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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO – GORDON D. SCHABER COURTHOUSE

JOANN EICHINGER, SHELBY L. HIGLEY,
JOHN REID BARNETT, PEGGY GIBSON
individuals, on behalf of the State of California, as a
private attorney general,

PLAINTIFFS,

v.

TRACTOR SUPPLY COMPANY; and DOES 1
thru 50, inclusive,

DEFENDANTS.

Case No.: 23CV010299

**CONSOLIDATED REPRESENTATIVE
ACTION**

**PRIVATE ATTORNEYS GENERAL ACT
COMPLAINT FOR VIOLATIONS OF THE
CALIFORNIA LABOR CODE**

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1 Plaintiffs JOANN EICHINGER, SHELBY L. HIGLEY, JOHN REID BARNETT, AND
2 PEGGY GIBSON (“Plaintiffs”), individuals, on behalf of themselves and the people of the State of
3 California and as “aggrieved employees” under the Labor Code Private Attorneys General Act of 2004,
4 §2699, et seq. (“PAGA”) based upon facts that either have evidentiary support or are likely to have
5 evidentiary support after a reasonable opportunity for further investigation and discovery, alleges as
6 follows:

7 **INTRODUCTION & PRELIMINARY STATEMENT**

8 1. Plaintiffs bring this representative action case on behalf of themselves and other aggrieved
9 current and former non-exempt employees, who worked in the State of California for Defendant
10 TRACTOR SUPPLY COMPANY and Does 1 through 10 (Defendant and Does 1 through 10 are
11 collectively referred to as “Defendants”) for California Labor Code violations and unfair business
12 practices stemming from Defendants’ failure to pay minimum wages, failure to pay overtime wages,
13 failure to provide meal periods, failure to authorize and permit rest periods, failure to maintain accurate
14 records of hours worked and meal periods, failure to timely pay all wages to terminated employees, failure
15 to indemnify necessary business expenses, and failure to furnish accurate wage statements, for which
16 Plaintiffs seek penalties, injunctive relief, interest, attorneys’ fees and costs, and all other legal and
17 equitable remedies within the scope of California Labor Code §§ 2698, *et seq* (“PAGA”) and deemed just
18 and proper under California law.

19 2. Plaintiffs bring this PAGA cause of action as a representative action under the California
20 Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to Plaintiffs, the State
21 of California, and past and present non-exempt, hourly-paid employees of Defendants who worked in
22 California during the applicable statute of limitations period (hereinafter referred to as the “Aggrieved
23 Employees”).

24 3. Defendants own/owned and operate/operated an industry, business, and establishment
25 within the State of California, including Sacramento County. As such, and based upon all the facts and
26 circumstances incident to Defendants’ business in California, Defendants are subject to the California
27 Labor Code, Wage Orders issued by the Industrial Welfare Commission (“IWC”).

28 4. Despite these requirements, throughout the statutory period Defendants maintained a

1 systematic, company-wide policy and practice of:

- 2 a. Failing to pay employees for all hours worked, including all minimum wages, and
3 overtime wages in compliance with the California Labor Code and IWC Wage
4 Orders;
- 5 b. Failing to provide employees with timely and duty-free meal periods in compliance
6 with the California Labor Code and IWC Wage Orders, failing to maintain accurate
7 records of all meal periods taken or missed, and failing to pay an additional hour's
8 pay for each workday a meal period violation occurred;
- 9 c. Failing to authorize and permit employees to take timely and duty-free rest periods
10 in compliance with the California Labor Code and IWC Wage Orders, and failing
11 to pay an additional hour's pay for each workday a rest period violation occurred;
- 12 d. Failing to indemnify employees for necessary business expenses incurred;
- 13 e. Willfully failing to pay employees all minimum wages, overtime wages, meal
14 period premium wages, and rest period premium wages due within the time period
15 specified by California law when employment terminates; and
- 16 f. Failing to maintain accurate records of the hours that employees worked, and
17 g. Failing to provide employees with accurate, itemized wage statements containing
18 all the information required by the California Labor Code and IWC Wage Orders.

19 5. On information and belief, Defendants, and each of them were on actual and constructive
20 notice of the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
21 Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

22 6. At all relevant times, Defendants were and are legally responsible for all of the unlawful
23 conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs
24 as the employer of Plaintiffs and Aggrieved Employees. Further, Defendants are responsible for each of
25 the unlawful acts or omissions complained of herein under the doctrine of "respondeat superior".

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THE PARTIES

A. Plaintiffs

7. Plaintiffs are California residents that worked for Defendants in the County of Sacramento, State of California, during the statutory period.

8. Plaintiffs reserve the right to seek leave to amend this complaint to add new Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

B. Defendants

9. Plaintiffs are informed and believe, and based upon that information and belief allege, that Defendant TRACTOR SUPPLY COMPANY, is:

- a. A Delaware corporation with its principal place of business in Sacramento, California.
- b. A business entity conducting business in numerous counties throughout the State of California, including in Sacramento County; and
- c. The former employer of Plaintiffs, and the current and/or former employer of Aggrieved Employees. Defendants suffered and permitted Plaintiffs and Aggrieved Employees to work, and/or controlled their wages, hours, or working conditions.

10. Plaintiffs do not currently know the true names or capacities of the persons or entities sued herein as Does 1-10, inclusive, and therefore sue said Defendants by such fictitious names. Each of the Doe Defendants was in some manner legally responsible for the damages suffered by Plaintiffs and the Aggrieved Employees as alleged herein. Plaintiffs will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained, together with appropriate charging allegations, as may be necessary.

11. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured a significant number of the Plaintiffs and Aggrieved Employees in the State of California.

12. Plaintiffs are informed and believe and thereon allege that at all relevant times each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and Aggrieved

1 Employees, and exercised control over their wages, hours, and working conditions. Plaintiffs are informed
2 and believe and thereon allege that, at all relevant times, each Defendant was the principal, agent, partner,
3 joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor
4 in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with
5 some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
6 some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged
7 below. Plaintiffs are informed and believes and thereon alleges that each Defendant acted pursuant to and
8 within the scope of the relationships alleged above, that each Defendant knew or should have known
9 about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other
10 Defendants.

11 **PAGA REPRESENTATIVE ALLEGATIONS**

12 13. Plaintiffs are California residents who worked for Defendants in the County of Sacramento,
13 State of California, during the statutory period. During the statutory period, Defendants classified
14 Plaintiffs as non-exempt from California's overtime requirements, and paid Plaintiffs an hourly wage.

15 14. Plaintiffs have exhausted Plaintiffs' administrative remedies pursuant to California Labor
16 Code § 2699.3. On October 21, 2021, January 20, 2022, November 3, 2022, and February 7, 2023,
17 Plaintiffs Eichinger, Higley, Barnett, and Gibson respectively, gave written notice by online filing to the
18 Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions
19 of the Labor Code that Defendants have violated against each Plaintiff and certain current and former
20 aggrieved employees, including the facts and theories to support the violations. Plaintiffs also paid the
21 filing fee. Plaintiff's PAGA case numbers are LWDA-CM-849430-21, LWDA-CM-863862-22, LWDA-
22 CM-917710-22, LWDA-CM-934519-23, respectively.

23 15. More than 65 days have elapsed since each Plaintiff provided notice, but the Labor and
24 Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code
25 violations discussed in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties
26 under Labor Code § 2699, pursuant to § 2699.3, for the violations of the Labor Code described in this
27 Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 1194,
28 2802, 226, and 2699(f)(2)

1 16. Throughout the statutory period, Defendants failed to pay Plaintiffs for all hours worked
2 (including minimum wages and overtime wages), failed to provide Plaintiffs with uninterrupted meal
3 periods, failed to authorize and permit Plaintiffs to take uninterrupted rest periods, failed to indemnify
4 Plaintiffs for necessary business expenses, failed to timely pay all final wages to Plaintiffs when
5 Defendants terminated Plaintiffs' employment, and failed to furnish accurate wage statements to
6 Plaintiffs. As discussed below, Plaintiffs' experiences working for Defendants were typical and
7 illustrative.

8 17. Throughout the statutory period, Defendants maintained a policy and practice of not paying
9 Plaintiffs for all hours worked, including all overtime wages. Plaintiffs received non-discretionary bonuses
10 and other remuneration. However, Defendants' meal period and/or rest break premium rate of pay, and
11 sick day rate of pay, did not compensate Plaintiffs and aggrieved employees at the regular rate of pay or
12 compensation, leading to underpayment. Also, throughout the statutory period, Defendants failed to pay
13 Plaintiffs COVID sick pay pursuant to California law for time that Plaintiffs were required to quarantine.
14 Also, throughout the statutory period, Plaintiffs received non-discretionary bonuses and other
15 remuneration, but Defendants failed to incorporate all remuneration when calculating the correct overtime
16 rate of pay and sick day rate of pay. In maintaining a practice of not paying all wages owed, Defendants
17 failed to maintain accurate records of the hours Plaintiffs worked.

18 18. Throughout the statutory period, Defendants wrongfully failed to provide Plaintiffs with
19 legally compliant meal periods. Defendants sometimes, but not always, required Plaintiffs to work in
20 excess of five consecutive hours a day without providing 30-minute, continuous and uninterrupted, duty-
21 free meal period for every five hours of work, or without compensating Plaintiffs for meal periods that
22 were not provided by the end of the fifth hour of work or tenth hour of work. Defendants also did not
23 adequately inform Plaintiffs of their right to take a meal period by the end of the fifth hour of work, or,
24 for shifts greater than 10 hours, by the end of the tenth hour of work. Accordingly, Defendants' policy and
25 practice was to not provide meal periods to Plaintiffs in compliance with California law.

26 19. Throughout the statutory period, Defendants have wrongfully failed to authorize and
27 permit Plaintiffs to take timely and duty-free rest periods. Defendants sometimes, but not always, required
28 Plaintiffs to work in excess of four consecutive hours a day without Defendants authorizing and permitting

1 them to take a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or major
2 fraction of four hours), or without compensating Plaintiffs for rest periods that were not authorized or
3 permitted. Defendants also did not adequately inform Plaintiffs of their right to take a rest period.
4 Moreover, Defendants did not have adequate policies or practices permitting or authorizing rest periods
5 for Plaintiffs, nor did Defendants have adequate policies or practices regarding the timing of rest periods.
6 Defendants also did not have adequate policies or practices to verify whether Plaintiffs were taking their
7 required rest periods. Accordingly, Defendants' policy and practice was to not authorize and permit
8 Plaintiffs to take rest periods in compliance with California law. 18. Throughout the statutory period,
9 Defendants wrongfully required Plaintiffs to pay expenses that they incurred in direct discharge of their
10 duties for Defendants without reimbursement. For example, Plaintiffs were required to use their own
11 personal cellular telephones for work, which included COVID screenings and communicating with
12 supervisors.

13 20. Throughout the statutory period, Defendants willfully failed and refused to timely pay
14 Plaintiffs at the conclusion of their employment all wages for all minimum wages, overtime wages, meal
15 period premium wages, and rest period premium wages. Defendants also did not pay the final wages
16 timely after termination. Defendants also failed to pay Plaintiffs their final paychecks in a timely manner
17 promptly upon termination.

18 21. Throughout the statutory period, Defendants failed to furnish Plaintiffs with accurate,
19 itemized wage statements showing all applicable hourly rates, and all gross and net wages earned
20 (including correct hours worked, correct wages earned for hours worked, correct overtime hours worked,
21 correct wages for meal periods that were not provided in accordance with California law, correct wages
22 for rest periods that were not authorized and permitted to take in accordance with California law, and
23 Defendant's address). Further, the wage statements do not show Defendant's address as required by
24 California law. As a result of these violations of California Labor Code § 226(a), the Plaintiffs and
25 Aggrieved Employees suffered injury because, among other things:

26 22. Throughout the statutory period, Defendants failed to furnish Plaintiffs and Aggrieved
27 Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and
28 net wages earned (including correct hours worked, correct wages earned for hours worked, correct

1 overtime hours worked, correct wages for meal periods that were not provided in accordance with
2 California law, correct wages for rest periods that were not authorized and permitted to take in accordance
3 with California law, and Defendant's address). Further, the wage statements do not show Defendant's
4 address as required by California law. As a result of these violations of California Labor Code § 226(a),
5 the Plaintiffs and Aggrieved Employees suffered injury because, among other things:

- 6 a. the violations led them to believe that they were not entitled to be paid minimum
7 wages, overtime wages, meal period premium wages, and rest period premium
8 wages to which they were entitled, even though they were entitled;
- 9 b. the violations led them to believe that they had been paid the minimum, overtime,
10 meal period premium, and rest period premium wages, even though they had not
11 been;
- 12 c. the violations led them to believe they were not entitled to be paid minimum,
13 overtime, meal period premium, and rest period premium wages at the correct
14 California rate even though they were;
- 15 d. the violations led them to believe they had been paid minimum, overtime, meal
16 period premium, and rest period premium wages at the correct California rate even
17 though they had not been;
- 18 e. the violations hindered them from determining the amounts of minimum, overtime,
19 meal period premium, and rest period premium owed to them;
- 20 f. in connection with their employment before and during this action, and in
21 connection with prosecuting this action, the violations caused them to have to
22 perform mathematical computations to determine the amounts of wages owed to
23 them, computations they would not have to make if the wage statements contained
24 the required accurate information;
- 25 g. by understating the wages truly due them, the violations caused them to lose
26 entitlement and/or accrual of the full amount of Social Security, disability,
27 unemployment, and other governmental benefits; and
- 28 h. the wage statements inaccurately understated the wages, hours, and wages rates to

1 which Plaintiffs and Aggrieved Employees were entitled, and Plaintiffs and
2 Aggrieved Employees were paid less than the wages and wage rates to which they
3 were entitled.

4 Thus, Plaintiffs and Aggrieved Employees are owed the amounts provided for in California Labor Code
5 § 226(e).

6 **ADDITIONAL FACTUAL ALLEGATIONS**

7 **Against all Defendants for Failure to Pay Minimum Wages for All Hours Worked**

8 **(Cal. Labor Code §§ 204, 1182.11, 1197, 1198; IWC Wage Order, § 4)**

9 23. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1
10 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the
11 violations of law alleged herein.

12 24. “Hours worked” is the time during which an employee is subject to the control of an
13 employer, and includes all the time the employee is suffered or permitted to work, whether or not required
14 to do so.

15 25. At all relevant times herein mentioned, Defendants knowingly failed to pay to Plaintiffs
16 and Aggrieved Employees compensation for all hours they worked. By their failure to pay compensation
17 for each hour worked as alleged above, Defendants willfully violated the provisions of Section 1194 of
18 the California Labor Code, and any additional applicable Wage Orders, which require such compensation
19 to non-exempt employees. As part of Defendants’ illegal wage payment policies and practices, Defendants
20 routinely deprived Plaintiffs and Aggrieved Employees of all minimum wages earned and due by
21 requiring, permitting or suffering Plaintiffs and Aggrieved Employees to work off the clock, work through
22 meal and rest periods, by illegally and inaccurately recording time during which Plaintiffs and Aggrieved
23 Employees worked, by failing to properly maintain Plaintiffs’ and Aggrieved Employees’ records, by
24 failing to provide accurate itemized wage statements to Plaintiffs and Aggrieved Employees for each pay
25 period while failing to compensate Plaintiffs’ and Aggrieved Employees for all minimum wages for all
26 hours worked as required under California Labor Code §§ 1182.11, 1197, 1198 and IWC Wage Order, §
27 4.

28 26. Accordingly, Plaintiffs and Aggrieved Employees are entitled to recover minimum wages

1 for all non-overtime hours worked for Defendants.

2 27. By and through the conduct described above, Plaintiffs and Aggrieved Employees have
3 been deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

4 28. By virtue of the Defendants' unlawful failure to pay additional compensation to Plaintiffs
5 and Aggrieved Employees for their non-overtime hours worked without pay, Plaintiffs and Aggrieved
6 Employees suffered, and will continue to suffer, damages in amounts which are presently unknown to
7 Plaintiffs and Aggrieved Employees, but which exceed the jurisdictional minimum of this Court, and
8 which will be ascertained according to proof at trial.

9 29. By failing to keep adequate time records required by California Labor Code § 1174(d),
10 Defendants have made it difficult to calculate the full extent of minimum wage compensation due to
11 Plaintiffs and Aggrieved Employees.

12 30. Pursuant to California Labor Code section 1194.2, Plaintiffs and Aggrieved Employees are
13 entitled to recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

14 31. California Labor Code section 204 requires employers to provide employees with all wages
15 due and payable twice a month. Throughout the statute of limitations period applicable to this cause of
16 action, Plaintiffs and Aggrieved Employees were entitled to be paid twice a month at rates required by
17 law, including minimum wages. However, during all such times, Defendants systematically failed and
18 refused to pay Plaintiffs and Aggrieved Employees all such wages due, and failed to pay those wages
19 twice a month.

20 32. Plaintiffs and Aggrieved Employees are also entitled to seek recovery of all unpaid
21 minimum wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§
22 218.5, 218.6, and 1194(a).

23 33. Defendants have knowingly and willfully refused to perform their obligations to
24 compensate Plaintiffs and Aggrieved Employees for all minimum wages earned and all hours worked in
25 violation of California Labor Code §§ 1182.11, 1197, 1198 and IWC Wage Order, § 4.

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Against all Defendants for Failure to Pay Overtime Wages

(Cal. Labor Code §§ 204, 510, 1198; IWC Wage Order, § 3)

34. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the violations of law alleged herein.

35. California Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

36. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

37. At all times relevant hereto, Plaintiffs and Aggrieved Employees have worked more than eight hours in a workday, as employees of Defendants.

38. At all times relevant hereto, Defendants failed to pay Plaintiffs and Aggrieved Employees overtime compensation for the hours they have worked in excess of the maximum hours permissible by law as required by California Labor Code § 510 and 1198. Plaintiffs and Aggrieved Employees are regularly required to work overtime hours. As part of Defendants' illegal wage payment policies and practices, Defendants routinely deprived Plaintiffs and Aggrieved Employees of all overtime wages earned and due by requiring, permitting or suffering Plaintiffs and Aggrieved Employees to work off the clock, work through meal and rest periods, by illegally and inaccurately recording time during which Plaintiffs and Aggrieved Employees worked, by failing to properly maintain Plaintiffs and Aggrieved Employees' records, by failing to provide accurate itemized wage statements to Plaintiffs and Aggrieved Employees for each pay period while failing to compensate Plaintiffs and Aggrieved Employees for all overtime wages calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, and at two (2) times the regular rate of pay for all hours worked in excess

1 of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh
2 consecutive day of work in any workweek as required under California Labor Code §§ 510, 1198 and
3 IWC Wage Order, § 3.

4 39. By virtue of Defendants' unlawful failure to pay additional premium rate compensation to
5 the Plaintiffs and Aggrieved Employees for their overtime hours worked, Plaintiffs and Aggrieved
6 Employees have suffered, and will continue to suffer, damages in amounts which are presently unknown
7 to them but which exceed the jurisdictional minimum of this Court and which will be ascertained
8 according to proof at trial.

9 40. By failing to keep adequate time records required by Labor Code § 1174(d), Defendants
10 have made it difficult to calculate the full extent of overtime compensation due to Plaintiffs and Aggrieved
11 Employees.

12 41. Plaintiffs and Aggrieved Employees also request recovery of overtime compensation
13 according to proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well
14 as the assessment of any statutory penalties against Defendants, in a sum as provided by the California
15 Labor Code and/or other statutes.

16 42. California Labor Code § 204 requires employers to provide employees with all wages due
17 and payable twice a month. The Wage Orders also provide that every employer shall pay to each
18 employee, on the established payday for the period involved, overtime wages for all overtime hours
19 worked in the payroll period. Defendants failed to provide Plaintiffs and Aggrieved Employees with all
20 compensation due, in violation of California Labor Code § 204.

21 43. Defendants have knowingly and willfully refused to perform their obligations to
22 compensate Plaintiffs and Aggrieved Employees for all overtime wages earned and all hours worked in
23 violation of California Labor Code §§ 510, 1198 and IWC Wage Order, § 3.

24 **Against All Defendants for Failure to Provide Meal Periods**

25 **(Cal. Labor Code §§ 226.7, 512, 1198; IWC Wage Order, § 11)**

26 44. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1
27 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the
28 violations of law alleged herein.

1 45. Under California law, Defendants have an affirmative obligation to relieve the Plaintiffs
2 and Aggrieved Employees of all duty in order to take their first daily meal periods no later than the start
3 of Plaintiffs and Aggrieved Employees' sixth hour of work in a workday, and to take their second meal
4 periods no later than the start of the eleventh hour of work in the workday. Section 512 of the California
5 Labor Code, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal
6 periods of at least 30 minutes for each five-hour period worked. It is a violation of Section 226.7 of the
7 California Labor Code for an employer to require any employee to work during any meal period mandated
8 under any Wage Order.

9 46. Despite these legal requirements, Defendants regularly failed to provide Plaintiffs and
10 Aggrieved Employees with both meal periods as required by California law. By their failure to permit and
11 authorize Plaintiffs and Aggrieved Employees to take all meal periods as alleged above (or due to the fact
12 that Defendants made it impossible or impracticable to take these uninterrupted meal periods), Defendants
13 willfully violated the provisions of Section 226.7 of the California Labor Code and the applicable Wage
14 Orders. As part of Defendants' illegal wage payment policies and practices, Defendants routinely deprived
15 Plaintiffs and Aggrieved Employees of all wages earned and due by requiring, permitting or otherwise
16 suffering Plaintiffs and Aggrieved Employees to take less than a 30-minute meal period, or to work
17 through them, by failing to relieve them of all duties during their purported meal periods, and by failing
18 otherwise provide timely and uninterrupted meal periods to Plaintiffs and Aggrieved Employees as
19 required under California Labor Code §§ 226.7, 512, 1198 and IWC Wage Order, § 11.

20 47. Under California law, Plaintiffs and Aggrieved Employees are entitled to be paid one hour
21 of additional wages for each workday he or she was not provided with all required meal period(s), plus
22 interest thereon.

23 48. Defendants further violated California Labor Code §§ 226.7, 512, 1198 and IWC Wage
24 Order, § 11 by failing to compensate Plaintiffs and Aggrieved Employees, who were not provided with
25 timely and uninterrupted meal periods, one additional hour of compensation at each employee's regular
26 rate of pay for each workday that a meal period was not provided.

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1 **Against All Defendants for Failure to Authorize and Permit Rest Periods**

2 **(Cal. Labor Code §§ 226.7, 1198; IWC Wage Order, § 12)**

3 49. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1
4 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the
5 violations of law alleged herein.

6 50. Defendants are required by California law to authorize and permit breaks of 10
7 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two
8 hours). Section 512 of the California Labor Code, the applicable Wage Orders require that the employer
9 permit and authorize all employees to take paid rest periods of 10 minutes each for each 4-hour period
10 worked. Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled
11 to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's
12 rest break laws. It is a violation of Section 226.7 of the California Labor Code for an employer to require
13 any employee to work during any rest period mandated under any Wage Order.

14 51. Despite these legal requirements, Defendants failed to authorize Plaintiffs and Aggrieved
15 Employees to take rest breaks, regardless of whether employees worked more than 4 hours in a workday.
16 By their failure to permit and authorize Plaintiffs and Aggrieved Employees to take rest periods as alleged
17 above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted
18 rest periods), Defendants willfully violated the provisions of Section 226.7 of the California Labor Code
19 and the applicable Wage Orders. As part of Defendants' illegal wage payment policies and practices,
20 Defendants routinely deprived Plaintiffs and Aggrieved Employees of all wages earned and due by
21 requiring, permitting or otherwise suffering Plaintiffs and Aggrieved Employees to take less than a 10-
22 minute rest period, or to work through them, by failing to relieve them of all duties during their purported
23 rest periods, and by failing to otherwise provide timely and uninterrupted rest periods to Plaintiffs and
24 Aggrieved Employees as required under California Labor Code §§ 226.7, 1198 and IWC Wage Order, §
25 12.

26 52. Under California law, Plaintiffs and Aggrieved Employees are entitled to be paid one hour
27 of premium wages rate for each workday he or she was not provided with all required rest break(s), plus
28 interest thereon.

53. Defendants further violated California Labor Code §§ 226.7, 1198 and IWC Wage Order, § 12 by failing to compensate Plaintiffs and Aggrieved Employees, who were not provided with timely and uninterrupted rest periods, one additional hour of compensation at each employee's regular rate of pay for each workday that a rest period was not provided.

Against All Defendants for Failure to Indemnify Necessary Business Expenses

(Cal. Labor Code § 2802)

54. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the violations of law alleged herein.

55. Defendants violated Labor Code section 2802 and the IWC Wage Orders, by failing to pay and indemnify the Plaintiffs and Aggrieved Employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendants. As part of Defendants' illegal wage payment policies and practices, Defendants routinely failed to indemnify Plaintiffs and Aggrieved Employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of her his or her duties, or of his or her obedience to the directions of the employer including, but not limited to, expenses for personal vehicle use and cellular phone use for work-related communications and other purposes, as required under California Labor Code § 2802(a).

56. As a result, Plaintiffs and Aggrieved Employees were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendants from their wages.

57. Plaintiffs and Aggrieved Employees they represent are entitled to attorney's fees, expenses, and costs of suit pursuant to Labor Code section 2802(c) and interest pursuant to Labor Code section 2802(b).

58. Defendants knowingly and intentionally failed to indemnify Plaintiffs and Aggrieved Employees for all necessary expenditures or losses in violation of California Labor Code § 2802(a).

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**Against all Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time
Penalties
(Cal. Labor Code §§ 201, 202, 203)**

59. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the violations of law alleged herein.

60. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

61. Within the applicable statute of limitations, the employment of Plaintiffs and Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants failed, and continue to fail to pay, terminated Aggrieved Employees without abatement, all wages required to be paid by California Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

62. Defendants' failure to pay Plaintiffs and those Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code §§ 201 and 202.

63. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days. As part of Defendants' illegal wage payment policies and practices, Defendants routinely deprived Plaintiffs and Aggrieved Employees of all timely wage payments due to discharged and quitting employees by either failing to compensate Plaintiffs and Aggrieved Employees all earned and unpaid wages immediately at the time of discharge as required under California

1 Labor Code § 201 or by failing to pay earned and unpaid wages no later than 72 hours after the employee
2 quit his or her employment, unless the employee provided 72 hours previous notice of his or her intention
3 to quit, in which case the employee was entitled to his or wages at the time of quitting as required under
4 California Labor Code § 202, and by failing to pay Plaintiffs and Aggrieved Employees waiting time
5 penalties in the form of continued compensation to the employee at the same rate for up to 30 workdays
6 as required under California Labor Code § 203.

7 64. Plaintiffs and Aggrieved Employees are entitled to recover from Defendants their
8 additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30
9 days maximum pursuant to California Labor Code § 203.

10 65. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, Plaintiffs and Aggrieved
11 Employees are also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs
12 incurred.

13 66. Defendants have knowingly and willfully refused to perform their obligations to
14 compensate Plaintiffs and Aggrieved Employees for wage payments due to discharged and quitting
15 employees in violation of California Labor Code §§ 201, 202 and 203.

16 **Against all Defendants for Failure to Provide and Maintain Accurate and Compliant Wage**
17 **Records**

18 **(Cal. Labor Code §§ 226, 1174(d); IWC Wage Order, § 7)**

19 67. Plaintiffs incorporates by reference and re-alleges as if fully stated herein paragraphs 1
20 through 22 in this Complaint and all other factual allegations, in any other paragraph, consistent with the
21 violations of law alleged herein.

22 68. At all material times set forth herein, California Labor Code § 226(a) provides that every
23 employer shall furnish each of his or her employees an accurate itemized wage statement in writing
24 showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the
25 employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
26 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
27 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the
28 period for which the employee is paid, (7) the name of the employee and the last four digits of his or her

1 social security number or an employee identification number other than a social security number, (8) the
2 name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
3 the pay period and the corresponding number of hours worked at each hourly rate by the employee.

4 69. Defendants have intentionally and willfully failed to provide employees with complete and
5 accurate wage statements. The deficiencies include, among other things, the failure to correctly identify
6 the gross wages earned by Plaintiffs and Aggrieved Employees, the failure to list the true “total hours
7 worked by the employee,” and the failure to list the true net wages earned. As part of Defendants’ illegal
8 wage payment policies and practices, Defendants routinely failed to maintain accurate records including,
9 but not limited to, time records showing when Plaintiffs and Aggrieved Employees began and ended each
10 work period, time records showing when Plaintiffs and Aggrieved Employees began and ended each meal
11 period, time records showing the total daily hours Plaintiffs and Aggrieved Employees’ worked, payroll
12 records showing the total wages paid to Plaintiffs and Aggrieved Employees including the value of all
13 compensation actually furnished, and records showing the total worked during the payroll period and
14 applicable rates of pay as required under California Labor Code §§ 226, 1174(d) and IWC Wage Order, §
15 7.

16 70. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiffs and
17 Aggrieved Employees have suffered injury and damage to their statutorily-protected rights.

18 71. Specifically, Plaintiffs and Aggrieved Employees have been injured by Defendants’
19 intentional violation of California Labor Code § 226(a) because they were denied both their legal right to
20 receive, and their protected interest in receiving, accurate, itemized wage statements under California
21 Labor Code § 226(a).

22 72. Calculation of the true wage entitlement for Plaintiffs and Aggrieved Employees is difficult
23 and time consuming. As a result of this unlawful burden, Plaintiffs and Aggrieved Employees were also
24 injured as a result of having to bring this action to attempt to obtain correct wage information following
25 Defendants’ refusal to comply with many of the mandates of California’s Labor Code and related laws
26 and regulations.

27 73. Plaintiffs and Aggrieved Employees are entitled to recover from Defendants their actual
28 damages caused by Defendants’ failure to comply with California Labor Code § 226(a).

74. Plaintiffs and Aggrieved Employees are also entitled to injunctive relief, as well as an award of attorney's fees and costs to ensure compliance with this section, pursuant to California Labor Code § 226(h).

75. Defendants have knowingly and willfully refused to perform their obligations to provide Plaintiffs and Aggrieved Employees with timely and accurate wage statements in violation of California Labor Code § 226(a) and applicable IWC Wage Orders.

FIRST CAUSE OF ACTION

Civil Penalties Under the Labor Code Private Attorneys General Act of 2004

(Cal. Labor Code §§ 2698, *et seq.*)

76. Plaintiffs refer to and incorporate by reference all facts alleged in the foregoing paragraphs consistent with this cause of action as if fully set forth herein.

77. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

78. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, 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.”

79. Plaintiffs are “aggrieved employees” within the meaning of California Labor Code § 2699(c), and proper representatives to bring a civil action on behalf of themselves and other current and former employees of Defendants pursuant to the procedures specified in California Labor Code § 2699.3 because Plaintiffs were employed by Defendants and the alleged violations of the California Labor Code were committed against Plaintiffs during the relevant period. Accordingly, Plaintiffs seek to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

80. Pursuant to PAGA, California Labor Code §§ 2698, *et seq.*, Plaintiffs seek to recover civil

1 penalties from Defendants including, but not limited to, penalties for Defendants' violations of California
2 Labor Code §§ 201, 202, 203, 204, 226, 226(a), 226.7, 510, 512, 1174(d), 1182.11, 1197, 1198 and 2802
3 in a representative action.

4 81. Pursuant to California Labor Code § 2699(a), Plaintiffs seek civil penalties for Defendants'
5 violations of California Labor Code provisions for which a civil penalty is specifically provided including,
6 but not limited to, the following:

7 a. Pursuant to California Labor Code § 210, for Defendants' violations of California
8 Labor Code § 204, Plaintiffs seek an award and Defendants' payment of civil penalties "[f]or any initial
9 violation, one hundred dollars (\$100) for each failure to pay each employee" and "[f]or each subsequent
10 violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
11 employee, plus 25 percent of the amount unlawfully withheld."

12 b. Pursuant to California Labor Code § 226.3, for Defendants' violations of California
13 Labor Code § 226(a), Plaintiffs seek an award and Defendants' payment of civil penalties "in the amount
14 of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand
15 dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to
16 provide the employee a wage deduction statement or fails to keep the records required in subdivision (a)
17 of Section 226."

18 c. Pursuant to California Labor Code § 558(a), for Defendants' violations of
19 California Labor Code §§ 510, 512 and IWC Wage Order, § 3, Plaintiffs seek an award and Defendants'
20 payment of civil penalties "[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for
21 each pay period for which the employee was underpaid" and "[f]or each subsequent violation, one hundred
22 dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid[.]"

23 d. Pursuant to California Labor Code § 1174.5, for violations of California Labor
24 Code § 1174(d), Defendants are subject to a civil penalty of five hundred dollars (\$500).

25 e. Pursuant to California Labor Code § 1197.1, for Defendants' violations of
26 California Labor Code §§ 1182.11, 1197 and IWC Wage Order, § 4, Plaintiffs seek an award and
27 Defendants' payment of civil penalties "[f]or any initial violation that is intentionally committed, one
28 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is

1 underpaid” and “[f]or each subsequent violation for the same specific offense, two hundred fifty dollars
2 (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless
3 of whether the initial violation is intentionally committed.”

4 82. In the alternative, and in keeping with California Labor Code § 2699(f), which provides
5 that for all California Labor Code violations for which a civil penalty is not specifically provided, the
6 following civil penalties are established: one hundred dollars (\$100) for each aggrieved employee per pay
7 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period
8 for each subsequent violation, Plaintiffs seek such civil penalties under Labor Code § 2699(f) for
9 Defendants’ violations of California Labor Code provisions for which a civil penalty is not specifically
10 provided including, but not limited to, for Defendants’ violations of California Labor Code §§ 201, 202,
11 203, 204, 226, 226(a), 226.7, 510, 512, 1174(d), 1182.11, 1197, 1198 and 2802 and the applicable IWC
12 Wage Order provisions alleged herein.

13 83. Plaintiffs additionally seek reasonable attorney’s fees and costs pursuant to California
14 Labor Code § 2699(g)(1).

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, Plaintiffs, individually and on behalf of Aggrieved Employees respectfully pray
17 for relief against Defendants, and each of them, as follows:

18 1. That the Court declare, adjudge and decree that Defendants violated the California Labor
19 Code by failing to pay all wages owed, including overtime, failing to provide meal periods, failing to
20 maintain accurate records of meal periods, failing to authorize and permit rest breaks, failing to indemnify
21 necessary business expenses, failing to timely pay final wages at termination, and failing to provide
22 accurate itemized wage statements;

23 2. For, notwithstanding anything to the contrary stated herein, civil penalties within the scope
24 of all civil penalties allowed under PAGA, according to proof including, but not limited to, the amount of
25 all civil penalties authorized by California Labor Code §§ 210, 225.5, 226.3, 226.8, 558(a), 1174.5, 1194.2
26 1197.1, 2699(f) or any other applicable civil penalty provisions authorized under California law;

27 3. For reasonable attorney’s fees and costs pursuant to California Labor Code § 2699(g)(1)
28 and/or any other applicable provisions providing for attorney’s fees and costs; and

1 4. For such further relief that the Court may deem just and proper.

2 Respectfully Submitted,

3 DATED: December 28, 2023

KINGSLEY & KINGSLEY, APC

4
5 By: 
6 Ari J. Stiller
7 Attorneys for Plaintiff JOANN EICHINGER

8
9 DATED: December 28, 2023

MOON LAW GROUP, PC

10
11 By: /s/ Michael Citrin _____
12 KANE MOON
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