though fully set forth herein.

26 143. Plaintiff provided timely written notice by certified mail to the Labor and
27 Workforce Development Agency (“LWDA”) and Defendants of the specific violations of the
28 California Labor Code that Defendants have violated and continue to violate, including the facts

1 and theories that supported each alleged violation. A true and correct copy of Plaintiff's notice to
2 the LWDA is attached hereto as Exhibit A.

3 144. The LWDA did not provide notice of intention to investigate Defendants' alleged
4 violations within 65 calendar days of the notice. Labor Code section 2699.3(a)(2)A). Thus, this
5 action is timely.

6 145. Accordingly, Plaintiff has exhausted all administrative procedures required of
7 them under Labor Code §§2698, 2699 and 2699.3, and as a result, are justified as a matter of right
8 in bringing forward this cause of action.

9 146. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a). He
10 brings this cause of action on his own behalf and on behalf of all persons who are or were
11 employed as non-exempt employees, however titled, by Defendants in California during the
12 liability period (as properly tolled by Emergency Rule 9).

13 147. Pursuant to Labor Code section 2698 et seq and 2699(a), Plaintiff seeks to recover
14 civil penalties for which Defendants are liable due to numerous Labor Code and Wage Order
15 violations as set forth in this Complaint.

16 148. Specifically, Plaintiff seeks penalties under Labor Code §2699, for the violations
17 set forth in this Complaint, including, without limitation, the following:

- 18 a. Defendants' failure to comply with the requirement of Labor Code
19 1194, 1197, 1198, and Wage Order 4-2001 and 16-2001 to pay at
20 least minimum wage for each hour worked and all wages earned;
- 21 b. Defendants' failure to comply with the requirement of Labor Code
22 1194, 1197, 1198, and Wage Order 4-2001 and 16-2001 to pay at
23 least minimum wage for on-call time;
- 24 c. Defendants' failure to comply with the requirement of Labor Code §
25 510, 1194, 1197, 1198, and Wage Order 4-2001 and 16-2001 to pay
26 all overtime wages properly and accurately;
- 27 d. Defendants' failure to comply with the requirement of Labor Code
28 §216 to pay wages after demand was made by Plaintiff;

- e. Defendants' failure to comply with the requirement of Labor Code §§204 and 210 to pay, without condition and within the time set by the applicable article, all wages (including commissions), or parts thereof, which Defendants conceded to be due;
- f. Defendants' failure to comply with the requirement of Labor Code §225.5 to pay wages due;
- g. Defendants' failure to comply with the requirement of Labor Code §§201 and 202 to pay wages due to former employees;
- h. Defendants' failure to comply with the requirement of Labor Code §203 to pay waiting time penalties to former employees;
- i. Defendants' failure to comply with the requirement of Labor Code §512 and IWC Wage Order 4-2001 and 16-2001 to provide first and second thirty (30) minute uninterrupted meal breaks as required by law;
- j. Defendants' failure to comply with the requirement of Labor Code 226.7, 1198, and IWC Wage Order 4-2001 and 16-2001 to authorize and permit ten (10) minute rest breaks;
- k. Defendants' failure to comply with the requirement of Labor Code 226.7, 1198, and IWC Wage Order 4-2001 and 16-2001 to pay one hour of premium pay for each statutorily required rest break that was not authorized and permitted;
- l. Defendants' failure to comply with the requirement of Labor Code 226.7 and IWC Wage Order 4-2001 and 16-2001 to pay one hour of premium pay for each statutorily required meal period that was not timely and properly provided;
- m. Defendants' failure to maintain required records in violation of Labor Code § 226, 1174, and Wage Order 4-2001 and 16-2001;
- n. Defendants' failure to provide accurate compliant wage statements

- 1 under Labor Code § 226 and Wage Order 4-2001 and 16-2001;
- 2 o. Defendants failure to reimburse necessary expenses in violation of
- 3 Labor Code section 2802;
- 4 p. Defendants' failure to pay sick leave, and at the proper rate in
- 5 violation of Labor Code §§ 246, 1194, 1197, HWHFA, FFCRA,
- 6 and California Covid-19 Supplemental Paid Sick Leave laws;
- 7 q. Defendants' failure to provide a place of employment that is safe
- 8 and healthful in violation of Labor Code §6400;
- 9 r. Defendants' failure to furnish and use safety devices and
- 10 safeguards, and adopt and use practices, means, methods,
- 11 operations, and processes which are reasonably adequate to render
- 12 such employment and place of employment safe and healthful in
- 13 violation of Labor Code §§ 6401 and 6403;
- 14 s. Defendants' failure to implement and maintain an effective written
- 15 illness prevention program in violation of Labor Code §6401.7;
- 16 t. Defendants' act of requiring or permitting an employee to go or be
- 17 in any employment or place of employment which is not safe and
- 18 healthful in violation of Labor Code §6402;
- 19 u. Defendants' failure to provide "cool-down rest periods" in violation
- 20 of Labor Code §3395.

21 149. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code

22 §§2698 and 2699 because of Defendants' violation of numerous provisions of the California

23 Labor Code and IWC Wage Orders.

24 150. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code

25 §§2698 and 2699 because of Defendants' violation of numerous provisions of the California

26 Labor Code and IWC Wage Orders. Plaintiff seeks civil penalties for Defendants' violation of

27 Labor Code provisions for which a civil penalty is specifically provided, including but not limited

28 to the following:

- 1 a. Pursuant to Labor Code §210, for violations of Labor Code § 204,
2 Defendants are subject to a civil penalty in the amount of one hundred
3 dollars (\$100) for the initial violation for each failure to pay each
4 employee and two hundred (\$200) per employee for violations in
5 subsequent pay periods.
- 6 b. Pursuant to Labor Code §226.3, for violations of Labor Code § 226(a),
7 Defendants are subject to a civil penalty in the amount of two hundred
8 and fifty dollars (\$250) per aggrieved employee for the initial pay
9 period where a violation occurs and one thousand dollars (\$1,000) per
10 aggrieved employee for violations in subsequent pay periods.
- 11 c. Pursuant to Labor Code § 558(a), “[a]ny employer or other person
12 acting on behalf of an employer who violates, or causes to be violated,
13 a section of this chapter or any provision regulating hours and days of
14 work in any order of the Industrial Welfare Commission,” including
15 Labor Code §§ 510 and 512, shall be subject to a civil penalty, in
16 addition to any other penalty provided by law, of fifty dollars (\$50) for
17 initial violations for each underpaid employee for each pay period for
18 which the employee was underpaid and one hundred dollars (\$100) for
19 each subsequent violation for each underpaid employee for each pay
20 period for which the employee was underpaid.
- 21 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code §
22 1174(d), Defendants are subject to a civil penalty of five hundred
23 dollars (\$500).
- 24 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to
25 be paid to any employee a wage less than the minimum fixed by an
26 order of the commission, shall be subject to a civil penalty as follows:
27 for any initial violation that is intentionally committed, one hundred
28 dollars (\$100) for each underpaid employee for each pay period for

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

5 151. Under Labor Code §2699(f), Plaintiff and the Aggrieved Employees are entitled
6 to \$100 for any initial violation and \$200 for all subsequent violations of the above-mentioned
7 provisions of the California Labor Code for which no other civil penalty is specifically provided.

8 152. Under Labor Code §2699, Plaintiff and the Aggrieved Employees should be
9 awarded twenty-five percent (25%) of all penalties due under California law, as well as interest,
10 attorneys' fees and costs.

11 153. Under Labor Code §2699, the State of California should be awarded seventy-five
12 percent (75%) of the penalties due under California law.

13
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff pray judgment against Defendants, as follows:

- 16 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq. for the
17 violations specified above;
- 18 2. For penalties under Labor Code sections 210, 226.3, 1174.5, 1197.1, and 2699(a) and
19 (f);
- 20 3. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802, California
21 Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-
22 judgment interest;
- 23 4. For reasonable attorneys' fees, expenses and costs under Labor Code §§ 1194, 226,
24 2699, and/or Code of Civil Procedure § 1021.5, and/or any other applicable provisions
25 providing for attorneys' fees and costs; and
- 26 5. For such other and further relief as the Court deems proper.

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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of the Aggrieved Employees, respectfully demand a jury trial in this matter.

Respectfully submitted,
FARNAES & LUCIO APC
JAMES HAWKINS APLC

Dated: December 4, 2024


James R. Hawkins, Esq.
Malte L. L. Farnaes, Esq.
Christina M. Lucio, Esq.

Attorneys for Plaintiff
ERICK TORRES, on behalf of himself
and all others similarly situated

EXHIBIT 3

Activities Export

12/09/2024
2:37 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/18/2021	\$	Postage ● Unbilled	210022.001 - Torres v. Bechtel [STATE CLASS] 210022.001 - Torres v. Bechtel [STATE CLASS]	Law Clerk	1.00	\$20.85	-	\$20.85
09/15/2021	\$	DLSE PAGA ● Unbilled	210022.001 - Torres v. Bechtel [STATE CLASS] 210022.001 - Torres v. Bechtel [STATE CLASS]	Law Clerk	1.00	\$75.00	-	\$75.00
09/23/2021	\$	Postage Track #: 70201810000206326743 ● Unbilled	210022.001 - Torres v. Bechtel [STATE CLASS] 210022.001 - Torres v. Bechtel [STATE CLASS]	Law Clerk	1.00	\$10.70	-	\$10.70
09/17/2021	\$	USPS First Class Mail Flat ● Unbilled	210022.001 - Torres v. Bechtel [STATE CLASS] 210022.001 - Torres v. Bechtel [STATE CLASS]	Law Clerk	1.00	\$10.70	-	\$10.70
11/23/2021	\$	USPS First Class Mail Flat \$10.70 Track #: 70211970000004327850 ● Unbilled	210022.001 - Torres v. Bechtel [STATE CLASS] 210022.001 - Torres v. Bechtel [STATE CLASS]	Law Clerk	1.00	\$10.70	-	\$10.70
							\$0.00 0.00h	\$127.95 0.00h

EXHIBIT 4

EXHIBIT 5A

September 16, 2021

Via Online Filing (LWDA) and Certified Mail (Employers)

California Labor and Workforce Development Agency
Attn: PAGA Administrator

Bechtel Infrastructure and Power Construction Services, Inc.
Attn: Agent for Service of Process
4640 Admiralty Way, 5th Floor
Marina del Rey, CA 90292

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2698 *et seq.*

To Whom It May Concern:

PLEASE TAKE NOTICE that Plaintiff Erick Torres, on behalf of himself and all others similarly situated, hereby gives NOTICE of his Complaint pursuant to Labor Code Sections 2698, *et seq.* against Defendant Bechtel Infrastructure and Power Construction Services, Inc., a Delaware corporation, and DOES 1 through 50, inclusive. Plaintiff intends to commence an action against Defendants pursuant to Labor Code sections 2698 *et seq.* Plaintiff hereby gives written notice by online submission to the Labor and Workforce Development Agency, and by certified mail to Defendant Bechtel Infrastructure and Power Construction Services, Inc., via its agent for service of process. This notice is timely as it is provided within one year of the violations. In addition, the statute of limitation for the claim under the Private Attorney Generals Act, is tolled by operation of law under Emergency Rule 9 due to the COVID-19 pandemic.

Plaintiff has attached his Complaint, and incorporates the allegations in the Complaint as though fully set forth herewith, setting out the specific provisions of the Labor Code that Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendants in the Complaint.

Plaintiff alleges that Defendants committed the violations specified in the Complaint against both him and the group of aggrieved employees that he seeks to represent: Any and all persons who are or were employed as non-exempt, hourly employees, however titled, in by Defendants (the “Aggrieved Employees”) during the liability period (as tolled by Emergency Rule 9).

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations

alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Torres has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at Bechtel Infrastructure and Power Construction Services, Inc. regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

Plaintiff was employed as an hourly non-exempt Tower Technician/Service Technician from April 23, 2018 through May 28, 2021. Plaintiff provided telecommunication tower technician services in and around Defendant's location in Chino, California.

In addition to the violations specified in the attached Complaint, Plaintiff alleges that Defendants failed to pay sick leave pay to Plaintiff and the Aggrieved Employees at the proper rate. Labor Code 246 (a) (1) provides: An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified. Labor Code section 246(l) provides: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment." In this case, Plaintiff alleges that Defendant failed to pay sick leave at the proper rate because it failed to take all forms of compensation, including incentives, bonuses, commissions, differentials, and other wages into account in calculating the regular rate. This constitutes a violation of Labor Code.

Moreover, Plaintiff alleges that Defendant violated Labor Code section 246(i). Labor Code Section 246(i) provides that, "an employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement 'unlimited.' The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226." Here, Plaintiff asserts that Defendant violated Labor Code section 246(i) because Defendant frequently omitted sick leave from the wage statements of Plaintiff and the other aggrieved employees.

Plaintiff further alleges that Defendants' failure to timely and properly pay sick leave as required by Healthy Workplace Healthy Family Act of 2014 (HWHFA), the Families First Coronavirus Response Act (FFCRA) and California Covid-19 Supplemental Paid Sick Leave laws also constituted violations of Labor Code section 1194 and 1197 because Defendants failed to pay the sick leave at the rates required by statute. Further, the failure to timely and properly pay sick leave when taken according to the timelines set forth in Labor Code § 204 constituted a violation Labor Code section 204 and subjects Defendants to penalties under Labor Code § 210. Former employees are also entitled to penalties under Labor Code section 203 for the failure to properly pay all sick leave wages owed for sick leave taken during employment in violation of Labor Code section 201-202.

In addition, Plaintiff also contends that Defendants failed to keep accurate records as required by Wage Order 4-2001, 16-2001, Labor Code 1174, and 1198. IWC Wage Orders 4-2001, and 16-2001, required in pertinent part: Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded.... (5) Total hours worked in the payroll period and applicable rate of pay..." Labor Code section 1174 also requires Defendants to maintain and preserve, in a centralized location, among other items, records showing the names and addresses of all employees employed and payroll records showing the hours worked daily by, and the wages paid to, its employees. On information and belief and based thereon, Defendants have knowingly and intentionally failed to comply with Labor Code section 1174, including by implementing the policies and procedures and committing the violations alleged in the complaint, including without limitation failing to keep records of meal periods and all wages earned at the proper rates. Defendant's failure to comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

All Labor Code and related Complaint allegations pertain to all entities or individuals named in the Complaint, even if not so specified.

Please advise by certified mail within sixty-five (65) days of the post mark on this letter if the LWDA intends to investigate these claims. Thank you, and please contact me if you have any questions or require additional information.

Very Truly Yours,

/s/ Christina M. Lucio

Christina M. Lucio, Esq.

Enclosure: Class Action Complaint

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Facsimile: (949) 387-6676

Attorneys for Plaintiff ERICK TORRES,
on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ERICK TORRES, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

BECHTEL INFRASTRUCTURE AND
POWER CONSTRUCTION SERVICES,
INC., a Delaware corporation, and DOES
1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:
Hon.
Dept.:

COMPLAINT FOR DAMAGES FOR:

- 1) **Failure to Pay Minimum Wage;**
- 2) **Failure to Pay Overtime Wages;**
- 3) **Failure to Provide Lawful Meal Periods;**
- 4) **Failure To Authorize And Permit Rest Periods;**
- 5) **Failure to Timely Pay Wages Owed Upon Separation From Employment;**
- 6) **Failure to Furnish Accurate Itemized Wage Statements;**
- 7) **Violation of the Unfair Competition Law;**
- 8) **Failure to Reimburse Necessary Expenses;**

DEMAND FOR JURY TRIAL

1 Plaintiff ERICK TORRES (“Plaintiff”), an individual, assert claims against defendant
2 BECHTEL INFRASTRUCTURE AND POWER CONSTRUCTION SERVICES, INC., a
3 Delaware Corporation, and DOES 1-50, inclusive (collectively “BECHTEL” or “Defendant(s)”) as
4 follows:

5 **INTRODUCTION**

6 1. This is a Class Action, pursuant to California Code of Civil Procedure section 382,
7 on behalf of Plaintiff and any and all persons who are or were employed by Defendants as non-
8 exempt employees, however titled, in the State of California within four (4) years prior to the filing
9 of the Complaint in this action (as properly tolled by Emergency Rule 9) until the resolution of this
10 lawsuit and whose job duties did not consist of over 50% administrative, executive or professional
11 duties (collectively referred to as the “Class” or “Class Members” or “Non-Exempt Employees”).

12 2. During the relevant period, Defendants consistently maintained and enforced
13 against its Non-Exempt Employees unlawful practices and policies in violation of California state
14 wage and hour laws, including failing to lawfully and accurately pay Plaintiff and Class Members
15 for all hours worked, including minimum wages and overtime; failing to lawfully provide meal and
16 rest periods; failing to pay one hour of pay at the employee’s regular rate of pay when legally
17 mandated meal or rest periods were not lawfully provided; failing to accurately pay overtime;
18 failing to reimburse necessary expenses; failing to provide accurate itemized wage statements; and
19 failing to keep accurate records.

20 3. Defendants implemented uniform policies and practices that deprived Plaintiff and
21 Class Members of earned wages, including minimum wages; straight time wages; overtime wages;
22 premium wages; failing to reimburse necessary expenses; and lawful meal and/or rest breaks.

23 4. Such actions and policies, as described above and further herein, were and continue
24 to be in violation of the California Labor Code. Plaintiff, on behalf of himself and all Class
25 members, bring this action pursuant to the California Labor Code, including sections 201, 202, 203,
26 204, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 246, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195,
27 1197, 1198, 2802, applicable IWC California Wage Orders and California Code of Regulations,
28 Title 8, section 11000 *et seq.*, seeking unpaid wages, unpaid meal and rest period compensation,

1 penalties, liquidated damages, and reasonable attorneys' fees and costs.

2 5. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and
3 Professions Code sections 17200-17208, also seeks restitution from Defendants for their failure to
4 pay to Plaintiffs and Class Members all of their wages, including overtime and premium wages.

5 **JURISDICTION AND VENUE**

6 6. This action is brought as a Class Action on behalf of Plaintiff and similarly situated
7 employees of Defendants pursuant to California Code of Civ. Proc. Section 382. The monetary
8 damages and restitution sought by Plaintiff exceeds the minimum jurisdiction limits of the
9 California Superior Court and will be established according to proof at trial.

10 7. This Court has jurisdiction over this action pursuant to the California Constitution
11 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
12 those given by statute to other courts. The statutes under which this action is brought do not give
13 jurisdiction to any other court.

14 8. This Court has jurisdiction over this Action pursuant to California Code of Civil
15 Procedure, Section 410.10 and California Business & Professions Code, Section 17203.

16 9. This Court has jurisdiction over Defendants because, upon information and belief,
17 each Defendant is either a resident of California, has sufficient minimum contacts in California, or
18 otherwise intentionally avails itself of the California market so as to render the exercise of
19 jurisdiction over them by the California Courts consistent with traditional notions of fair play and
20 substantial justice. Defendants have done and are doing business throughout California.

21 10. The unlawful acts alleged herein have a direct effect on Plaintiff and the other
22 similarly situated Non-Exempt Employees within San Bernardino County and it is believed that
23 Defendants have employed over one hundred Class Members as Non-Exempt Employees
24 throughout the state.

25 11. The California Superior Court also has jurisdiction in this matter because the
26 individual claims of the Class Members described herein are presently believed to be under the
27 seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for Federal Court and the
28 aggregate potential damages and recovery by all of the claims of the Plaintiff's Class, including

1 attorneys' fees, placed in controversy by Plaintiff's class-wide claims, is presently believed to be
2 under the five million dollar (\$5,000,000.00) threshold of the Class Action Fairness Act of 2005.
3 Further, there is no federal question at issue, as the issues herein are based solely on California
4 statutes and law, including the Labor Code, IWC Wage Orders, the California Code of Civil
5 Procedure, the California Civil Code, and the California Business and Professions Code.

6 12. Venue is proper in this Court because one or more of the Defendants reside, transact
7 business, or have offices in this County, and the acts or omissions alleged herein took place in this
8 County.

9 PARTIES

10 13. Bechtel Infrastructure and Power Construction Services, Inc. is a Delaware
11 corporation in good standing that is authorized to do business throughout the state. Bechtel's
12 headquarters are located at 12011 Sunset Hills Road, Suite 110, Reston, VA 20190.

13 14. Bechtel operates in California from numerous locations providing
14 telecommunications and related infrastructure.

15 15. Plaintiff Erick Torres is and during the liability period has been, a resident of Los
16 Angeles, California.

17 16. Plaintiff was employed by Defendants during the liability period as non-exempt
18 employee with the title of Tower Technician and was based out of Chino, CA.

19 17. Plaintiff and the members of the putative class were employed by defendants as non-
20 exempt, hourly employees by Defendants, however titled, (the "Class Members" or "Non-Exempt
21 Employees") during the liability period in the State of California.

22 18. Whenever in this complaint reference is made to any act, deed, or conduct of
23 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through
24 one or more of Defendants' officers, directors, agents, employees, or representatives, who was
25 actively engaged in the management, direction, control, or transaction of the ordinary business and
26 affairs of Defendants.

27 19. The true names and capacities of Defendants, whether individual, corporate,
28 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to

1 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure §
2 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
3 capacities of the Defendants designated hereinafter as DOES when such identities become known.

4 20. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are
5 the partners, agents, or principals and co-conspirators of Defendants and of each other; that
6 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided
7 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits
8 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the
9 liability of the Defendants as alleged herein.

10 21. Plaintiff is further informed and believes, and thereon alleges, that at all times
11 material herein, each Defendant was completely dominated and controlled by its co-Defendants
12 and each was the alter ego of the other. Whenever and wherever reference is made in this complaint
13 to any conduct by Defendant or Defendants, such allegations and references shall also be deemed
14 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.
15 Whenever and wherever reference is made to individuals who are not named as Defendants in this
16 complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times
17 acted on behalf of Defendants named in this complaint within the scope of their respective
18 employments.

19 **FACTUAL ALLEGATIONS**

20 22. During the relevant time frame, Defendants compensated Plaintiff and the Non-
21 Exempt Employees based upon an hourly wage.

22 23. Plaintiff and the Class Members were, and at all times pertinent hereto, have been
23 non-exempt employees within the meaning of the California Labor Code, and the implementing
24 rules and regulations of the IWC California Wage Orders. They are subject to the protections of
25 the IWC Wage Orders and the Labor Code.

26 24. Plaintiff was employed as an hourly, non-exempt employee in the position of Tower
27 Technician from April 23, 2018 through May 2021. Plaintiff provided technician services at various
28

1 locations while based out of Defendant's location in Chino, CA.

2 25. The members of the putative class were non-exempt, hourly employees of
3 Defendants throughout the state of California during the liability period.

4 26. Plaintiff typically worked five to six days per week averaging over 50 hours a week.

5 27. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
6 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the
7 requirements of California's wage and employment laws.

8 28. All Class Members, including Plaintiff, are similarly situated in that they are all
9 subject to Defendants' uniform policies and systemic practices as specified herein.

10 29. Plaintiff and the Class Members were not properly compensated for all hours
11 worked, in part because they were frequently required to work off the clock before and after shifts,
12 and during purported meal periods.

13 30. Moreover, upon information and belief, Defendants automatically deducted
14 purported meal periods from the hours worked by employees regardless of whether such meal
15 periods were lawfully provided.

16 31. In addition, Plaintiff and the Class Members were routinely not compensated for all
17 hours worked because Defendants unlawfully rounded their time in/out and for lunch against
18 employee interests.

19 32. In fact, upon information and belief, Defendants frequently failed to record shift in
20 and out time punches and lunch in and out time punches as a matter of Defendants' policy and
21 practice.

22 33. Plaintiff and Class Members were also required to remain on-call, but were not paid
23 for said on call shifts as hours worked.

24 34. Moreover, the Class Members frequently worked in excess of eight (8) hours a day
25 and/or over forty (40) hours in a workweek, but were not properly paid for such time at a rate of
26 time and one-half the employee's regular rate of pay per hour. Plaintiff and the Class Members
27 also often worked in excess of twelve (12) hours in one day and/or over eight (8) hours on the
28 seventh day of the workweek, but were not properly paid for such time at a rate of two times the

1 employee's regular rate of pay per hour.

2 35. In addition, Defendants failed to incorporate all forms of compensation, including
3 without limitation, incentives, bonuses, and differentials into the regular rate. Thus, Plaintiff and
4 the Class Members were routinely undercompensated for overtime hours worked and premiums.

5 36. By way of example only, Plaintiff was paid a \$1000 bonus the first year he worked
6 for Bechtel and then went on to get a longevity bonus of \$800 every six months. These bonuses
7 were not blended into the overtime rate as required by law.

8 37. Plaintiff and the Class Members were also regularly required to work shifts in
9 excess of five hours without being provided a lawful meal period and over ten hours in a day
10 without being provided a second lawful meal period as required by law.

11 38. Indeed, during the relevant time, as a consequence of Defendants' staffing and
12 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
13 Defendants frequently failed to provide Plaintiff and the Class Members timely, legally complaint
14 uninterrupted 30-minute meal periods on shifts over five hours and second meal periods on shifts
15 over ten hours as required by law.

16 39. In addition, meal periods, when provided, were frequently untimely.

17 40. On information and belief, Plaintiff and Class Members did not waive their rights
18 to meal periods under the law.

19 41. Plaintiff and the Class Members were not provided with valid lawful on-duty meal
20 periods.

21 42. Despite the above-mentioned meal period violations, Defendants failed to
22 compensate Plaintiff, and on information and belief, failed to compensate Class Members, one
23 additional hour of pay at their regular rate as required by California law when meal periods were
24 not timely or lawfully provided in a compliant manner.

25 43. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
26 should know, knew, and/or should have known that Plaintiff and the other Class Members were
27 entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but
28 were not receiving such compensation.

1 44. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
2 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
3 period for every four hours worked or major fraction thereof, which is a violation of the Labor
4 Code and IWC wage order.

5 45. Defendants maintained and enforced scheduling practices, policies, and imposed
6 work demands that frequently required Plaintiff and Class Members to forego their lawful, paid
7 rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
8 requisite rest periods were not timely authorized and permitted.

9 46. Moreover, Plaintiff and the Class Members were required to incur necessary
10 expenses in the discharge of their duties, including without limitation cell phone expenses,
11 uniforms, boots, uniform maintenance, mileage and tools, but were not reimbursed for such
12 necessary expenses.

13 47. In addition, Class Members were not allowed to leave the premises during rest
14 breaks or meal breaks.

15 48. Despite the above-mentioned rest period violations, Defendants did not
16 compensate Plaintiff, and on information and belief, did not pay Class Members one additional
17 hour of pay at their regular rate as required by California law, including Labor Code section 226.7
18 and the applicable IWC wage order, for each day on which lawful rest periods were not
19 authorized and permitted.

20 49. Defendants also failed to provide accurate, lawful itemized wage statements to
21 Plaintiff and the Class Members in part because of the above specified violations. In addition,
22 upon information and belief, Defendants omitted an accurate itemization of total hours worked,
23 the applicable hourly rates, the number of hours worked at each rate, the name and address of the
24 legal entity that is the employer, gross pay and net pay figures from Plaintiff, and the Class
25 Members' wage statements. Such actions were and continue to be in violation of the California
26 Labor Code and applicable IWC Wage Orders.

27 50. Defendants have also made it difficult to determine applicable hourly rates of pay,
28 total hours worked, and account with precision for the unlawfully withheld wages and deductions

1 due to be paid to Non-exempt Employees, including Plaintiff, during the liability period because
2 they did not implement and preserve a lawful record-keeping method to record all hours worked,
3 meal periods, and non-provided rest and meal periods owed to employees as required for non-
4 exempt employees by 29 U.S.C. section 211(c), California Labor Code section 226, and
5 applicable California Wage Orders.

6 51. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
8 thereof for resignations without prior notice as the case may be) they had a duty to accurately
9 compensate Plaintiffs and Class Members for all wages owed including minimum wages, straight
10 time wages, overtime, meal and rest period premiums, and that Defendants had the financial ability
11 to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so
12 in part because of the above-specified violations.

13 52. Plaintiff and the Class Members are covered by applicable California IWC Wage
14 Orders and corresponding applicable provisions of the California Code of Regulations, Title 8,
15 section 11000 *et seq.*

16 **CLASS ACTION ALLEGATIONS**

17 53. Plaintiff brings this action on his own behalf, as well as on behalf of each and every
18 other person similarly situated, and thus, seeks class certification under California Code of Civil
19 Procedure §382.

20 54. All claims alleged herein arise under California law for which Plaintiff seeks relief
21 as authorized by California law.

22 55. The **proposed class** is comprised of and defined as: All persons currently or
23 formerly employed by Defendants as non-exempt, hourly, however titled, throughout the state of
24 California within four (4) years prior to the filing of the Complaint in this action (as properly tolled
25 by Emergency Rule 9) until the resolution of this lawsuit and whose job duties did not consist of
26 over 50% administrative, executive or professional duties. (hereinafter collectively referred to as
27 the “Class” or “Class Members”).

28 56. Plaintiff also seeks to represent Subclasses included in the Plaintiff’s Class, which

are composed of Class Members satisfying the following definitions:

a. All Class Members who were not paid at least minimum wage for all hours worked (collectively **“Minimum Wage Subclass”**);

b. All Class Members who worked in the field (collectively **“Field Subclass”**);

c. All Class Members who were not accurately paid overtime for hours worked over eight in a day or over forty in a workweek (collectively **“Overtime Subclass”**);

d. All Class Members who worked more than five (5) hours in a workday and were not provided with a timely, uninterrupted lawful meal period of net thirty (30) minutes, and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred to as the **“First Meal Period Subclass”**);

e. All Class Members who worked more than ten (10) hours in a workday and were not provided with a timely, uninterrupted lawful second meal period of net thirty (30) minutes, and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred to as the **“Second Meal Period Subclass”**);

f. All Class Members who worked more than three and a half hours in a workday and were not authorized and permitted to take a lawful net 10-minute rest period for every four (4) hours or major fraction thereof worked per day and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred to as the **“Rest Period Subclass”**);

g. All Class Members who did not receive all owed wages at the time of separation or within 72 hours in the case of resignation (hereinafter collectively referred to as the **“Waiting Time Subclass”**);

h. All Class Members who were not provided with accurate and complete itemized wage statements (hereinafter collectively referred to as the **“Inaccurate Wage Statement Subclass”**);

i. All Class Members who were employed by Defendants and subject to Defendant’s Unfair Business Practices (hereinafter collectively referred to as the **“Unfair Business Practices Subclass”**).

1 j. All Class Members who were not reimbursed for all necessary expenditures
2 (collectively “**Indemnification Subclass**”).

3 57. Plaintiff reserves the right, under Rule 3.765, California Rules of Court, to amend
4 or modify the descriptions of the Class and Subclasses to provide greater specificity as appropriate,
5 or if it should be deemed necessary by the Court or to further divide the Class Members into
6 additional Subclasses or to limit the Subclasses to particular issues. Any reference herein to the
7 Class Members or the Plaintiffs’ Class includes the members of each of the Subclasses.

8 58. As set forth in further detail below, this action has been brought and may properly
9 be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure
10 because there is a well-defined community of interest in the litigation, and the proposed Class and
11 Subclasses are easily ascertainable through Defendants’ records.

12 a. Numerosity: The members of the Class and Subclasses are so numerous that
13 joinder of all members of the Class and Subclasses would be unfeasible and impractical. The
14 membership of the entire Class and Subclasses is unknown to Plaintiff at this time, however, the
15 Class is estimated to be over a hundred individuals. Accounting for employee turnover during the
16 relevant periods necessarily increases this number substantially. Plaintiff alleges Defendants’
17 employment records would provide information as to the number and location of all Class
18 Members. Joinder of all members of the proposed Class is not practicable.

19 b. The proposed class is easily ascertainable. The number and identity of the
20 class members are determinable from Defendants’ payroll records and time records for each class
21 member.

22 c. Commonality: There are common questions of law and fact as to the Class
23 and Subclasses that predominate over questions affecting only individual Class Members. These
24 common questions of law and fact include, without limitation:

25 1) Whether Defendants paid Class Members at least minimum wage for all
26 hours worked;

27 2) Whether Defendants knew or should have known that Class Members were
28 required to perform work off the clock;

1 3) Whether Defendants rounded hours worked against the interests of Class
2 Members;
3 4) Whether Defendants recorded shift in and out times, and lunch periods;
4 5) Whether Defendants accurately calculated and paid all Class Members
5 overtime premiums for the hours which Plaintiff and Class Members worked in excess of eight (8)
6 hours per day and/or forty (40) hours per week;
7 6) Whether Defendants had a policy and practice of providing lawful, timely
8 meal periods in accordance with Labor Code § 512, as well as the applicable Industrial Welfare
9 Commission (“IWC”) wage order;
10 7) Whether Defendants required employees to remain on the premises during
11 meal periods;
12 8) Whether Defendants had a policy and practice of complying with Labor
13 Code section 226.7 and IWC Wage Order on each instance that a lawful meal period was not
14 provided;
15 9) Whether Defendants failed to authorize and permit a lawful, net 10-minute
16 rest period to the Class Members for every four (4) hours or major fraction thereof worked;
17 10) Whether Defendants required employees to remain on the premises during
18 rest periods;
19 11) Whether Defendants had a policy and practice of complying with Labor
20 Code section 226.7 and the IWC Wage Order on each instance that a lawful rest period was not
21 provided;
22 12) Whether Defendants properly calculated the regular rate;
23 13) Whether Defendants failed to timely pay all wages upon separation in
24 accordance with Labor Code sections 201-202;
25 14) Whether Defendants failed to reimburse employees for necessary expenses
26 in accordance with Labor Code section 2802;
27 15) Whether Defendants omitted required information from itemized wage
28 statements or included erroneous information on wage statements;

1 16) Whether Defendants failed to maintain accurate records of Class Members'
2 earned wages, work periods, meal periods and deductions;

3 17) Whether Defendants engaged in unfair competition in violation of section
4 17200 et seq. of the Business and Professions Code;

5 18) Whether Defendants' conduct was willful and/or reckless;

6 19) Whether Defendants failed to provide accurate itemized wage statements in
7 violation of Labor Code § 226; and

8 20) The appropriate amount of damages, restitution, and/or monetary penalties
9 resulting from Defendants' violations of California law.

10 d. Typicality: Plaintiff is qualified to, and will fairly and adequately protect the
11 interests of each member of the Class and Subclasses with whom he has a well-defined community
12 of interest. Plaintiff's claims herein alleged are typical of those claims which could be alleged by
13 any member of the Class and/or Subclasses, and the relief sought is typical of the relief which
14 would be sought by each member of the Class and/or Subclasses in separate actions. All members
15 of the Class and/or Subclasses have been similarly harmed by Defendants' failure to provide lawful
16 meal and rest periods, failure to provide accurate wage statements, failure to timely pay wages at
17 termination, failure to pay minimum wages, failure to reimburse necessary expenses, and failure to
18 accurately pay all wages earned including all owed premium and overtime wages, all due to
19 Defendants' policies and practices that affected each member of the Class and/or Subclasses
20 similarly. Further, Defendants benefited from the same type of unfair and/or wrongful acts as to
21 each member of the Class and/or Subclasses.

22 e. Adequacy: Plaintiff is qualified to, and will fairly and adequately protect the
23 interests of each member of the Class and/or Subclasses with whom he has a well-defined
24 community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that
25 he has an obligation to make known to the Court any relationships, conflicts, or differences with
26 any member of the Class and/or Subclasses, and no such relationships or conflicts are currently
27 known to exist. Plaintiff's attorneys and the proposed counsel for the Class and Subclasses are
28 versed in the rules governing class action discovery, certification, litigation, and settlement and

1 experienced in handling such matters. Other former and current employees of Defendants may also
2 serve as representatives of the Class and Subclasses if needed.

3 f. Superiority: The nature of this action makes the use of class action
4 adjudication superior to other methods. A class action will achieve economies of time, effort,
5 judicial resources, and expense, which would not be achieved with separate lawsuits. The
6 prosecution of separate actions by individual members of the Class and/or Subclasses would create
7 a risk of inconsistent and/or varying adjudications with respect to the individual members of the
8 Class and/or Subclasses, establishing incompatible standards of conduct for the Defendants, and
9 resulting in the impairment of the rights of the members of the Class and/or Subclasses and the
10 disposition of their interests through actions to which they were not parties. Thus, a class action is
11 superior to other available means for the fair and efficient adjudication of this controversy because
12 individual joinder of all Class Members is not practicable, and questions of law and fact common
13 to the Class predominate over any questions affecting only individual Class Members. Each
14 member of the Class has been damaged and is entitled to recovery by reason of Defendants'
15 unlawful policies and practices, including Defendants' failure to provide lawful meal and rest
16 periods, failure to pay minimum wages, failure to provide accurate wage statements, failure to
17 timely pay wages at termination, failure to reimburse necessary expenses, and failure to accurately
18 pay all wages earned including all owed premium and overtime wages, all due to Defendants'
19 policies and practices that affected each member of the Class and/or Subclasses similarly. Class
20 action treatment will allow those similarly situated persons to litigate their claims in the manner
21 that is most efficient and economical for both parties and the judicial system. Plaintiff is unaware
22 of any difficulties that are likely to be encountered in the management of this action that would
23 preclude its maintenance as a class action.

24 g. Public Policy Considerations: Employers in the state of California violate
25 employment and labor laws every day. However, current employees are often afraid to assert their
26 rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
27 because they believe their former employers may damage their future endeavors through negative
28 references and/or other means. The nature of this action allows for the protection of current and

1 former employees' rights without fear of retaliation or damage. Additionally, the citizens of
2 California have a significant interest in ensuring employers comply with California's labor laws
3 and in ensuring those employers who do not are prevented from taking further advantage of their
4 employees.

5 **CLASS ACTION CLAIMS**

6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO PAY MINIMUM WAGE**

8 **(By Plaintiff and the Class Against Defendants)**

9 59. Plaintiff incorporates by reference each and every paragraph above, and realleges
10 each and every allegation contained above as though fully set forth herein.

11 60. At all times relevant, Labor Code §1194 provides that any employee receiving less
12 than the legal minimum wage or the legal overtime compensation applicable to the employee is
13 entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or
14 overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

15 61. Labor Code §1197 states: "The minimum wage for employees fixed by the
16 commission is the minimum wage to be paid to employees, and the payment of a less wage than
17 the minimum so fixed is unlawful."

18 62. Cal. Lab. Code § 1198 further states that the employment of an employee for longer
19 hours than those fixed by the Industrial Welfare Commission is unlawful.

20 63. The IWC Wage Orders similarly require that employees be paid on the established
21 payday for the period involved, not less than the applicable minimum wage for all hours worked in
22 the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

23 64. At all times relevant, as more extensively set forth above, Plaintiff and Class
24 Members consistently worked hours for which they were not paid because Plaintiff and the Class
25 Members were required to work off the clock.

26 65. Plaintiff is informed and believes that Defendants and its managers were aware
27 that Plaintiff and the Class Members were working off the clock and that they should have been
28 paid for this time.

66. Further, at all times relevant, as more extensively set forth above, Plaintiff and Class Members consistently worked hours for which they were not paid because Defendants consistently rounded hours worked against the interests of Plaintiff and the Class Members.

67. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of wages owed violates the provisions of Labor Code §510, §1194, §1197, §1198, and the applicable IWC wage orders and is therefore unlawful.

68. Accordingly, Defendants owe Plaintiff and Class Members wages, including minimum wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and Class Members the wages owed.

69. Pursuant to Labor Code §1194, Plaintiffs and Class Members are entitled to recover their unpaid compensation, as well as interest, costs, and attorneys' fees.

70. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Class Members are entitled to “recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

71. Also, pursuant to Labor Code §1197.1, Plaintiff and the Class Members are entitled to claim all applicable civil penalties as a direct result of Defendants' policy and practice of paying a wage less than the minimum fixed by an order of the commission.

72. Accordingly, Plaintiff and Class Members are entitled to recover their unpaid wages, including minimum wages, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(By Plaintiff and the Class Against All Defendants)

73. Plaintiff incorporates by reference each and every paragraph above, and realleges each and every allegation contained above as though fully set forth herein.

74. At all times relevant, pursuant to Labor Code section 510, 1194, and the IWC wage orders applicable to Plaintiff's and the Class Members' employment by Defendants provided that employees working for more than eight (8) hours in a day or forty (40) hours in a

1 work week are entitled to overtime compensation at the rate of one and one-half times the regular
2 rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work
3 week. An employee who works more than twelve (12) hours in a day or in excess of eight (8)
4 hours in a day on the seventh day of work in a particular work week is entitled to overtime
5 compensation at a rate of twice the regular rate of pay.

6 75. The IWC Wage Orders define “hours worked” as “the time during which an
7 employee is subject to the control of an employer, and includes all the time the employee is
8 suffered or permitted to work, whether or not required to do so.”

9 76. In some instances, Plaintiff and the Class Members worked in excess of eight (8)
10 hours in a day and/or forty (40) hours in a week, and on occasion over twelve hours in a day or
11 over eight hours on the seventh day of work in a particular workweek without being paid all
12 wages owed as required by law as a result of Defendants’ unlawful practices as set forth herein.

13 77. Plaintiff is further informed and believes that Defendants failed to compensate
14 employees for all overtime hours worked at the proper regular rate, as Defendant failed to include
15 all forms of remuneration in the regular rate.

16 78. Upon information and belief, Defendants knew or should have known Plaintiffs and
17 the Class Members were undercompensated. Defendants’ failure to pay Plaintiffs and Class
18 Members the unpaid balance of wages owed violates the provisions of Labor Code §510, §1194,
19 §1197, §1198, and the applicable IWC wage orders and is therefore unlawful.

20 79. Accordingly, Defendants owe Plaintiff and Class Members wages, including
21 overtime wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and
22 Class Members the wages owed.

23 80. Pursuant to Labor Code §1194, Plaintiffs and Class Members are entitled to recover
24 their unpaid compensation, as well as interest, costs, and attorneys’ fees.

25 81. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Class Members
26 are entitled to “recover liquidated damages in an amount equal to the wages unlawfully unpaid
27 and interest thereon.”

28 82. Also, pursuant to Labor Code §1197.1, Plaintiff and the Class Members are

entitled to claim all applicable civil penalties as a direct result of Defendants' policy and practice of paying a wage less than the minimum fixed by an order of the commission.

83. Accordingly, Plaintiff and Class Members are entitled to recover their unpaid wages, including overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

(By Plaintiff and the Class Against All Defendants)

84. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

85. Pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee.

86. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than ten (10) hours without providing a second meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal break may only be waived by mutual consent, and if the employee did not waive his or her first meal period, and the employee's work day will not exceed twelve hours.

87. For the four (4) years preceding the filing of this lawsuit as tolled by Emergency Rule 9, Defendants failed to provide Plaintiff and Class Members timely and uninterrupted first meal periods of not less than thirty (30) minutes within the first five hours of a shift.

88. For the four (4) years preceding the filing of this lawsuit as tolled by Emergency Rule 9, Defendants also failed to provide Plaintiff and Class Members timely and uninterrupted second meal periods of not less than thirty (30) minutes on shifts longer than ten hours.

89. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Plaintiff and the Class Members were not provided with legally required meal periods.

90. On information and belief, Plaintiff and Class Members did not waive their rights to meal periods under the law.

91. Plaintiff and the Class Members were not provided with valid lawful on-duty meal periods.

92. In addition, upon information and belief, Plaintiff and the Class Members were not allowed to leave the premises during meal periods.

93. Plaintiff and the Class Members were not paid one hour of pay at their regular rate for each day that a first or second meal period was not lawfully provided.

94. As a proximate result of the aforementioned violations, Plaintiff and the Class Members have been damaged in an amount according to proof at time of trial.

95. Pursuant to Labor Code § 226.7, Plaintiff and Class Members are entitled to recover one (1) hour of premium pay for each day in which a meal period violation occurred. They are also entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

96. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 218.6, 226.7, 512 and the applicable IWC Wage Orders, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS

(By Plaintiff and the Class Against All Defendants)

97. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

98. Pursuant to the IWC wage orders applicable to Plaintiff's and Class Members' employment by Defendants, "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period.... [The] authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net

1 rest time per four (4) hours worked or major fraction thereof.... Authorized rest period time shall
2 be counted as hours worked, for which there shall be no deduction from wages.”

3 99. Labor Code §226.7(a) prohibits an employer from requiring any employee to work
4 during any rest period mandated by an applicable order of the IWC.

5 100. Defendants were required to authorize and permit employees such as Plaintiff and
6 Class Members to take rest periods during shifts in excess of 3.5 hours, based upon the total hours
7 worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof,
8 with no deduction from wages.

9 101. Despite said requirements of the IWC wage orders applicable to Plaintiff’s and Class
10 Member’s employment with Defendants, Defendants failed and refused to authorize and permit
11 Plaintiff and Class Members to take lawful, net ten (10) minute rest periods for every four (4) hours
12 worked, or major fraction thereof.

13 102. In addition, upon information and belief, Plaintiff and the Class Members were not
14 allowed to leave the premises during rest periods.

15 103. Defendants did not pay Plaintiff one additional hour of pay at his regular rate of pay
16 for each day that a rest period violation occurred. On information and belief, the other members of
17 the Class endured similar violations as a result of Defendants’ rest period policies and practices and
18 Defendant did not pay said Class Members premium pay as required by law.

19 104. By their failure to authorize and permit Plaintiff and the Class Members to take a
20 lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction
21 thereof worked, including failure to provide two (2) total rest periods on six to ten hour shifts and
22 three (3) total ten (10) minute rest periods on days on which Plaintiff and the other Class Members
23 work(ed) work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide
24 compensation for such unprovided rest periods as alleged herein, Defendants willfully violated the
25 provisions of Labor Code sections 226.7 and the applicable IWC Wage Order(s).

26 105. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to
27 represent have been deprived of premium wages in amounts to be determined at trial, and are
28

1 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
2 under Labor Code sections 218.6, 226.7, the applicable IWC Wage Orders, and Civil Code 3287.

3 **FIFTH CAUSE OF ACTION**

4 **FAILURE TO TIMELY PAY WAGES OWED AT SEPARATION**

5 **(By Plaintiff and the Waiting Time Subclass Against All Defendants)**

6 106. Plaintiff incorporates by reference and realleges each and every allegation contained
7 above, as though fully set forth herein.

8 107. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages
9 due within seventy-two (72) hours of separation of employment.

10 108. Section 203 of the Labor Code provides that if an employer willfully fails to timely
11 pay such wages the employer must, as a penalty, continue to pay the subject employee's wages
12 until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days
13 of wages.

14 109. Plaintiff and Class Members are entitled to compensation for all forms of wages
15 earned, including but not limited to minimum wages, overtime, and premium meal and rest period
16 compensation, but to date have not received such compensation, therefore entitling them to Labor
17 Code § 203 penalties.

18 110. More than thirty (30) days have passed since affected Waiting Time Subclass
19 Members have left Defendants' employ, and on information and belief, they have not received
20 payment pursuant to Labor Code § 203.

21 111. Plaintiff and Waiting Time Subclass Members are thus entitled to 30 days' wages
22 as a penalty under Labor Code § 203, together with interest thereon and attorneys' fees and costs.

23 **SIXTH CAUSE OF ACTION**

24 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED**
25 **EMPLOYEE WAGE STATEMENT PROVISIONS**

26 **By Plaintiff and the Wage Statement Class Against Defendants**

27 112. Plaintiff repeats and incorporates herein by reference each and every allegation set
28 forth above, as though fully set forth herein.

1 113. Labor Code section 226(a) reads in pertinent part: “Every employer shall,
2 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
3 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately
4 when wages are paid by personal check or cash, an accurate itemized statement in writing
5 showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions...
6 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
7 name of the employee and only the last four digits of his or her social security number or an
8 employee identification number other than a social security number, (8) the name and address of
9 the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the
10 pay period and the corresponding number of hours worked at each hourly rate by the
11 employee....”.

12 114. Further, the IWC Wage Orders require in pertinent part: Every employer shall
13 keep accurate information with respect to each employee including the following: (3) Time
14 records showing when the employee begins and ends each work period. Meal periods, split shift
15 intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the
16 payroll period and applicable rates of pay....”

17 115. Labor Code section 1174 of the California also requires Defendants to maintain
18 and preserve, in a centralized location, among other items, records showing the names and
19 addresses of all employees employed and payroll records showing the hours worked daily by, and
20 the wages paid to, its employees. On information and belief and based thereon, Defendants have
21 knowingly and intentionally failed to comply with Labor Code section 1174, including by
22 implementing the policies and procedures and committing the violations alleged in the preceding
23 causes of action and set forth herein. Defendants’ failure to comply with Labor Code section
24 1174 is unlawful pursuant to Labor Code section 1175.

25 116. Defendants have failed to record many of the items delineated in applicable
26 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section
27 1174, including by virtue of the fact that each wage statement which failed to accurately
28 compensate Plaintiff and Class Members for all hours worked and for missed and non-provided

1 meal and rest periods, or which failed to include compensation for all minimum wages earned or
2 overtime hours worked, was an inaccurate wage statement.

3 117. On information and belief, Defendants failed to implement and preserve a lawful
4 record-keeping method to record all hours worked, meal periods, and non-provided meal and rest
5 periods owed to employees, as required for Non-Exempt Employees under California Labor Code
6 section 226 and applicable California Wage Orders. In order to determine if they had been paid
7 the correct amount and rate for all hours worked, Plaintiff and Class Members have been, would
8 have been, and are compelled to try to discover the required information missing from their wage
9 statements and to perform complex calculations in light of the inaccuracies and incompleteness of
10 the wage statements Defendants provided to them.

11 118. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC
12 Wage Orders, Defendants did not and still do not furnish each of the members of the Wage
13 Statement Class with an accurate itemized statement in writing accurately reflecting all of the
14 required information. Specifically, Defendants have also omitted accurate itemizations of total
15 hours worked, the name and address of the legal entity that is the employer, the hours worked at
16 each rate, the applicable hourly rates, and gross pay from Plaintiff and the Class Members' wage
17 statements. In addition, Defendants have failed to provide accurate itemized wage statements as a
18 consequence of the above-specified violations for failure to accurately pay all wages owed,
19 accurately record all hours worked, and failure to pay meal and rest period premiums as required
20 by law.

21 119. Moreover, upon information and belief, as a pattern and practice, in violation of
22 Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain
23 accurate records pertaining to the total hours worked for Defendants by the members of the Wage
24 Statement Class, including but not limited to, beginning and ending of each work period, meal
25 period and split shift interval, the total daily hours worked, and the total hours worked per pay
26 period and applicable rates of pay.

27 120. Plaintiffs and the members of the Wage Statement Class have suffered injury as a
28 result of Defendants' failure to maintain accurate records for the members of the Wage Statement

1 Class in that the members of the Wage Statement Class were not timely provided written accurate
2 itemized statements showing all requisite information, such that the members of the Wage
3 Statement Class were misled by Defendants as to the correct information regarding various items,
4 including but not limited to the identity of the employer, total hours worked by the employee,
5 gross pay, net wages earned and all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate.

7 121. Further, at all relevant times, under Labor Code section 226 (a), all deductions made
8 from payment of wages shall be recorded in ink or other indelible form, properly dated, showing
9 the month, day, and year, and a copy of the statement and the record of the deductions shall be kept
10 on file by the employer for at least three years at the place of employment or at a central location
11 within the State of California.

12 122. Plaintiff alleges, upon information and belief, that Defendants failed to retain the
13 documents required by Labor Code 226(a) in ink or other indelible format as required by statute.

14 123. Plaintiff further alleges that Defendants failed to comply with the requirements of
15 Labor Code section 226(a) to furnish wage statements semimonthly or at the time of each
16 payment of wages because Defendants did not provide said statements to employees, and
17 electronic access methods were not reliable and prevented employees from accessing said
18 statements on their own.

19 124. Pursuant to Labor Code section 226, and in light of Defendants' violations
20 addressed above, Plaintiff and the Wage Statement Class Members are each entitled to recover up
21 to a maximum of \$4,000.00, along with an award of costs and reasonable attorneys' fees.

22 SEVENTH CAUSE OF ACTION

23 VIOLATION OF THE UNFAIR COMPETITION LAW

24 **By Plaintiff and Class Against All Defendants**

25 125. Plaintiff incorporates by reference and realleges each and every allegation contained
26 above, as though fully set forth herein.

27 126. Defendants' conduct, as alleged in this complaint, has been, and continues to be,
28 unfair, unlawful, and harmful to Plaintiff and Class Members, Defendants' competitors, and the

1 general public. Plaintiff also seeks to enforce important rights affecting the public interest within
2 the meaning of the California Code of Civil Procedure § 1021.5.

3 127. Defendants' policies, activities, and actions as alleged herein are violations of
4 California law and constitute unlawful business acts and practices in violation of California
5 Business and Professions Code §§ 17200, *et seq.*

6 128. A violation of California Business and Professions Code §§ 17200, *et seq.*, may be
7 predicated on the violation of any state or federal law.

8 129. The state law violations, including violations of the relevant IWC Wage Order,
9 detailed herein above are the predicate violations for this cause of action. By way of example only,
10 in the instant case Defendants' policy of failing to lawfully provide Plaintiff and the Class with
11 timely meal and rest periods or pay one (1) hour of premium pay when a meal or rest period was
12 not lawfully provided violates Labor Code § 512, and § 226.7, and the IWC Wage Orders.
13 Defendants further violated the law through their policies of failing to fully and accurately
14 compensate Plaintiff and the Class Members for all hours worked, including minimum wages and
15 overtime as well as failing to provide accurate itemized wage statement as specified above.

16 130. Plaintiff and the Class Members have been personally aggrieved by Defendants'
17 unlawful and unfair business acts and practices alleged herein by the loss of money and/or property.

18 131. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, Plaintiff
19 and the Class Members are entitled to restitution of the wages withheld and retained by Defendants
20 during a period that commences four (4) years prior to the filing of this complaint (as tolled by
21 Emergency Rule 9); an award of attorneys' fees pursuant to California Code of Civil Procedure
22 §1021.5; interest; and an award of costs.

23 **EIGHTH CAUSE OF ACTION**

24 **FAILURE TO REIMBURSE NECESSARY EXPENSES**

25 **By Plaintiff and Class Against All Defendants**

26 132. Plaintiff incorporates by reference and realleges each and every allegation contained
27 above, as though fully set forth herein.

28 133. Plaintiff repeats and incorporates herein by reference each and every allegation set

1 forth above, as though fully set forth herein.

2 134. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Class Members
3 for necessary expenditures incurred in direct consequence of the discharge of his or her duties.

4 135. Plaintiff and the members of the Indemnification Class were required to incur
5 expenses in the performance of their assigned job duties. For example, Plaintiff and the
6 Indemnification Class Members were required to incur numerous out of pocket expenses,
7 including without limitation, cellular phone expenses, application expenses, uniforms, mileage,
8 boots, and tools, in direct consequence of the discharge of their duties.

9 136. Upon information and belief, the Defendants did not reimburse Plaintiff or the
10 Plaintiff's subclass for such expenses.

11 137. As a result of the unlawful acts of Defendants, Plaintiff and the Subclass Members
12 have been deprived of un-reimbursed sums in amounts to be determined at trial, and are entitled
13 to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
14 pursuant to Labor Code §2802.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff pray judgment against Defendants, as follows:

17 **Class Certification**

- 18 1. That this action be certified as a class action;
19 2. That Plaintiff be appointed as the representatives of the Class;
20 3. That Plaintiff be appointed as the representatives of the Subclasses; and
21 4. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

22 **On the First Cause of Action**

23 **(Failure to Pay Minimum Wage)**

- 24 1. For the unpaid balance of the full amount of any minimum wages and regular wages
25 owed, as well as interest thereon,
26 2. Penalties according to statute,
27 3. Liquidated damages,
28 4. Reasonable attorneys' fees, and costs of suit;

1 5. For interest and

2 6. For such other and further relief as the Court deems proper.

3 **On the Second Cause of Action**

4 **(Failure to Pay Overtime Wages)**

5 1. For the unpaid balance of the full amount of any overtime and regular wages owed,
6 as well as interest thereon,

7 2. Penalties according to statute,

8 3. Liquidated damages,

9 4. Reasonable attorneys' fees, and costs of suit;

10 5. For interest and

11 6. For such other and further relief as the Court deems proper.

12 **On the Third Cause of Action**

13 **(Failure to Provide Lawful Meal Periods)**

14 1. For one (1) hour of premium pay for each day in which a required meal period was
15 not lawfully provided;

16 2. For reasonable attorneys' fees and costs pursuant to statute; and

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

18 **On the Fourth Cause of Action**

19 **(Failure to Authorize and Permit Lawful Rest Periods)**

20 1. For one (1) hour of premium pay for each day in which a required rest period was
21 not lawfully authorized and permitted; and

22 2. For reasonable attorneys' fees and costs pursuant to statute; and

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

24 **On the Fifth Cause of Action**

25 **(Failure to Timely Pay Wages At Separation)**

26 1. For unpaid wages;

27 2. For penalties pursuant to Labor Code § 203;

28 3. For interest;

4. For reasonable attorneys' fees and costs pursuant to statute; and
5. For such other and further relief as the Court deems proper.

On the Sixth Cause of Action

(Failure to Provide Accurate Itemized Wage Statements)

1. For statutory penalties, including penalties pursuant to Labor Code section 226;
2. For reasonable attorneys' fees and costs; and
3. For such other and further relief as the Court deems proper;

On the Seventh Cause of Action

(Violation of the Unfair Competition Law)

1. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of sums to Plaintiff and Class Members for the Defendants' past failure to pay overtime and regular wages, for Defendants' past failure to reimburse necessary expenses, and for premium wages for meal and rest periods that were not provided to Plaintiff and Class Members over the last four (4) years in an amount according to proof;
2. For reasonable attorneys' fees that Plaintiff and Class Members are entitled to recover under California Code of Civil Procedure § 1021.5 and Labor Code section 1194;
3. For pre-judgment interest on any unpaid overtime wages due from the day that such amounts were due;
4. For costs of suit incurred herein that Plaintiff and Class Members are entitled to recover under the Labor Code; and
5. For such other and further relief as the Court deems proper.

On the Eighth Cause of Action

(Failure to Reimburse Necessary Expenses)

1. For unreimbursed sums;
2. For reasonable attorneys' fees and costs pursuant to statute;
3. For interest; and
4. For such other and further relief as the Court deems proper.

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Respectfully submitted,

Dated: September 16, 2021

Attorneys for Plaintiff
ERICK TORRES, on behalf of himself
and all others similarly situated

EXHIBIT 5B

November 22, 2021

Via Online Filing (LWDA) and Certified Mail (Employers)

California Labor and Workforce Development Agency
Attn: PAGA Administrator

Bechtel Infrastructure and Power Construction Services, Inc.
Attn: Agent for Service of Process
4640 Admiralty Way, 5th Floor
Marina del Rey, CA 90292

Re: AMENDED NOTICE PURSUANT TO
LABOR CODE SECTIONS 2698 *et seq.* (LWDA Case No. LWDA-CM-844914-21)

To Whom It May Concern:

PLEASE TAKE NOTICE that Plaintiff Erick Torres, on behalf of himself and all others similarly situated, hereby submits this amended NOTICE of his Complaint pursuant to Labor Code Sections 2698, *et seq.* against Defendant Bechtel Infrastructure and Power Construction Services, Inc., a Delaware corporation, and DOES 1 through 50, inclusive (collectively “Defendants”). Plaintiff submits this amended notice to supplement his prior notice and attached complaint (which is incorporated herein by this reference) to add additional allegations and violations of OSHA. This notice is timely as it is provided within one year of the violations. In addition, the statute of limitation for the claim under the Private Attorney Generals Act, is tolled by operation of law under Emergency Rule 9 due to the COVID-19 pandemic.

Plaintiff alleges that Defendants committed the following violations set forth below against both him and a subgroup of the aggrieved employees¹ that he seeks to represent: Any and all persons who are or were employed as non-exempt, hourly field employees, however titled, by Defendants in the State of California (the “Field Aggrieved Employees”) during the liability period (as tolled by Emergency Rule 9).

¹ In his initial notice, Plaintiff alleges that Defendants committed the violations specified in the Complaint against both him and the Aggrieved Employees defined as: Any and all persons who are or were employed as non-exempt, hourly employees, however titled, in by Defendants during the liability period (as tolled by Emergency Rule 9). This notice adds additional allegations pertinent to the subgroup of Aggrieved Employees defined as “Field Aggrieved Employees.”

NOTICE PURSUANT TO LABOR CODE SECTIONS 2698 et seq.

November 22, 2021

Page 2

In addition to the extensive violations set forth in Plaintiff's original notice and Complaint (attached hereto), Plaintiff also alleges that Defendants violated California Labor Code section 6300 et seq. as to Plaintiff and the Field Aggrieved Employees by, among other things: failing to certify the Field Aggrieved Employees to climb cell phone towers and provide requisite training for the Field Aggrieved Employees to safely and properly climb said towers, failing to certify the Field Aggrieved Employees to safely and properly work in power plants and provide requisite training, failing to provide the Field Aggrieved Employees with a functional RF (Radio Frequency Radiation) monitor, and failing to provide the Field Aggrieved Employees with bathroom facilities and appropriate rest facilities. Plaintiff contends that this conduct violated Cal/OSHA and exposes Defendants to liability for PAGA penalties for their:

- Failure to provide a place of employment that is safe and healthful (Labor Code § 6400);
- Failure to furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful (Labor Code § 6401);
- Failure to implement and maintain an effective written illness prevention program (Labor Code § 6401.7);
- Requiring or permitting an employee to go or be in any employment or place of employment which is not safe and healthful (Labor Code § 6402); and
- Failure or neglect to provide and use reasonably adequate safety devices and safeguards or adopt or use reasonably adequate methods and processes, or to do every other thing reasonably necessary to protect the life, safety and health of employees (Labor Code § 6403).

In addition, Plaintiff alleges that Defendants failed to provide Plaintiff and the Field Aggrieved Employees recovery periods as required by Labor Code section 3395, Wage Orders 1 and 4, and Labor Code sections 226.7 and 1198. Defendants failed to encourage and permit said recovery periods as a matter of policy and practice. This constitutes a violation of the specified provisions.

Please advise by certified mail within sixty-five (65) days of the post mark on this letter if the LWDA intends to investigate these additional claims. Thank you, and please contact me if you have any questions or require additional information.

Very Truly Yours,

/s/ Christina M. Lucio
Christina M. Lucio, Esq.

Enclosure: Original Notice and Complaint

Exhibit 1:
Original Notice and
Complaint

September 16, 2021

Via Online Filing (LWDA) and Certified Mail (Employers)

California Labor and Workforce Development Agency
Attn: PAGA Administrator

Bechtel Infrastructure and Power Construction Services, Inc.
Attn: Agent for Service of Process
4640 Admiralty Way, 5th Floor
Marina del Rey, CA 90292

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2698 *et seq.*

To Whom It May Concern:

PLEASE TAKE NOTICE that Plaintiff Erick Torres, on behalf of himself and all others similarly situated, hereby gives NOTICE of his Complaint pursuant to Labor Code Sections 2698, *et seq.* against Defendant Bechtel Infrastructure and Power Construction Services, Inc., a Delaware corporation, and DOES 1 through 50, inclusive. Plaintiff intends to commence an action against Defendants pursuant to Labor Code sections 2698 *et seq.* Plaintiff hereby gives written notice by online submission to the Labor and Workforce Development Agency, and by certified mail to Defendant Bechtel Infrastructure and Power Construction Services, Inc., via its agent for service of process. This notice is timely as it is provided within one year of the violations. In addition, the statute of limitation for the claim under the Private Attorney Generals Act, is tolled by operation of law under Emergency Rule 9 due to the COVID-19 pandemic.

Plaintiff has attached his Complaint, and incorporates the allegations in the Complaint as though fully set forth herewith, setting out the specific provisions of the Labor Code that Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendants in the Complaint.

Plaintiff alleges that Defendants committed the violations specified in the Complaint against both him and the group of aggrieved employees that he seeks to represent: Any and all persons who are or were employed as non-exempt, hourly employees, however titled, in by Defendants (the “Aggrieved Employees”) during the liability period (as tolled by Emergency Rule 9).

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations

alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Torres has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at Bechtel Infrastructure and Power Construction Services, Inc. regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

Plaintiff was employed as an hourly non-exempt Tower Technician/Service Technician from April 23, 2018 through May 28, 2021. Plaintiff provided telecommunication tower technician services in and around Defendant's location in Chino, California.

In addition to the violations specified in the attached Complaint, Plaintiff alleges that Defendants failed to pay sick leave pay to Plaintiff and the Aggrieved Employees at the proper rate. Labor Code 246 (a) (1) provides: An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified. Labor Code section 246(l) provides: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment." In this case, Plaintiff alleges that Defendant failed to pay sick leave at the proper rate because it failed to take all forms of compensation, including incentives, bonuses, commissions, differentials, and other wages into account in calculating the regular rate. This constitutes a violation of Labor Code.

Moreover, Plaintiff alleges that Defendant violated Labor Code section 246(i). Labor Code Section 246(i) provides that, "an employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement 'unlimited.' The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226." Here, Plaintiff asserts that Defendant violated Labor Code section 246(i) because Defendant frequently omitted sick leave from the wage statements of Plaintiff and the other aggrieved employees.

Plaintiff further alleges that Defendants' failure to timely and properly pay sick leave as required by Healthy Workplace Healthy Family Act of 2014 (HWHFA), the Families First Coronavirus Response Act (FFCRA) and California Covid-19 Supplemental Paid Sick Leave laws also constituted violations of Labor Code section 1194 and 1197 because Defendants failed to pay the sick leave at the rates required by statute. Further, the failure to timely and properly pay sick leave when taken according to the timelines set forth in Labor Code § 204 constituted a violation Labor Code section 204 and subjects Defendants to penalties under Labor Code § 210. Former employees are also entitled to penalties under Labor Code section 203 for the failure to properly pay all sick leave wages owed for sick leave taken during employment in violation of Labor Code section 201-202.

In addition, Plaintiff also contends that Defendants failed to keep accurate records as required by Wage Order 4-2001, 16-2001, Labor Code 1174, and 1198. IWC Wage Orders 4-2001, and 16-2001, required in pertinent part: Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded.... (5) Total hours worked in the payroll period and applicable rate of pay..." Labor Code section 1174 also requires Defendants to maintain and preserve, in a centralized location, among other items, records showing the names and addresses of all employees employed and payroll records showing the hours worked daily by, and the wages paid to, its employees. On information and belief and based thereon, Defendants have knowingly and intentionally failed to comply with Labor Code section 1174, including by implementing the policies and procedures and committing the violations alleged in the complaint, including without limitation failing to keep records of meal periods and all wages earned at the proper rates. Defendant's failure to comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

All Labor Code and related Complaint allegations pertain to all entities or individuals named in the Complaint, even if not so specified.

Please advise by certified mail within sixty-five (65) days of the post mark on this letter if the LWDA intends to investigate these claims. Thank you, and please contact me if you have any questions or require additional information.

Very Truly Yours,

/s/ Christina M. Lucio

Christina M. Lucio, Esq.

Enclosure: Class Action Complaint

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Facsimile: (949) 387-6676

Attorneys for Plaintiff ERICK TORRES,
on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ERICK TORRES, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

BECHTEL INFRASTRUCTURE AND
POWER CONSTRUCTION SERVICES,
INC., a Delaware corporation, and DOES
1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:
Hon.
Dept.:

COMPLAINT FOR DAMAGES FOR:

- 1) **Failure to Pay Minimum Wage;**
- 2) **Failure to Pay Overtime Wages;**
- 3) **Failure to Provide Lawful Meal Periods;**
- 4) **Failure To Authorize And Permit Rest Periods;**
- 5) **Failure to Timely Pay Wages Owed Upon Separation From Employment;**
- 6) **Failure to Furnish Accurate Itemized Wage Statements;**
- 7) **Violation of the Unfair Competition Law;**
- 8) **Failure to Reimburse Necessary Expenses;**

DEMAND FOR JURY TRIAL

1 Plaintiff ERICK TORRES (“Plaintiff”), an individual, assert claims against defendant
2 BECHTEL INFRASTRUCTURE AND POWER CONSTRUCTION SERVICES, INC., a
3 Delaware Corporation, and DOES 1-50, inclusive (collectively “BECHTEL” or “Defendant(s)”) as
4 follows:

5 **INTRODUCTION**

6 1. This is a Class Action, pursuant to California Code of Civil Procedure section 382,
7 on behalf of Plaintiff and any and all persons who are or were employed by Defendants as non-
8 exempt employees, however titled, in the State of California within four (4) years prior to the filing
9 of the Complaint in this action (as properly tolled by Emergency Rule 9) until the resolution of this
10 lawsuit and whose job duties did not consist of over 50% administrative, executive or professional
11 duties (collectively referred to as the “Class” or “Class Members” or “Non-Exempt Employees”).

12 2. During the relevant period, Defendants consistently maintained and enforced
13 against its Non-Exempt Employees unlawful practices and policies in violation of California state
14 wage and hour laws, including failing to lawfully and accurately pay Plaintiff and Class Members
15 for all hours worked, including minimum wages and overtime; failing to lawfully provide meal and
16 rest periods; failing to pay one hour of pay at the employee’s regular rate of pay when legally
17 mandated meal or rest periods were not lawfully provided; failing to accurately pay overtime;
18 failing to reimburse necessary expenses; failing to provide accurate itemized wage statements; and
19 failing to keep accurate records.

20 3. Defendants implemented uniform policies and practices that deprived Plaintiff and
21 Class Members of earned wages, including minimum wages; straight time wages; overtime wages;
22 premium wages; failing to reimburse necessary expenses; and lawful meal and/or rest breaks.

23 4. Such actions and policies, as described above and further herein, were and continue
24 to be in violation of the California Labor Code. Plaintiff, on behalf of himself and all Class
25 members, bring this action pursuant to the California Labor Code, including sections 201, 202, 203,
26 204, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 246, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195,
27 1197, 1198, 2802, applicable IWC California Wage Orders and California Code of Regulations,
28 Title 8, section 11000 *et seq.*, seeking unpaid wages, unpaid meal and rest period compensation,

1 penalties, liquidated damages, and reasonable attorneys' fees and costs.

2 5. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and
3 Professions Code sections 17200-17208, also seeks restitution from Defendants for their failure to
4 pay to Plaintiffs and Class Members all of their wages, including overtime and premium wages.

5 **JURISDICTION AND VENUE**

6 6. This action is brought as a Class Action on behalf of Plaintiff and similarly situated
7 employees of Defendants pursuant to California Code of Civ. Proc. Section 382. The monetary
8 damages and restitution sought by Plaintiff exceeds the minimum jurisdiction limits of the
9 California Superior Court and will be established according to proof at trial.

10 7. This Court has jurisdiction over this action pursuant to the California Constitution
11 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
12 those given by statute to other courts. The statutes under which this action is brought do not give
13 jurisdiction to any other court.

14 8. This Court has jurisdiction over this Action pursuant to California Code of Civil
15 Procedure, Section 410.10 and California Business & Professions Code, Section 17203.

16 9. This Court has jurisdiction over Defendants because, upon information and belief,
17 each Defendant is either a resident of California, has sufficient minimum contacts in California, or
18 otherwise intentionally avails itself of the California market so as to render the exercise of
19 jurisdiction over them by the California Courts consistent with traditional notions of fair play and
20 substantial justice. Defendants have done and are doing business throughout California.

21 10. The unlawful acts alleged herein have a direct effect on Plaintiff and the other
22 similarly situated Non-Exempt Employees within San Bernardino County and it is believed that
23 Defendants have employed over one hundred Class Members as Non-Exempt Employees
24 throughout the state.

25 11. The California Superior Court also has jurisdiction in this matter because the
26 individual claims of the Class Members described herein are presently believed to be under the
27 seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for Federal Court and the
28 aggregate potential damages and recovery by all of the claims of the Plaintiff's Class, including

1 attorneys' fees, placed in controversy by Plaintiff's class-wide claims, is presently believed to be
2 under the five million dollar (\$5,000,000.00) threshold of the Class Action Fairness Act of 2005.
3 Further, there is no federal question at issue, as the issues herein are based solely on California
4 statutes and law, including the Labor Code, IWC Wage Orders, the California Code of Civil
5 Procedure, the California Civil Code, and the California Business and Professions Code.

6 12. Venue is proper in this Court because one or more of the Defendants reside, transact
7 business, or have offices in this County, and the acts or omissions alleged herein took place in this
8 County.

9 PARTIES

10 13. Bechtel Infrastructure and Power Construction Services, Inc. is a Delaware
11 corporation in good standing that is authorized to do business throughout the state. Bechtel's
12 headquarters are located at 12011 Sunset Hills Road, Suite 110, Reston, VA 20190.

13 14. Bechtel operates in California from numerous locations providing
14 telecommunications and related infrastructure.

15 15. Plaintiff Erick Torres is and during the liability period has been, a resident of Los
16 Angeles, California.

17 16. Plaintiff was employed by Defendants during the liability period as non-exempt
18 employee with the title of Tower Technician and was based out of Chino, CA.

19 17. Plaintiff and the members of the putative class were employed by defendants as non-
20 exempt, hourly employees by Defendants, however titled, (the "Class Members" or "Non-Exempt
21 Employees") during the liability period in the State of California.

22 18. Whenever in this complaint reference is made to any act, deed, or conduct of
23 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through
24 one or more of Defendants' officers, directors, agents, employees, or representatives, who was
25 actively engaged in the management, direction, control, or transaction of the ordinary business and
26 affairs of Defendants.

27 19. The true names and capacities of Defendants, whether individual, corporate,
28 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to

1 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure §
2 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
3 capacities of the Defendants designated hereinafter as DOES when such identities become known.

4 20. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are
5 the partners, agents, or principals and co-conspirators of Defendants and of each other; that
6 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided
7 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits
8 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the
9 liability of the Defendants as alleged herein.

10 21. Plaintiff is further informed and believes, and thereon alleges, that at all times
11 material herein, each Defendant was completely dominated and controlled by its co-Defendants
12 and each was the alter ego of the other. Whenever and wherever reference is made in this complaint
13 to any conduct by Defendant or Defendants, such allegations and references shall also be deemed
14 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.
15 Whenever and wherever reference is made to individuals who are not named as Defendants in this
16 complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times
17 acted on behalf of Defendants named in this complaint within the scope of their respective
18 employments.

19 **FACTUAL ALLEGATIONS**

20 22. During the relevant time frame, Defendants compensated Plaintiff and the Non-
21 Exempt Employees based upon an hourly wage.

22 23. Plaintiff and the Class Members were, and at all times pertinent hereto, have been
23 non-exempt employees within the meaning of the California Labor Code, and the implementing
24 rules and regulations of the IWC California Wage Orders. They are subject to the protections of
25 the IWC Wage Orders and the Labor Code.

26 24. Plaintiff was employed as an hourly, non-exempt employee in the position of Tower
27 Technician from April 23, 2018 through May 2021. Plaintiff provided technician services at various
28

1 locations while based out of Defendant's location in Chino, CA.

2 25. The members of the putative class were non-exempt, hourly employees of
3 Defendants throughout the state of California during the liability period.

4 26. Plaintiff typically worked five to six days per week averaging over 50 hours a week.

5 27. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
6 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the
7 requirements of California's wage and employment laws.

8 28. All Class Members, including Plaintiff, are similarly situated in that they are all
9 subject to Defendants' uniform policies and systemic practices as specified herein.

10 29. Plaintiff and the Class Members were not properly compensated for all hours
11 worked, in part because they were frequently required to work off the clock before and after shifts,
12 and during purported meal periods.

13 30. Moreover, upon information and belief, Defendants automatically deducted
14 purported meal periods from the hours worked by employees regardless of whether such meal
15 periods were lawfully provided.

16 31. In addition, Plaintiff and the Class Members were routinely not compensated for all
17 hours worked because Defendants unlawfully rounded their time in/out and for lunch against
18 employee interests.

19 32. In fact, upon information and belief, Defendants frequently failed to record shift in
20 and out time punches and lunch in and out time punches as a matter of Defendants' policy and
21 practice.

22 33. Plaintiff and Class Members were also required to remain on-call, but were not paid
23 for said on call shifts as hours worked.

24 34. Moreover, the Class Members frequently worked in excess of eight (8) hours a day
25 and/or over forty (40) hours in a workweek, but were not properly paid for such time at a rate of
26 time and one-half the employee's regular rate of pay per hour. Plaintiff and the Class Members
27 also often worked in excess of twelve (12) hours in one day and/or over eight (8) hours on the
28 seventh day of the workweek, but were not properly paid for such time at a rate of two times the

1 employee's regular rate of pay per hour.

2 35. In addition, Defendants failed to incorporate all forms of compensation, including
3 without limitation, incentives, bonuses, and differentials into the regular rate. Thus, Plaintiff and
4 the Class Members were routinely undercompensated for overtime hours worked and premiums.

5 36. By way of example only, Plaintiff was paid a \$1000 bonus the first year he worked
6 for Bechtel and then went on to get a longevity bonus of \$800 every six months. These bonuses
7 were not blended into the overtime rate as required by law.

8 37. Plaintiff and the Class Members were also regularly required to work shifts in
9 excess of five hours without being provided a lawful meal period and over ten hours in a day
10 without being provided a second lawful meal period as required by law.

11 38. Indeed, during the relevant time, as a consequence of Defendants' staffing and
12 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
13 Defendants frequently failed to provide Plaintiff and the Class Members timely, legally complaint
14 uninterrupted 30-minute meal periods on shifts over five hours and second meal periods on shifts
15 over ten hours as required by law.

16 39. In addition, meal periods, when provided, were frequently untimely.

17 40. On information and belief, Plaintiff and Class Members did not waive their rights
18 to meal periods under the law.

19 41. Plaintiff and the Class Members were not provided with valid lawful on-duty meal
20 periods.

21 42. Despite the above-mentioned meal period violations, Defendants failed to
22 compensate Plaintiff, and on information and belief, failed to compensate Class Members, one
23 additional hour of pay at their regular rate as required by California law when meal periods were
24 not timely or lawfully provided in a compliant manner.

25 43. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
26 should know, knew, and/or should have known that Plaintiff and the other Class Members were
27 entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but
28 were not receiving such compensation.

1 44. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
2 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
3 period for every four hours worked or major fraction thereof, which is a violation of the Labor
4 Code and IWC wage order.

5 45. Defendants maintained and enforced scheduling practices, policies, and imposed
6 work demands that frequently required Plaintiff and Class Members to forego their lawful, paid
7 rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
8 requisite rest periods were not timely authorized and permitted.

9 46. Moreover, Plaintiff and the Class Members were required to incur necessary
10 expenses in the discharge of their duties, including without limitation cell phone expenses,
11 uniforms, boots, uniform maintenance, mileage and tools, but were not reimbursed for such
12 necessary expenses.

13 47. In addition, Class Members were not allowed to leave the premises during rest
14 breaks or meal breaks.

15 48. Despite the above-mentioned rest period violations, Defendants did not
16 compensate Plaintiff, and on information and belief, did not pay Class Members one additional
17 hour of pay at their regular rate as required by California law, including Labor Code section 226.7
18 and the applicable IWC wage order, for each day on which lawful rest periods were not
19 authorized and permitted.

20 49. Defendants also failed to provide accurate, lawful itemized wage statements to
21 Plaintiff and the Class Members in part because of the above specified violations. In addition,
22 upon information and belief, Defendants omitted an accurate itemization of total hours worked,
23 the applicable hourly rates, the number of hours worked at each rate, the name and address of the
24 legal entity that is the employer, gross pay and net pay figures from Plaintiff, and the Class
25 Members' wage statements. Such actions were and continue to be in violation of the California
26 Labor Code and applicable IWC Wage Orders.

27 50. Defendants have also made it difficult to determine applicable hourly rates of pay,
28 total hours worked, and account with precision for the unlawfully withheld wages and deductions

1 due to be paid to Non-exempt Employees, including Plaintiff, during the liability period because
2 they did not implement and preserve a lawful record-keeping method to record all hours worked,
3 meal periods, and non-provided rest and meal periods owed to employees as required for non-
4 exempt employees by 29 U.S.C. section 211(c), California Labor Code section 226, and
5 applicable California Wage Orders.

6 51. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
8 thereof for resignations without prior notice as the case may be) they had a duty to accurately
9 compensate Plaintiffs and Class Members for all wages owed including minimum wages, straight
10 time wages, overtime, meal and rest period premiums, and that Defendants had the financial ability
11 to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so
12 in part because of the above-specified violations.

13 52. Plaintiff and the Class Members are covered by applicable California IWC Wage
14 Orders and corresponding applicable provisions of the California Code of Regulations, Title 8,
15 section 11000 *et seq.*

16 **CLASS ACTION ALLEGATIONS**

17 53. Plaintiff brings this action on his own behalf, as well as on behalf of each and every
18 other person similarly situated, and thus, seeks class certification under California Code of Civil
19 Procedure §382.

20 54. All claims alleged herein arise under California law for which Plaintiff seeks relief
21 as authorized by California law.

22 55. The **proposed class** is comprised of and defined as: All persons currently or
23 formerly employed by Defendants as non-exempt, hourly, however titled, throughout the state of
24 California within four (4) years prior to the filing of the Complaint in this action (as properly tolled
25 by Emergency Rule 9) until the resolution of this lawsuit and whose job duties did not consist of
26 over 50% administrative, executive or professional duties. (hereinafter collectively referred to as
27 the “Class” or “Class Members”).

28 56. Plaintiff also seeks to represent Subclasses included in the Plaintiff’s Class, which

are composed of Class Members satisfying the following definitions:

a. All Class Members who were not paid at least minimum wage for all hours worked (collectively **“Minimum Wage Subclass”**);

b. All Class Members who worked in the field (collectively **“Field Subclass”**);

c. All Class Members who were not accurately paid overtime for hours worked over eight in a day or over forty in a workweek (collectively **“Overtime Subclass”**);

d. All Class Members who worked more than five (5) hours in a workday and were not provided with a timely, uninterrupted lawful meal period of net thirty (30) minutes, and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred to as the **“First Meal Period Subclass”**);

e. All Class Members who worked more than ten (10) hours in a workday and were not provided with a timely, uninterrupted lawful second meal period of net thirty (30) minutes, and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred to as the **“Second Meal Period Subclass”**);

f. All Class Members who worked more than three and a half hours in a workday and were not authorized and permitted to take a lawful net 10-minute rest period for every four (4) hours or major fraction thereof worked per day and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred to as the **“Rest Period Subclass”**);

g. All Class Members who did not receive all owed wages at the time of separation or within 72 hours in the case of resignation (hereinafter collectively referred to as the **“Waiting Time Subclass”**);

h. All Class Members who were not provided with accurate and complete itemized wage statements (hereinafter collectively referred to as the **“Inaccurate Wage Statement Subclass”**);

i. All Class Members who were employed by Defendants and subject to Defendant’s Unfair Business Practices (hereinafter collectively referred to as the **“Unfair Business Practices Subclass”**).

1 j. All Class Members who were not reimbursed for all necessary expenditures
2 (collectively “**Indemnification Subclass**”).

3 57. Plaintiff reserves the right, under Rule 3.765, California Rules of Court, to amend
4 or modify the descriptions of the Class and Subclasses to provide greater specificity as appropriate,
5 or if it should be deemed necessary by the Court or to further divide the Class Members into
6 additional Subclasses or to limit the Subclasses to particular issues. Any reference herein to the
7 Class Members or the Plaintiffs’ Class includes the members of each of the Subclasses.

8 58. As set forth in further detail below, this action has been brought and may properly
9 be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure
10 because there is a well-defined community of interest in the litigation, and the proposed Class and
11 Subclasses are easily ascertainable through Defendants’ records.

12 a. Numerosity: The members of the Class and Subclasses are so numerous that
13 joinder of all members of the Class and Subclasses would be unfeasible and impractical. The
14 membership of the entire Class and Subclasses is unknown to Plaintiff at this time, however, the
15 Class is estimated to be over a hundred individuals. Accounting for employee turnover during the
16 relevant periods necessarily increases this number substantially. Plaintiff alleges Defendants’
17 employment records would provide information as to the number and location of all Class
18 Members. Joinder of all members of the proposed Class is not practicable.

19 b. The proposed class is easily ascertainable. The number and identity of the
20 class members are determinable from Defendants’ payroll records and time records for each class
21 member.

22 c. Commonality: There are common questions of law and fact as to the Class
23 and Subclasses that predominate over questions affecting only individual Class Members. These
24 common questions of law and fact include, without limitation:

25 1) Whether Defendants paid Class Members at least minimum wage for all
26 hours worked;

27 2) Whether Defendants knew or should have known that Class Members were
28 required to perform work off the clock;

1 3) Whether Defendants rounded hours worked against the interests of Class
2 Members;
3 4) Whether Defendants recorded shift in and out times, and lunch periods;
4 5) Whether Defendants accurately calculated and paid all Class Members
5 overtime premiums for the hours which Plaintiff and Class Members worked in excess of eight (8)
6 hours per day and/or forty (40) hours per week;
7 6) Whether Defendants had a policy and practice of providing lawful, timely
8 meal periods in accordance with Labor Code § 512, as well as the applicable Industrial Welfare
9 Commission (“IWC”) wage order;
10 7) Whether Defendants required employees to remain on the premises during
11 meal periods;
12 8) Whether Defendants had a policy and practice of complying with Labor
13 Code section 226.7 and IWC Wage Order on each instance that a lawful meal period was not
14 provided;
15 9) Whether Defendants failed to authorize and permit a lawful, net 10-minute
16 rest period to the Class Members for every four (4) hours or major fraction thereof worked;
17 10) Whether Defendants required employees to remain on the premises during
18 rest periods;
19 11) Whether Defendants had a policy and practice of complying with Labor
20 Code section 226.7 and the IWC Wage Order on each instance that a lawful rest period was not
21 provided;
22 12) Whether Defendants properly calculated the regular rate;
23 13) Whether Defendants failed to timely pay all wages upon separation in
24 accordance with Labor Code sections 201-202;
25 14) Whether Defendants failed to reimburse employees for necessary expenses
26 in accordance with Labor Code section 2802;
27 15) Whether Defendants omitted required information from itemized wage
28 statements or included erroneous information on wage statements;

1 16) Whether Defendants failed to maintain accurate records of Class Members'
2 earned wages, work periods, meal periods and deductions;

3 17) Whether Defendants engaged in unfair competition in violation of section
4 17200 et seq. of the Business and Professions Code;

5 18) Whether Defendants' conduct was willful and/or reckless;

6 19) Whether Defendants failed to provide accurate itemized wage statements in
7 violation of Labor Code § 226; and

8 20) The appropriate amount of damages, restitution, and/or monetary penalties
9 resulting from Defendants' violations of California law.

10 d. Typicality: Plaintiff is qualified to, and will fairly and adequately protect the
11 interests of each member of the Class and Subclasses with whom he has a well-defined community
12 of interest. Plaintiff's claims herein alleged are typical of those claims which could be alleged by
13 any member of the Class and/or Subclasses, and the relief sought is typical of the relief which
14 would be sought by each member of the Class and/or Subclasses in separate actions. All members
15 of the Class and/or Subclasses have been similarly harmed by Defendants' failure to provide lawful
16 meal and rest periods, failure to provide accurate wage statements, failure to timely pay wages at
17 termination, failure to pay minimum wages, failure to reimburse necessary expenses, and failure to
18 accurately pay all wages earned including all owed premium and overtime wages, all due to
19 Defendants' policies and practices that affected each member of the Class and/or Subclasses
20 similarly. Further, Defendants benefited from the same type of unfair and/or wrongful acts as to
21 each member of the Class and/or Subclasses.

22 e. Adequacy: Plaintiff is qualified to, and will fairly and adequately protect the
23 interests of each member of the Class and/or Subclasses with whom he has a well-defined
24 community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that
25 he has an obligation to make known to the Court any relationships, conflicts, or differences with
26 any member of the Class and/or Subclasses, and no such relationships or conflicts are currently
27 known to exist. Plaintiff's attorneys and the proposed counsel for the Class and Subclasses are
28 versed in the rules governing class action discovery, certification, litigation, and settlement and

1 experienced in handling such matters. Other former and current employees of Defendants may also
2 serve as representatives of the Class and Subclasses if needed.

3 f. Superiority: The nature of this action makes the use of class action
4 adjudication superior to other methods. A class action will achieve economies of time, effort,
5 judicial resources, and expense, which would not be achieved with separate lawsuits. The
6 prosecution of separate actions by individual members of the Class and/or Subclasses would create
7 a risk of inconsistent and/or varying adjudications with respect to the individual members of the
8 Class and/or Subclasses, establishing incompatible standards of conduct for the Defendants, and
9 resulting in the impairment of the rights of the members of the Class and/or Subclasses and the
10 disposition of their interests through actions to which they were not parties. Thus, a class action is
11 superior to other available means for the fair and efficient adjudication of this controversy because
12 individual joinder of all Class Members is not practicable, and questions of law and fact common
13 to the Class predominate over any questions affecting only individual Class Members. Each
14 member of the Class has been damaged and is entitled to recovery by reason of Defendants'
15 unlawful policies and practices, including Defendants' failure to provide lawful meal and rest
16 periods, failure to pay minimum wages, failure to provide accurate wage statements, failure to
17 timely pay wages at termination, failure to reimburse necessary expenses, and failure to accurately
18 pay all wages earned including all owed premium and overtime wages, all due to Defendants'
19 policies and practices that affected each member of the Class and/or Subclasses similarly. Class
20 action treatment will allow those similarly situated persons to litigate their claims in the manner
21 that is most efficient and economical for both parties and the judicial system. Plaintiff is unaware
22 of any difficulties that are likely to be encountered in the management of this action that would
23 preclude its maintenance as a class action.

24 g. Public Policy Considerations: Employers in the state of California violate
25 employment and labor laws every day. However, current employees are often afraid to assert their
26 rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
27 because they believe their former employers may damage their future endeavors through negative
28 references and/or other means. The nature of this action allows for the protection of current and

1 former employees' rights without fear of retaliation or damage. Additionally, the citizens of
2 California have a significant interest in ensuring employers comply with California's labor laws
3 and in ensuring those employers who do not are prevented from taking further advantage of their
4 employees.

5 **CLASS ACTION CLAIMS**

6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO PAY MINIMUM WAGE**

8 **(By Plaintiff and the Class Against Defendants)**

9 59. Plaintiff incorporates by reference each and every paragraph above, and realleges
10 each and every allegation contained above as though fully set forth herein.

11 60. At all times relevant, Labor Code §1194 provides that any employee receiving less
12 than the legal minimum wage or the legal overtime compensation applicable to the employee is
13 entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or
14 overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

15 61. Labor Code §1197 states: "The minimum wage for employees fixed by the
16 commission is the minimum wage to be paid to employees, and the payment of a less wage than
17 the minimum so fixed is unlawful."

18 62. Cal. Lab. Code § 1198 further states that the employment of an employee for longer
19 hours than those fixed by the Industrial Welfare Commission is unlawful.

20 63. The IWC Wage Orders similarly require that employees be paid on the established
21 payday for the period involved, not less than the applicable minimum wage for all hours worked in
22 the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

23 64. At all times relevant, as more extensively set forth above, Plaintiff and Class
24 Members consistently worked hours for which they were not paid because Plaintiff and the Class
25 Members were required to work off the clock.

26 65. Plaintiff is informed and believes that Defendants and its managers were aware
27 that Plaintiff and the Class Members were working off the clock and that they should have been
28 paid for this time.

66. Further, at all times relevant, as more extensively set forth above, Plaintiff and Class Members consistently worked hours for which they were not paid because Defendants consistently rounded hours worked against the interests of Plaintiff and the Class Members.

67. Defendants' failure to pay Plaintiff and Class Members the unpaid balance of wages owed violates the provisions of Labor Code §510, §1194, §1197, §1198, and the applicable IWC wage orders and is therefore unlawful.

68. Accordingly, Defendants owe Plaintiff and Class Members wages, including minimum wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and Class Members the wages owed.

69. Pursuant to Labor Code §1194, Plaintiffs and Class Members are entitled to recover their unpaid compensation, as well as interest, costs, and attorneys' fees.

70. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Class Members are entitled to “recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

71. Also, pursuant to Labor Code §1197.1, Plaintiff and the Class Members are entitled to claim all applicable civil penalties as a direct result of Defendants' policy and practice of paying a wage less than the minimum fixed by an order of the commission.

72. Accordingly, Plaintiff and Class Members are entitled to recover their unpaid wages, including minimum wages, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(By Plaintiff and the Class Against All Defendants)

73. Plaintiff incorporates by reference each and every paragraph above, and realleges each and every allegation contained above as though fully set forth herein.

74. At all times relevant, pursuant to Labor Code section 510, 1194, and the IWC wage orders applicable to Plaintiff's and the Class Members' employment by Defendants provided that employees working for more than eight (8) hours in a day or forty (40) hours in a

1 work week are entitled to overtime compensation at the rate of one and one-half times the regular
2 rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work
3 week. An employee who works more than twelve (12) hours in a day or in excess of eight (8)
4 hours in a day on the seventh day of work in a particular work week is entitled to overtime
5 compensation at a rate of twice the regular rate of pay.

6 75. The IWC Wage Orders define “hours worked” as “the time during which an
7 employee is subject to the control of an employer, and includes all the time the employee is
8 suffered or permitted to work, whether or not required to do so.”

9 76. In some instances, Plaintiff and the Class Members worked in excess of eight (8)
10 hours in a day and/or forty (40) hours in a week, and on occasion over twelve hours in a day or
11 over eight hours on the seventh day of work in a particular workweek without being paid all
12 wages owed as required by law as a result of Defendants’ unlawful practices as set forth herein.

13 77. Plaintiff is further informed and believes that Defendants failed to compensate
14 employees for all overtime hours worked at the proper regular rate, as Defendant failed to include
15 all forms of remuneration in the regular rate.

16 78. Upon information and belief, Defendants knew or should have known Plaintiffs and
17 the Class Members were undercompensated. Defendants’ failure to pay Plaintiffs and Class
18 Members the unpaid balance of wages owed violates the provisions of Labor Code §510, §1194,
19 §1197, §1198, and the applicable IWC wage orders and is therefore unlawful.

20 79. Accordingly, Defendants owe Plaintiff and Class Members wages, including
21 overtime wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and
22 Class Members the wages owed.

23 80. Pursuant to Labor Code §1194, Plaintiffs and Class Members are entitled to recover
24 their unpaid compensation, as well as interest, costs, and attorneys’ fees.

25 81. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Class Members
26 are entitled to “recover liquidated damages in an amount equal to the wages unlawfully unpaid
27 and interest thereon.”

28 82. Also, pursuant to Labor Code §1197.1, Plaintiff and the Class Members are

entitled to claim all applicable civil penalties as a direct result of Defendants' policy and practice of paying a wage less than the minimum fixed by an order of the commission.

83. Accordingly, Plaintiff and Class Members are entitled to recover their unpaid wages, including overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

(By Plaintiff and the Class Against All Defendants)

84. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

85. Pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee.

86. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than ten (10) hours without providing a second meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal break may only be waived by mutual consent, and if the employee did not waive his or her first meal period, and the employee's work day will not exceed twelve hours.

87. For the four (4) years preceding the filing of this lawsuit as tolled by Emergency Rule 9, Defendants failed to provide Plaintiff and Class Members timely and uninterrupted first meal periods of not less than thirty (30) minutes within the first five hours of a shift.

88. For the four (4) years preceding the filing of this lawsuit as tolled by Emergency Rule 9, Defendants also failed to provide Plaintiff and Class Members timely and uninterrupted second meal periods of not less than thirty (30) minutes on shifts longer than ten hours.

89. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Plaintiff and the Class Members were not provided with legally required meal periods.

90. On information and belief, Plaintiff and Class Members did not waive their rights to meal periods under the law.

91. Plaintiff and the Class Members were not provided with valid lawful on-duty meal periods.

92. In addition, upon information and belief, Plaintiff and the Class Members were not allowed to leave the premises during meal periods.

93. Plaintiff and the Class Members were not paid one hour of pay at their regular rate for each day that a first or second meal period was not lawfully provided.

94. As a proximate result of the aforementioned violations, Plaintiff and the Class Members have been damaged in an amount according to proof at time of trial.

95. Pursuant to Labor Code § 226.7, Plaintiff and Class Members are entitled to recover one (1) hour of premium pay for each day in which a meal period violation occurred. They are also entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

96. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 218.6, 226.7, 512 and the applicable IWC Wage Orders, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS

(By Plaintiff and the Class Against All Defendants)

97. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

98. Pursuant to the IWC wage orders applicable to Plaintiff's and Class Members' employment by Defendants, "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period.... [The] authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net

1 rest time per four (4) hours worked or major fraction thereof.... Authorized rest period time shall
2 be counted as hours worked, for which there shall be no deduction from wages.”

3 99. Labor Code §226.7(a) prohibits an employer from requiring any employee to work
4 during any rest period mandated by an applicable order of the IWC.

5 100. Defendants were required to authorize and permit employees such as Plaintiff and
6 Class Members to take rest periods during shifts in excess of 3.5 hours, based upon the total hours
7 worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof,
8 with no deduction from wages.

9 101. Despite said requirements of the IWC wage orders applicable to Plaintiff’s and Class
10 Member’s employment with Defendants, Defendants failed and refused to authorize and permit
11 Plaintiff and Class Members to take lawful, net ten (10) minute rest periods for every four (4) hours
12 worked, or major fraction thereof.

13 102. In addition, upon information and belief, Plaintiff and the Class Members were not
14 allowed to leave the premises during rest periods.

15 103. Defendants did not pay Plaintiff one additional hour of pay at his regular rate of pay
16 for each day that a rest period violation occurred. On information and belief, the other members of
17 the Class endured similar violations as a result of Defendants’ rest period policies and practices and
18 Defendant did not pay said Class Members premium pay as required by law.

19 104. By their failure to authorize and permit Plaintiff and the Class Members to take a
20 lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction
21 thereof worked, including failure to provide two (2) total rest periods on six to ten hour shifts and
22 three (3) total ten (10) minute rest periods on days on which Plaintiff and the other Class Members
23 work(ed) work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide
24 compensation for such unprovided rest periods as alleged herein, Defendants willfully violated the
25 provisions of Labor Code sections 226.7 and the applicable IWC Wage Order(s).

26 105. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to
27 represent have been deprived of premium wages in amounts to be determined at trial, and are
28

1 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
2 under Labor Code sections 218.6, 226.7, the applicable IWC Wage Orders, and Civil Code 3287.

3 **FIFTH CAUSE OF ACTION**

4 **FAILURE TO TIMELY PAY WAGES OWED AT SEPARATION**

5 **(By Plaintiff and the Waiting Time Subclass Against All Defendants)**

6 106. Plaintiff incorporates by reference and realleges each and every allegation contained
7 above, as though fully set forth herein.

8 107. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages
9 due within seventy-two (72) hours of separation of employment.

10 108. Section 203 of the Labor Code provides that if an employer willfully fails to timely
11 pay such wages the employer must, as a penalty, continue to pay the subject employee's wages
12 until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days
13 of wages.

14 109. Plaintiff and Class Members are entitled to compensation for all forms of wages
15 earned, including but not limited to minimum wages, overtime, and premium meal and rest period
16 compensation, but to date have not received such compensation, therefore entitling them to Labor
17 Code § 203 penalties.

18 110. More than thirty (30) days have passed since affected Waiting Time Subclass
19 Members have left Defendants' employ, and on information and belief, they have not received
20 payment pursuant to Labor Code § 203.

21 111. Plaintiff and Waiting Time Subclass Members are thus entitled to 30 days' wages
22 as a penalty under Labor Code § 203, together with interest thereon and attorneys' fees and costs.

23 **SIXTH CAUSE OF ACTION**

24 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED**

25 **EMPLOYEE WAGE STATEMENT PROVISIONS**

26 **By Plaintiff and the Wage Statement Class Against Defendants**

27 112. Plaintiff repeats and incorporates herein by reference each and every allegation set
28 forth above, as though fully set forth herein.

1 113. Labor Code section 226(a) reads in pertinent part: “Every employer shall,
2 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
3 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately
4 when wages are paid by personal check or cash, an accurate itemized statement in writing
5 showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions...
6 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
7 name of the employee and only the last four digits of his or her social security number or an
8 employee identification number other than a social security number, (8) the name and address of
9 the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the
10 pay period and the corresponding number of hours worked at each hourly rate by the
11 employee....”.

12 114. Further, the IWC Wage Orders require in pertinent part: Every employer shall
13 keep accurate information with respect to each employee including the following: (3) Time
14 records showing when the employee begins and ends each work period. Meal periods, split shift
15 intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the
16 payroll period and applicable rates of pay....”

17 115. Labor Code section 1174 of the California also requires Defendants to maintain
18 and preserve, in a centralized location, among other items, records showing the names and
19 addresses of all employees employed and payroll records showing the hours worked daily by, and
20 the wages paid to, its employees. On information and belief and based thereon, Defendants have
21 knowingly and intentionally failed to comply with Labor Code section 1174, including by
22 implementing the policies and procedures and committing the violations alleged in the preceding
23 causes of action and set forth herein. Defendants’ failure to comply with Labor Code section
24 1174 is unlawful pursuant to Labor Code section 1175.

25 116. Defendants have failed to record many of the items delineated in applicable
26 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section
27 1174, including by virtue of the fact that each wage statement which failed to accurately
28 compensate Plaintiff and Class Members for all hours worked and for missed and non-provided

1 meal and rest periods, or which failed to include compensation for all minimum wages earned or
2 overtime hours worked, was an inaccurate wage statement.

3 117. On information and belief, Defendants failed to implement and preserve a lawful
4 record-keeping method to record all hours worked, meal periods, and non-provided meal and rest
5 periods owed to employees, as required for Non-Exempt Employees under California Labor Code
6 section 226 and applicable California Wage Orders. In order to determine if they had been paid
7 the correct amount and rate for all hours worked, Plaintiff and Class Members have been, would
8 have been, and are compelled to try to discover the required information missing from their wage
9 statements and to perform complex calculations in light of the inaccuracies and incompleteness of
10 the wage statements Defendants provided to them.

11 118. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC
12 Wage Orders, Defendants did not and still do not furnish each of the members of the Wage
13 Statement Class with an accurate itemized statement in writing accurately reflecting all of the
14 required information. Specifically, Defendants have also omitted accurate itemizations of total
15 hours worked, the name and address of the legal entity that is the employer, the hours worked at
16 each rate, the applicable hourly rates, and gross pay from Plaintiff and the Class Members' wage
17 statements. In addition, Defendants have failed to provide accurate itemized wage statements as a
18 consequence of the above-specified violations for failure to accurately pay all wages owed,
19 accurately record all hours worked, and failure to pay meal and rest period premiums as required
20 by law.

21 119. Moreover, upon information and belief, as a pattern and practice, in violation of
22 Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain
23 accurate records pertaining to the total hours worked for Defendants by the members of the Wage
24 Statement Class, including but not limited to, beginning and ending of each work period, meal
25 period and split shift interval, the total daily hours worked, and the total hours worked per pay
26 period and applicable rates of pay.

27 120. Plaintiffs and the members of the Wage Statement Class have suffered injury as a
28 result of Defendants' failure to maintain accurate records for the members of the Wage Statement

1 Class in that the members of the Wage Statement Class were not timely provided written accurate
2 itemized statements showing all requisite information, such that the members of the Wage
3 Statement Class were misled by Defendants as to the correct information regarding various items,
4 including but not limited to the identity of the employer, total hours worked by the employee,
5 gross pay, net wages earned and all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate.

7 121. Further, at all relevant times, under Labor Code section 226 (a), all deductions made
8 from payment of wages shall be recorded in ink or other indelible form, properly dated, showing
9 the month, day, and year, and a copy of the statement and the record of the deductions shall be kept
10 on file by the employer for at least three years at the place of employment or at a central location
11 within the State of California.

12 122. Plaintiff alleges, upon information and belief, that Defendants failed to retain the
13 documents required by Labor Code 226(a) in ink or other indelible format as required by statute.

14 123. Plaintiff further alleges that Defendants failed to comply with the requirements of
15 Labor Code section 226(a) to furnish wage statements semimonthly or at the time of each
16 payment of wages because Defendants did not provide said statements to employees, and
17 electronic access methods were not reliable and prevented employees from accessing said
18 statements on their own.

19 124. Pursuant to Labor Code section 226, and in light of Defendants' violations
20 addressed above, Plaintiff and the Wage Statement Class Members are each entitled to recover up
21 to a maximum of \$4,000.00, along with an award of costs and reasonable attorneys' fees.

22 SEVENTH CAUSE OF ACTION

23 VIOLATION OF THE UNFAIR COMPETITION LAW

24 **By Plaintiff and Class Against All Defendants**

25 125. Plaintiff incorporates by reference and realleges each and every allegation contained
26 above, as though fully set forth herein.

27 126. Defendants' conduct, as alleged in this complaint, has been, and continues to be,
28 unfair, unlawful, and harmful to Plaintiff and Class Members, Defendants' competitors, and the

1 general public. Plaintiff also seeks to enforce important rights affecting the public interest within
2 the meaning of the California Code of Civil Procedure § 1021.5.

3 127. Defendants' policies, activities, and actions as alleged herein are violations of
4 California law and constitute unlawful business acts and practices in violation of California
5 Business and Professions Code §§ 17200, *et seq.*

6 128. A violation of California Business and Professions Code §§ 17200, *et seq.*, may be
7 predicated on the violation of any state or federal law.

8 129. The state law violations, including violations of the relevant IWC Wage Order,
9 detailed herein above are the predicate violations for this cause of action. By way of example only,
10 in the instant case Defendants' policy of failing to lawfully provide Plaintiff and the Class with
11 timely meal and rest periods or pay one (1) hour of premium pay when a meal or rest period was
12 not lawfully provided violates Labor Code § 512, and § 226.7, and the IWC Wage Orders.
13 Defendants further violated the law through their policies of failing to fully and accurately
14 compensate Plaintiff and the Class Members for all hours worked, including minimum wages and
15 overtime as well as failing to provide accurate itemized wage statement as specified above.

16 130. Plaintiff and the Class Members have been personally aggrieved by Defendants'
17 unlawful and unfair business acts and practices alleged herein by the loss of money and/or property.

18 131. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, Plaintiff
19 and the Class Members are entitled to restitution of the wages withheld and retained by Defendants
20 during a period that commences four (4) years prior to the filing of this complaint (as tolled by
21 Emergency Rule 9); an award of attorneys' fees pursuant to California Code of Civil Procedure
22 §1021.5; interest; and an award of costs.

23 **EIGHTH CAUSE OF ACTION**

24 **FAILURE TO REIMBURSE NECESSARY EXPENSES**

25 **By Plaintiff and Class Against All Defendants**

26 132. Plaintiff incorporates by reference and realleges each and every allegation contained
27 above, as though fully set forth herein.

28 133. Plaintiff repeats and incorporates herein by reference each and every allegation set

1 forth above, as though fully set forth herein.

2 134. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Class Members
3 for necessary expenditures incurred in direct consequence of the discharge of his or her duties.

4 135. Plaintiff and the members of the Indemnification Class were required to incur
5 expenses in the performance of their assigned job duties. For example, Plaintiff and the
6 Indemnification Class Members were required to incur numerous out of pocket expenses,
7 including without limitation, cellular phone expenses, application expenses, uniforms, mileage,
8 boots, and tools, in direct consequence of the discharge of their duties.

9 136. Upon information and belief, the Defendants did not reimburse Plaintiff or the
10 Plaintiff's subclass for such expenses.

11 137. As a result of the unlawful acts of Defendants, Plaintiff and the Subclass Members
12 have been deprived of un-reimbursed sums in amounts to be determined at trial, and are entitled
13 to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
14 pursuant to Labor Code §2802.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff pray judgment against Defendants, as follows:

17 **Class Certification**

- 18 1. That this action be certified as a class action;
19 2. That Plaintiff be appointed as the representatives of the Class;
20 3. That Plaintiff be appointed as the representatives of the Subclasses; and
21 4. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

22 **On the First Cause of Action**

23 **(Failure to Pay Minimum Wage)**

- 24 1. For the unpaid balance of the full amount of any minimum wages and regular wages
25 owed, as well as interest thereon,
26 2. Penalties according to statute,
27 3. Liquidated damages,
28 4. Reasonable attorneys' fees, and costs of suit;

1 5. For interest and

2 6. For such other and further relief as the Court deems proper.

3 **On the Second Cause of Action**

4 **(Failure to Pay Overtime Wages)**

5 1. For the unpaid balance of the full amount of any overtime and regular wages owed,
6 as well as interest thereon,

7 2. Penalties according to statute,

8 3. Liquidated damages,

9 4. Reasonable attorneys' fees, and costs of suit;

10 5. For interest and

11 6. For such other and further relief as the Court deems proper.

12 **On the Third Cause of Action**

13 **(Failure to Provide Lawful Meal Periods)**

14 1. For one (1) hour of premium pay for each day in which a required meal period was
15 not lawfully provided;

16 2. For reasonable attorneys' fees and costs pursuant to statute; and

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

18 **On the Fourth Cause of Action**

19 **(Failure to Authorize and Permit Lawful Rest Periods)**

20 1. For one (1) hour of premium pay for each day in which a required rest period was
21 not lawfully authorized and permitted; and

22 2. For reasonable attorneys' fees and costs pursuant to statute; and

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

24 **On the Fifth Cause of Action**

25 **(Failure to Timely Pay Wages At Separation)**

26 1. For unpaid wages;

27 2. For penalties pursuant to Labor Code § 203;

28 3. For interest;

4. For reasonable attorneys' fees and costs pursuant to statute; and
5. For such other and further relief as the Court deems proper.

On the Sixth Cause of Action

(Failure to Provide Accurate Itemized Wage Statements)

1. For statutory penalties, including penalties pursuant to Labor Code section 226;
2. For reasonable attorneys' fees and costs; and
3. For such other and further relief as the Court deems proper;

On the Seventh Cause of Action

(Violation of the Unfair Competition Law)

1. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of sums to Plaintiff and Class Members for the Defendants' past failure to pay overtime and regular wages, for Defendants' past failure to reimburse necessary expenses, and for premium wages for meal and rest periods that were not provided to Plaintiff and Class Members over the last four (4) years in an amount according to proof;
2. For reasonable attorneys' fees that Plaintiff and Class Members are entitled to recover under California Code of Civil Procedure § 1021.5 and Labor Code section 1194;
3. For pre-judgment interest on any unpaid overtime wages due from the day that such amounts were due;
4. For costs of suit incurred herein that Plaintiff and Class Members are entitled to recover under the Labor Code; and
5. For such other and further relief as the Court deems proper.

On the Eighth Cause of Action

(Failure to Reimburse Necessary Expenses)

1. For unreimbursed sums;
2. For reasonable attorneys' fees and costs pursuant to statute;
3. For interest; and
4. For such other and further relief as the Court deems proper.

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, on behalf of the Class and Subclasses, respectfully demand a jury trial in this
3 matter.

4 Respectfully submitted,
5

6 **FARNAES & LUCIO APC**

7 Dated: September 16, 2021

8 

Malte L. L. Farnaes, Esq.

Christina M. Lucio, Esq.

9 Attorneys for Plaintiff
10 ERICK TORRES, on behalf of himself
11 and all others similarly situated
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