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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 10 2022

BY  JACQUELINE HARNESS, DEPUTY

7 Attorneys for Plaintiff FRANCISCO ALVAREZ,
8 on behalf of himself and current and former aggrieved employees.

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN BERNARDINO**

12 FRANCISCO ALVAREZ, on behalf of himself
13 and current and former aggrieved employees,

14 Plaintiff,

15 vs.

16 NATIONAL RETAIL SYSTEMS, INC.;
17 LEXMONT LOGISTICS; EMPIRE
18 WORKFORCE SOLUTIONS; and DOES 1 to
19 100, inclusive,

20 Defendants.

Case No. **CIV SB 2200676**

PAGA ACTION

**PLAINTIFF FRANCISCO ALVAREZ'S
COMPLAINT FOR:**

**1. CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 ("PAGA"),
LABOR CODE §2698, et seq.**

21 **COME NOW** Plaintiff FRANCISCO ALVAREZ ("Plaintiff"), who alleges and complains
22 against Defendants NATIONAL RETAIL SYSTEMS, INC.; LEXMONT LOGISTICS; EMPIRE
23 WORKFORCE SOLUTIONS and DOES 1 to 100, inclusive (collectively, "Defendants") as
24 follows:

25 **I. INTRODUCTION**

26 1. This is a Private Attorneys' General Act of 2004, Lab. Code § 2698, et seq.
27 ("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
28 and other current and former aggrieved employees of Defendants who worked as hourly, non-

1 exempt employees, in California during the relevant time period seeking civil penalties associated
2 with Defendants' violations of the Labor Code based on Defendants' failure to pay wages for all
3 hours worked at the employees' minimum wage rate or overtime rate, failure to provide all legally
4 required and legally compliant meal and rest periods, failure to timely pay earned wages during
5 employment, failure to produce requested employment records failure to provide complete and
6 accurate wage statements, failure to timely pay all unpaid wages following separation of
7 employment. Plaintiff seeks on a representative basis following notice to the Labor and Workforce
8 Development Agency, civil penalties, reasonable attorney's fees pursuant to Labor Code
9 §2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

10 **II. JURISDICTION AND VENUE**

11 2. This Court has jurisdiction over Plaintiff and other current and former aggrieved
12 California-based hourly non-exempt employees' claims because Plaintiff's lawsuit seeks damages
13 in excess of \$25,000 and Defendants employed other current and former aggrieved California-
14 based hourly non-exempt employees and injuries occurred in locations in California including but
15 not limited to 3450 Palm Ave., San Bernardino, CA 92407.

16 **III. PARTIES**

17 3. Plaintiff brings this action as a representative of the Labor and Workforce
18 Development Agency on behalf of himself and other aggrieved employees who were subject to
19 Defendants' violations of the Labor Code. The named Plaintiff and the persons on whose behalf
20 this action is filed include current, former and/or future employees of Defendants who worked,
21 work, or will work for Defendants as non-exempt hourly employees in California. At all times
22 mentioned herein, the currently named Plaintiff is and was domiciled and a resident and citizen of
23 California and was employed by Defendants in an hourly position at Defendants' 3450 Palm Ave.,
24 San Bernardino, CA 92407 from approximately 2019 until his termination on or May 26, 2021.

25 4. Plaintiff is informed and believes and thereon alleges that Defendant NATIONAL
26 RETAIL SYSTEMS, INC.; LEXMONT LOGISTICS; EMPIRE WORKFORCE SOLUTIONS is
27 authorized to do business within the State of California and is doing business in the State of
28 California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were persons

1 acting on behalf of Defendant NATIONAL RETAIL SYSTEMS, INC. in the establishment of, or
2 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
3 NATIONAL RETAIL SYSTEMS, INC. operates in San Bernardino County and employed
4 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees in
5 3450 Palm Ave., San Bernardino, CA 92407.

6 5. Plaintiff is informed and believes and thereon alleges that Defendant LEXMONT
7 LOGISTICS is authorized to do business within the State of California and is doing business in
8 the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto
9 were persons acting on behalf of Defendant LEXMONT LOGISTICS in the establishment of, or
10 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
11 LEXMONT LOGISTICS operates in San Bernardino County and employed Plaintiff and other
12 current and former aggrieved California-based hourly non-exempt employees in 3450 Palm Ave.,
13 San Bernardino, CA 92407.

14 6. Plaintiff is informed and believes and thereon alleges that Defendant EMPIRE
15 WORKFORCE SOLUTIONS is authorized to do business within the State of California and is
16 doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times
17 relevant hereto were persons acting on behalf of Defendant EMPIRE WORKFORCE
18 SOLUTIONS in the establishment of, or ratification of, the aforementioned illegal wage and hour
19 practices or policies. Defendant EMPIRE WORKFORCE SOLUTIONS operates in San
20 Bernardino County and employed Plaintiff and other current and former aggrieved California-
21 based hourly non-exempt employees in 3450 Palm Ave., San Bernardino, CA 92407.

22 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
23 through 50 are corporations or are other business entities or organizations of a nature unknown to
24 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
25 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
26 working conditions of employment of Plaintiff and aggrieved employees.

27 8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
28 through 100 are individuals unknown to Plaintiff. Each of the individual Defendants is sued

1 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
2 supervisor, independent contractor and/or employee of each Defendant who violated or caused to
3 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
4 the Industrial Welfare Commission's wage orders regulating hours and days of work.

5 9. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
6 sues said Defendants by said fictitious names and will amend this complaint when the true names
7 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
8 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
9 named Defendants is in some manner responsible for the events and allegations set forth in this
10 complaint.

11 10. Plaintiff makes the allegations in this complaint without any admission that, as to
12 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
13 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

14 **FIRST CAUSE OF ACTION**

15 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

16 **GENERAL ACT OF 2004, LABOR CODE §2698, et seq.**

17 **(Against all Defendants and DOE Defendants)**

18 11. Plaintiff incorporates all paragraphs above as though fully set forth herein.

19 12. During the period beginning one-year period preceding the sending of the initial
20 notice to the LWDA to the present ("the Civil Penalty Period"), Defendants violated Labor Code
21 sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and 2802 of the applicable Wage
22 Orders.

23 13. Specifically, Defendants have committed the following violations of California
24 Labor Code:

25 14. **Failure to pay wages for all hours worked at the legal minimum wage:**
26 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
27 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
28 which includes all time that an employee is under control of the employer and all time the

1 employee is suffered and permitted to work. This includes the time an employee spends, either
2 directly or indirectly, performing services which inure to the benefit of the employer.

3 15. Labor Code § 1194 and 1197 require an employer to compensate employees for all
4 “hours worked” at least at a minimum wage rate of pay as established by the IWC and the Wage
5 Orders.

6 16. In this case, Plaintiff and other current and former aggrieved California-based
7 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
8 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
9 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
10 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
11 not limited to:

12 (a) Since the outbreak of COVID-19, requiring Plaintiff and similarly situated
13 employees to line up to wait to undergo and to undergo off-the-clock COVID-19 temperature
14 checks and/or medical screenings prior to being permitted to clock in for the start of their shifts;

15 (b) Requiring Plaintiff and similarly situated employees, after the completion of
16 the COVID-19 temperature checks and/or medical screenings to the satisfaction of Defendants, to
17 travel off-the-clock from the temperature check and/or medical screening locations to the
18 timeclock where Plaintiff and similarly situated employees would then clock in for the start of
19 their shifts;

20 (c) Requiring Plaintiff and similarly situated employees to undergo off-the-
21 clock security checks if they left the premises of the Defendants during meal breaks, resulting in
22 time during which Plaintiff and similarly situated employees were off-the-clock, but remained
23 subject to Defendants’ control and direction without compensation;

24 (d) Requiring Plaintiff and similarly situated employees, after having clocked
25 out for the end of their shifts, to travel off-the-clock to security checkpoints in order to leave the
26 premises of Defendants;

27 (e) After having clocked out for the end of their shifts and after having traveled
28 to Defendants’ security checkpoints, requiring Plaintiff and similarly situated employees to line up

1 to wait to undergo and to undergo off-the-clock security checks/bag checks to the satisfaction of
2 Defendants before being permitted to leave the premises; and

3 (f) Designing and maintaining a policy, procedure, and/or practice of deducting
4 fifteen (15) minutes from Plaintiff's and similarly situated employees' total daily hours worked if
5 Plaintiff and similarly situated employees enjoyed off-the-clock, unpaid meal periods for more
6 than thirty-five (35) minutes.

7 17. Defendants failed to pay Plaintiff and other current and former aggrieved
8 California-based hourly non-exempt employees for this time.

9 18. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
10 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
11 control without paying wages for that time. This resulted in Plaintiff and other current and former
12 aggrieved California-based hourly non-exempt employees working time for which they were not
13 compensated any wages, in violation of Labor Code § 1194 and 1197 and the applicable Wage
14 Order.

15 19. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
16 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
17 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
18 which includes all time that an employee is under control of the employer and all time the
19 employee is suffered and permitted to work. This includes the time an employee spends, either
20 directly or indirectly, performing services that inure to the benefit of the employer.'

21 20. Labor Code § 510 and 1194 require an employer to compensate employees a higher
22 rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40)
23 hours in a workweek, and on any seventh consecutive day of work in a workweek:

24 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
25 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
26 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
27 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
28 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice the
regular rate of pay of an employee.

1 Labor Code §510.

2 21. In this case, Defendants failed to pay Plaintiff and other current and former
3 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
4 worked due to Defendants' policies, practices, and/or procedures including, but not limited to

5 (a) Since the outbreak of COVID-19, requiring Plaintiff and similarly situated
6 employees to line up to wait to undergo and to undergo off-the-clock COVID-19 temperature
7 checks and/or medical screenings prior to being permitted to clock in for the start of their shifts;

8 (b) Requiring Plaintiff and similarly situated employees, after the completion of
9 the COVID-19 temperature checks and/or medical screenings to the satisfaction of Defendants, to
10 travel off-the-clock from the temperature check and/or medical screening locations to the
11 timeclock where Plaintiff and similarly situated employees would then clock in for the start of
12 their shifts;

13 (c) Requiring Plaintiff and similarly situated employees to undergo off-the-
14 clock security checks if they left the premises of the Defendants during meal breaks, resulting in
15 time during which Plaintiff and similarly situated employees were off-the-clock, but remained
16 subject to Defendants' control and direction without compensation;

17 (d) Requiring Plaintiff and similarly situated employees, after having clocked
18 out for the end of their shifts, to travel off-the-clock to security checkpoints in order to leave the
19 premises of Defendants;

20 (e) After having clocked out for the end of their shifts and after having traveled
21 to Defendants' security checkpoints, requiring Plaintiff and similarly situated employees to line up
22 to wait to undergo and to undergo off-the-clock security checks/bag checks to the satisfaction of
23 Defendants before being permitted to leave the premises;

24 (f) Designing and maintaining a policy, procedure, and/or practice of deducting
25 fifteen (15) minutes from Plaintiff's and similarly situated employees' total daily hours worked if
26 Plaintiff and similarly situated employees enjoyed off-the-clock, unpaid meal periods for more
27 than thirty-five (35) minutes; and

28 (g) Failing to pay Plaintiff and similarly situated employees overtime wages for

1 hours worked in excess of eight (8) hours in a workday. Instead, Defendants will only pay
2 overtime wages for overtime hours worked in excess of ten (10) hours in a workday despite that
3 Defendants did not validly adopt an alternative workweek schedule.

4 22. Defendants failed to pay Plaintiff and other current and former aggrieved
5 California-based hourly non-exempt employees for this time.

6 23. The foregoing policies, practices, and/or procedures resulted in time during each
7 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
8 employees were under the control of Defendants but were not compensated. To the extent that the
9 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
10 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
11 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
12 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code §
13 510 and 1194 and the applicable Wage Order.

14 24. **Failure to pay wages to hourly non-exempt employees for workdays that**
15 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
16 current and former aggrieved California-based hourly non-exempt employees regularly worked
17 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

18 25. California law requires an employer to authorize or permit an employee an
19 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
20 all duties and the employer relinquishes control over the employee's activities prior to the
21 employee's sixth hour of work. Labor Code § 226.7, 512; Wage order 16 at §11; *Brinker Rest.*
22 *Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
23 employee for a work period of more than ten (10) hours per day without providing the employee
24 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
25 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
26 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
27 period is only permitted when: (1) the nature of the work prevents an employee from being
28 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

1 26. If an employer fails to provide an employee a meal period in accordance with the
2 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
3 for each workday that a legally required and compliant meal period was not provided. Labor Code
4 §226.7; Wage order 16 at §11.

5 27. In this case, Defendants failed to authorize or permit legally required and compliant
6 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
7 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
8 limited to:

9 (a) Requiring Plaintiff and other current and former aggrieved California-based
10 hourly non-exempt employees to stay on the premises, walk to the security check locations, pass
11 through security checks, wait in line for employees passing through security checks while they
12 were off the clock during meal periods which resulted in meal periods that were not duty-free
13 and/or were less than thirty (30) minutes due to the time it took them to travel to and from the
14 designated area.

15 28. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
16 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
17 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
18 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
19 employees did not receive legally required and compliant meal periods, in violation of Labor Code
20 §226.7.

21 29. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
22 and other current and former aggrieved California-based hourly non-exempt employees not
23 receiving wages to compensate them for workdays during which Defendants did not provide them
24 with meal periods in compliance with California law.

25 30. **Failure to pay wages to hourly non-exempt employees for workdays that**
26 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
27 current and former aggrieved California-based hourly non-exempt employees regularly worked
28 shifts of more than three-and-a-half (3.5) hours.

31. California law requires every employer to authorize and permit an employee a rest period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code §226.7; Wage order 16 at §12. Under California law, “[e]mployees are entitled to 10 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage order 16 at §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage order 16 at §12. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

32. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code §226.7; Wage order 16 at § 12.

33. In this case, Defendants failed to authorize or permit all legally required and compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and similarly situated employees to remain on the premises during rest periods, in which Plaintiff’s and similarly situated employees were not duty-free and/or at least a net ten (10) minutes during rest periods.

34. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or procedure of failing to compensate Plaintiff and other current and former aggrieved California-based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each workday they did not receive legally required and compliant rest periods, in violation of Labor Code §226.7.

35. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff

1 and other current and former aggrieved California-based hourly non-exempt employees not
2 receiving wages to compensate them for workdays in which Defendants did not provide them with
3 rest periods in compliance with California law.

4 **36. Failure to timely pay earned wages during employment:** In California, wages
5 must be paid at least twice during each calendar month on days designated in advance by the
6 employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned
7 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th
8 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of
9 any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other
10 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within
11 seven (7) calendar days following the close of the payroll period in which wages were earned.
12 Labor Code §204(d).

13 **37.** As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
14 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
15 exempt employees' earned wages (including minimum wages, overtime wages, meal period
16 premium wages and/or rest period premium wages), in violation of Labor Code §204. Defendants'
17 aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiff's and
18 other current and former aggrieved California-based hourly non-exempt employees' their earned
19 wages within the applicable time frames outlined in Labor Code §204.

20 **38. Failure to provide complete and accurate wage statements:** Labor Code §226,
21 subdivision (a). Labor Code §226(a) provides, *inter alia*, that, upon paying an employee his or her
22 wages, the employer must "furnish each of his or her employees ... an itemized statement in
23 writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
24 employee whose compensation is solely based on a salary and who is exempt from payment of
25 overtime under subdivision (a) of §515 or any applicable order of the Industrial Welfare
26 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the
27 employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on
28 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,

(6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

39. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all wages earned (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages) rendered Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code §226.

40. **Failure to pay employees all wages due at time of termination/resignation:** An employer is required to pay all unpaid wages timely after an employee’s employment ends. The wages are due immediately upon termination (Labor Code §201) or within seventy-two (72) hours of resignation (Labor Code §202).

41. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), Defendants failed to pay those employees timely after each employee’s termination and/or resignation, in violation of Labor Code § 201, 202, and 203.

42. Defendants’ violations of Wage order 16 constituted violations of Labor Code §1198, which prohibits employment under conditions of labor that violate the Wage Orders.

43. Labor Code § 2699, subdivisions (a) and (g) authorize an aggrieved employee, on behalf of himself or herself and other current or former employees, to bring a civil action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code §2699.3.

44. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §2699.3. On October 26, 2021, Plaintiff filed notice with LWDA and provided notice to Defendants by certified mail which provided notice of the specific provisions of the Labor Code.

alleged to have been violated, including the facts and theories to support the violations alleged.

45. Pursuant to Labor Code §2699.3, the LWDA must give written notice by certified mail to the parties that it intends to investigate the alleged violations of the Labor Code within 60 days of the date of the complainant's written notice. The LWDA failed to provide the parties notice within 60 days of the date of Plaintiff's letter that the LWDA intends to investigate Plaintiff's claims.

46. Pursuant to Labor Code § 2699(a) and (f), Plaintiff is entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, and 1197, during the Civil Penalty Period in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, and 512; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation [penalty amounts established by Labor Code §2699(f)(2)].

b. For violations of Labor Code §226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code §226.3].

c. For violations of Labor Code §510, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code §558] and any unpaid wages.

d. For violations of Labor Code §1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code §1197.1] and any unpaid wages.

47. Pursuant to Labor Code §2699(g), Plaintiff is entitled to an award of reasonable attorney's fees and costs in connection with his claims for civil penalties.

PRAYER FOR RELIEF

1 WHEREFORE, PLAINTIFF, ON HIS OWN BEHALF, ON BEHALF OF THE
2 STATE OF CALIFORNIA, AND ON BEHALF OF OTHER FORMER AGGRIEVED
3 CALIFORNIA-BASED HOURLY NON-EXEMPT EMPLOYEES PRAYS AS FOLLOWS:

4 **ON THE FIRST CAUSE OF ACTION:**

5 1. That the Defendants be found to have violated the provisions of the Labor Code
6 and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

7 2. For any and all legally applicable penalties during the relevant statute of limitations
8 subject to any permissible tolling, including but not limited to that recoverable under California
9 Labor Code, including but not limited to § 2699(f).

10 3. For attorneys' fees and costs of suit, including but not limited to that recoverable
11 under California Labor Code §2699(g); and

12 4. For such and other further relief, in law and/or equity, as the Court deems just or
13 appropriate.

14
15 Dated: January 10, 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

16
17 By: /s/ Tara Yousif
18 Joseph Lavi, Esq.
19 Vincent C. Granberry, Esq.
20 Tara Yousif, Esq.
21 Attorneys for Plaintiff
22 FRANCISCO ALVAREZ,
23 on behalf of himself and current and former
24 aggrieved employees.
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