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Amanda Toste
Clerk of the Superior Court
By: Tawn Saepanh, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED**

SHONIE SHOEMAKER, individually, on
behalf of other members of the general public
similarly situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act ("PAGA");

Plaintiff,

v.

BROKEN ARROW COMMUNICATIONS,
INC., a New Mexico corporation; and DOES
1 through 100, inclusive;

Defendants.

Case No.: 21CV-03517

**CLASS ACTION COMPLAINT FOR
DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of Labor Code § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004); and
- (9) Violation of California Business & Professions Code § 17200, *et seq.*

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff SHONIE SHOEMAKER (“Plaintiff”), individually, on behalf of other members of the general public similarly situated, and on behalf of other members of the general public similarly situated and on behalf of aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”) and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, including the County of Merced. The majority of the acts and omissions alleged herein relating to Plaintiff took place in the State of California. Defendants employed Plaintiff within the State of California, County of Merced.

PARTIES

5. Plaintiff SHONIE SHOEMAKER is an individual residing in the State of California, County of Los Angeles.

1 6. Defendant BROKEN ARROW COMMUNICATIONS, INC., at all times herein
2 mentioned, was and is, upon information and belief, a New Mexico corporation, and at all
3 times herein mentioned, was and is, an employer whose employees are engaged throughout the
4 State of California, including the County of Merced.

5 7. At all relevant times, Defendants BROKEN ARROW COMMUNICATIONS,
6 INC. was the “employer” of Plaintiff within the meaning of all applicable California laws and
7 statutes.

8 8. At all times herein relevant, Defendants BROKEN ARROW
9 COMMUNICATIONS, INC. and DOES 1 through 100, and each of them, were the agents,
10 partners, joint venturers, joint employers, representatives, servants, employees, successors-in-
11 interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were
12 acting within the course and scope of their authority as such agents, partners, joint venturers,
13 joint employers, representatives, servants, employees, successors, co-conspirators and assigns,
14 and all acts or omissions alleged herein were duly committed with the ratification, knowledge,
15 permission, encouragement, authorization, and consent of each defendant designated herein.

16 9. The true names and capacities, whether corporate, associate, individual or
17 otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff, who sues
18 said defendants by such fictitious names. Plaintiff is informed and believes, and based on that
19 information and belief alleges, that each of the Defendants designated as a DOE is legally
20 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
21 the injuries and damages to Plaintiff and the other class members as alleged in this Complaint.
22 Plaintiff will seek leave of court to amend this Complaint to show the true names and
23 capacities when the same have been ascertained.

24 10. Defendants BROKEN ARROW COMMUNICATIONS, INC. and DOES 1
25 through 100 will hereinafter collectively be referred to as “Defendants.”

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1 11. Plaintiff further alleges that Defendants directly or indirectly controlled or
2 affected the working conditions, wages, working hours, and conditions of employment of
3 Plaintiff and the other class members so as to make each of said Defendants employers and
4 employers liable under the statutory provisions set forth herein.

5 **CLASS ACTION ALLEGATIONS**

6 12. Plaintiff brings this action on her own behalf and on behalf of all other members
7 of the general public similarly situated, and, thus, seeks class certification under Code of Civil
8 Procedure section 382.

9 13. The proposed class is defined as follows:

10 All current and former non-exempt California employees of Defendants from
11 October 13, 2016, through the earlier of December 9, 2021 or date of
12 preliminary approval of this settlement.

13 14. Plaintiff reserves the right to establish subclasses as appropriate.

14 15. The class is ascertainable and there is a well-defined community of interest in
15 the litigation:

16 a. Numerosity: The class members are so numerous that joinder of all class
17 members is impracticable. The membership of the entire class is
18 unknown to Plaintiff at this time; however, the class is estimated to be
19 greater than fifty (50) individuals and the identity of such membership is
20 readily ascertainable by inspection of Defendants' employment records.

21 b. Typicality: Plaintiff's claims are typical of all other class members'
22 claims as demonstrated herein. Plaintiff will fairly and adequately
23 protect the interests of the other class members with whom she has a
24 well-defined community of interest.

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- c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
 - d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
 - e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.
16. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:
- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
 - b. Whether Defendants failed to pay their hourly-paid or non-exempt employees within the State of California for all hours worked, missed meal periods and rest breaks in violation of California law;

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- c. Whether Defendants required Plaintiff and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week and failed to pay the legally required overtime compensation to Plaintiff and the other class members;
- d. Whether Defendants properly calculated the regular rate for Plaintiff and the other class members to worked overtime and earned incentive pay;
- e. Whether Defendants deprived Plaintiff and the other class members of meal and/or rest periods or required Plaintiff and the other class members to work during meal and/or rest periods without compensation;
- f. Whether Defendants failed to pay minimum wages to Plaintiff and the other class members for all hours worked;
- g. Whether Defendants failed to pay all wages due to Plaintiff and the other class members within the required time upon their discharge or resignation;
- h. Whether Defendants failed to timely pay all wages due to Plaintiff and the other class members during their employment;
- i. Whether Defendants complied with wage reporting as required by the California Labor Code, including, inter alia, section 226;
- j. Whether Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs;
- k. Whether Defendant maintained an illegal rounding policy that resulted in Plaintiff and other class members being underpaid;
- l. Whether Defendant failed to properly calculate and pay sick leave to Plaintiff and other class members;
- m. Whether Defendants’ conduct was willful or reckless;
- n. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, *et seq.*;

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- 1 o. The appropriate amount of damages, restitution, and/or monetary
2 penalties resulting from Defendants' violation of California law; and
3 p. Whether Plaintiff and the other class members are entitled to
4 compensatory damages pursuant to the California Labor Code.

5 **GENERAL ALLEGATIONS**

6 17. During the relevant time period set forth herein, Defendants employed Plaintiff
7 and other persons as hourly-paid or non-exempt employees within the State of California.

8 18. Defendants, jointly and severally, employed Plaintiff as an hourly-paid non-
9 exempt employee from February to September of 2019 in the State of California, County of
10 Merced.

11 19. Defendants had the authority to hire and terminate Plaintiff and other class
12 members; to set work rules and conditions governing Plaintiff's and other class members'
13 employment; and to supervise their daily employment activities.

14 20. Defendants exercised sufficient authority over the terms and conditions of
15 Plaintiff and other class members' employment for them to be joint employers of Plaintiff and
16 the other class members.

17 21. Defendants directly hired and paid wages and benefits to Plaintiff and other
18 class members.

19 22. Defendants continue to employ hourly-paid or non-exempt employees within the
20 State of California.

21 23. Plaintiff and other class members worked over eight (8) hours in a day, and/or
22 forty (40) hours in a week during their employment with Defendants.

23 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt
25 employees within the State of California. This scheme involved, inter alia, failing to pay them
26 for all hours worked, failing to properly calculate overtime pay and sick leave, missed meal
27 periods, and missed rest breaks in violation of California law.

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25. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and other class members were entitled to receive certain wages for overtime compensation and that Plaintiff and other class members were not receiving wages for overtime compensation.

26. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that they maintained an illegal rounding policy that resulted in Plaintiff and other class members being underpaid.

27. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide Plaintiff and other class members the required rest and meal periods during the relevant time period as required under the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all applicable penalties.

28. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and other class members were entitled to receive all timely and complete meal periods or payment of one additional hour of pay at Plaintiff's and the other class members' regular rate of pay when a meal period was missed, late or interrupted, and that Plaintiff and other class members did not receive all timely and proper meal periods or payment of one additional hour of pay at their regular rate of pay when a meal period was missed.

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and other class members were entitled to receive all timely rest periods without interruption or payment of one additional hour of pay at Plaintiff and the other class members' regular rate of pay when a rest period was missed, late or interrupted, and that Plaintiff and other class members did not receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period was missed.

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1 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and other class members were entitled to receive at
3 least minimum wages for compensation and that Plaintiff and other class members were not
4 receiving at least minimum wages for all hours worked.

5 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knew or should have known that Plaintiff and other class members were entitled to sick leave
7 pay and that Defendants failed to properly calculate and pay sick leave to Plaintiff and other
8 class members pursuant to the methods outlined in the California Labor Code.

9 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 knew or should have known that Plaintiff and other class members were entitled to receive the
11 wages owed to them upon discharge or resignation, including overtime and minimum wages
12 and meal and rest period premiums, and that Plaintiff and other class members did not, in fact,
13 receive such wages owed to them at the time of their discharge or resignation.

14 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that Plaintiff and other class members were entitled to receive
16 complete and accurate wage statements in accordance with California law, but, in fact, Plaintiff
17 and other class members did not receive complete and accurate wage statements from
18 Defendants. The deficiencies included, inter alia, the failure to include the total number of
19 hours worked by Plaintiff and other class members.

20 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 knew or should have known that Plaintiff and the other class members were entitled to
22 reimbursement for necessary business-related expenses.

23 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Defendants had to keep complete and accurate payroll records
25 for Plaintiff and other class members in accordance with California law, but, in fact, did not
26 keep complete and accurate payroll records for Plaintiff and other class members.

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1 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that they had a duty to compensate Plaintiff and other class
3 members pursuant to California law, and that Defendants had the financial ability to pay such
4 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
5 represented to Plaintiff and other class members that they were properly denied wages, all in
6 order to increase Defendants' profits.

7 37. As a pattern and practice, during the relevant time period set forth herein,
8 Defendants failed to pay overtime wages to Plaintiff and other class members for all hours
9 worked. Plaintiff and other class members were required to work more than eight (8) hours per
10 day and/or forty (40) hours per week without overtime compensation.

11 38. As a pattern and practice, during the relevant time period set forth herein,
12 Defendants maintained an illegal rounding policy that was neither fair nor neutral and resulted
13 in Plaintiff and other class members being underpaid the wages owed to them.

14 39. As a pattern and practice, during the relevant time period set forth herein,
15 Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to
16 Plaintiff and other class members.

17 40. As a pattern and practice, during the relevant time period set forth herein,
18 Defendants failed to pay Plaintiff and other class members at least minimum wages for all
19 hours worked.

20 41. As a pattern and practice, during the relevant time period set forth herein,
21 Defendants failed to properly calculate and pay sick leave to Plaintiff and other class members
22 using the methods outlined in the California Labor Code.

23 42. As a pattern and practice, during the relevant time period set forth herein,
24 Defendants failed to pay Plaintiff and other class members the wages owed to them upon
25 discharge or resignation.

26 43. As a pattern and practice, during the relevant time period set forth herein,
27 Defendants failed to provide complete or accurate wage statements to Plaintiff and other class
28 members.

45. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to reimburse Plaintiff and the other class members for necessary business-related expenses and costs.

46. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to properly compensate Plaintiff and other class members pursuant to California law in order to increase Defendants' profits.

47. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him [or her] under this article.”

(Violation of California Labor Code §§ 246, 510, and 1198)

(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)

48. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 47, and each and every part thereof with the same force and effect as though fully set forth herein.

49. California Labor Code section 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

50. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and other class members employed by Defendants, who work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

1 51. The applicable IWC Wage Order further provides that Defendants are and were
2 required to pay Plaintiff and other class members overtime compensation at a rate of two times
3 their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

4 52. California Labor Code section 510 codifies the right to overtime compensation
5 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
6 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
7 of work, and overtime compensation at twice the regular hourly rate for hours worked in
8 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
9 of work.

10 53. Finally, California Labor section 246(1) states that sick leave may be calculated:
11 (1) “in the same manner as the regular rate of pay for the workweek in which the employee
12 uses paid sick time, whether or not the employee actually works overtime in that workweek”;
13 (2) “by dividing the employee’s total wages, not including overtime premium pay, by the
14 employee’s total hours worked in the full pay periods of the prior 90 days of employment”; or
15 (3) “in the same manner as the employer calculates wages for other forms of paid leave time.”

16 54. During the relevant time period set forth herein, Plaintiff and other class
17 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a
18 week.

19 55. As a pattern and practice, during the relevant time period set forth herein,
20 Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff and other
21 class members (but not all).

22 56. As a pattern and practice, during the relevant time period set forth herein,
23 Defendants had in place an illegal rounding policy that was neither fair nor neutral, which
24 underpaid the wages owed to Plaintiff and other class members.

25 57. As a pattern and practice, during the relevant time period set forth herein,
26 Defendants failed to properly calculate and pay sick leave to Plaintiff and other class members
27 using the methods outlined in California Labor Code section 246(l).

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59. Pursuant to California Labor Code sections 248.5 and 1194, Plaintiff and other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)

60. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 59, and each and every part thereof with the same force and effect as though fully set forth herein.

61. During the relevant time period set forth herein, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and other class members' employment by Defendants.

62. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

63. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

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64. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause, or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

65. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members (but not all) who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

66. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members (but not all) who were scheduled to work for a period of time no longer than twelve (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

67. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members (but not all) who were scheduled to work for a period of time in excess of six (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

68. As a pattern and practice, during the relevant time period set forth herein, Plaintiff and other class members (but not all) who were scheduled to work for a period of time in excess of twelve (12) hours were required to work for periods longer than ten (10) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

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69. As a pattern and practice, during the relevant time period set forth herein, Defendants intentionally and willfully required Plaintiff and other class members (but not all) to work during meal periods and failed to compensate Plaintiff and the other class members (but not all) the full meal period premium for work performed during meal periods.

70. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay Plaintiff and other class members (but not all) the full meal period premium due pursuant to California Labor Code section 226.7.

71. Defendants' conduct violates applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

72. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)

73. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 72, and each and every part thereof with the same force and effect as though fully set forth herein.

74. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and other class members' employment by Defendants.

75. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

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1 76. During the relevant time period set forth herein, the applicable IWC Wage
2 Order provides that “[e]very employer shall authorize and permit all employees to take rest
3 periods, which insofar as practicable shall be in the middle of each work period” and that the
4 “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes
5 net rest time per four (4) hours or major fraction thereof” unless the total daily work time is
6 less than three and one-half (3 ½) hours.

7 77. As a pattern and practice, during the relevant time period set forth herein,
8 Defendants required Plaintiff and other class members (but not all) to work four (4) or more
9 hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour
10 period worked.

11 78. As a pattern and practice, during the relevant time period set forth herein,
12 Defendants willfully required Plaintiff and other class members (but not all) to work during
13 rest periods and failed to pay Plaintiff and the other class members the full rest period premium
14 for work performed during rest periods.

15 79. As a pattern and practice, during the relevant time period set forth herein,
16 Defendants failed to pay Plaintiff and the other class members (but not all) the full rest period
17 premium due pursuant to California Labor Code section 226.7

18 80. Defendants’ conduct violates applicable IWC Wage Orders and California
19 Labor Code section 226.7.

20 81. Pursuant to the applicable IWC Wage Orders and California Labor Code section
21 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
22 additional hour of pay at the employees’ regular hourly rate of compensation for each workday
23 that the rest period was not provided.

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FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194 and 1197)

(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)

82. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 73 and each and every part thereof with the same force and effect as though fully set forth herein.

83. During the relevant time period set forth herein, California Labor Code sections 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed, is unlawful.

84. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay minimum wages to Plaintiff and other class members (but not all) as required, pursuant to California Labor Code sections 1194 and 1197.

85. Defendants' failure to pay Plaintiff and other class members the minimum wage as required violates California Labor Code sections 1194 and 1197. Pursuant to those sections, Plaintiff and other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

86. Pursuant to California Labor Code section 1194.2, Plaintiff and other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)

87. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 86, and each and every part thereof with the same force and effect as though fully set forth herein.

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90. Defendants' pattern and practice of failing to pay Plaintiff and other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

92. Plaintiff and other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as provided by Labor Code section 203.

(Violation of California Labor Code § 226(a))

93. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 92, and each and every part thereof with the same force and effect as though fully set forth herein.

1 94. During the relevant time period set forth herein, California Labor Code section
2 226(a) provides that every employer shall furnish each of his or her employees an accurate
3 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
4 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
5 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
6 written orders of the employee may be aggregated and shown as one item, (5) net wages
7 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
8 employee and his or her social security number, (8) the name and address of the legal entity
9 that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
10 corresponding number of hours worked at each hourly rate by the employee. The deductions
11 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
12 showing the month, day, and year, and a copy of the statement or a record of the deductions
13 shall be kept on file by the employer for at least three years at the place of employment or at a
14 central location within the State of California.

15 95. As a pattern and practice, Defendants have intentionally and willfully failed to
16 provide Plaintiff and other class members (but not all) with complete and accurate wage
17 statements. The deficiencies include but are not limited to: the failure to include the total
18 number of hours worked by Plaintiff and other class members.

19 96. As a result of Defendants' violation of California Labor Code section 226(a),
20 Plaintiff and other class members have suffered injury and damage to their statutorily protected
21 rights.

22 97. More specifically, Plaintiff and other class members have been injured by
23 Defendants' intentional and willful violation of California Labor Code section 226(a) because
24 they were denied both their legal right to receive, and their protected interest in receiving,
25 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

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1 98. Plaintiff and other class members are entitled to recover from Defendants the
2 greater of their actual damages caused by Defendants' failure to comply with California Labor
3 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
4 employee.

5 99. Plaintiff and other class members are also entitled to injunctive relief to ensure
6 compliance with this section, pursuant to California Labor Code section 226(g).

7 **SEVENTH CAUSE OF ACTION**

8 **(Violation of California Labor Code §§ 2800 and 2802)**

9 **(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)**

10 100. Plaintiff incorporates by reference the allegations contained in paragraphs 1
11 through 99, and each and every part thereof with the same force and effect as though fully set
12 forth herein.

13 101. Pursuant to California Labor Code sections 2800 and 2802, an employer must
14 reimburse its employee for all necessary expenditures incurred by the employee in direct
15 consequence of the discharge of his or her job duties or in direct consequence of his or her
16 obedience to the directions of the employer.

17 102. Defendants have intentionally and willfully failed to reimburse Plaintiff and other
18 class members (but not all) for all necessary business-related expenses and costs. Plaintiff and
19 other class members are entitled to recover from Defendants their business-related expenses and
20 costs incurred during the course and scope of their employment, plus interest accrued from the
21 date on which the employee incurred the necessary expenditures at the same rate as judgments in
22 civil actions in the State of California.

23 **EIGHT CAUSE OF ACTION**

24 **(Violation of Labor Code Section 2698, *et seq.* ("PAGA"))**

25 **(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)**

26 103. Plaintiff incorporates by reference the allegations contained in paragraphs 1
27 through 102, and each and every part thereof with the same force and effect as though fully set
28 forth herein.

1 104. PAGA expressly establishes that any provision of the California Labor Code
2 which provides for a civil penalty to be assessed and collected by the California Labor and
3 Workforce Development Agency (“LWDA”), or any of its departments, divisions,
4 commissions, boards, agencies, or employees for a violation of the California Labor Code, may
5 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
6 herself, and other current or former employees.

7 105. On October 19, 2021, Plaintiff provided written notice to the LWDA and
8 Defendants of the specific provisions of the Labor Code she contends were violated, and the
9 theories supporting her contentions. Attached hereto as **Exhibit 1** and incorporated by
10 reference is a copy of the October 19, 2021 written notice to the LWDA. Plaintiff believes that
11 on or about December 23, 2021, the sixty-five (65) days’ notice period will expire as to all
12 defendants.

13 106. Plaintiff and the other non-exempt employees are “aggrieved employees” as
14 defined by California Labor Code § 2699(c) in that they are all current or former employees of
15 Defendants, and one or more of the alleged violations was committed against them.

16 **Failure to Pay Minimum and Overtime Wages**

17 107. At all times relevant herein, Defendants were required to compensate their non-
18 exempt employees minimum wages for all hours worked and overtime wages for all hours
19 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
20 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

21 108. As a pattern and practice, Defendants failed to compensate Plaintiff and other
22 aggrieved current and former employees for all hours worked, resulting in a failure to pay all
23 minimum wages and overtime wages, where applicable.

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Failure to Provide Meal Periods and Rest Breaks

109. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants were required to authorize and permit their non-exempt employees to take a 10-minute rest break for every four (4) hours worked or major fraction thereof and were further required to provide their non-exempt employees with a 30-minute meal period for every five (5) hours worked.

110. As a pattern and practice, Defendants failed to provide Plaintiff and other aggrieved current and former employees with legally mandated meal periods and rest breaks and failed to pay proper compensation for this failure.

Failure to Timely Pay Wages During Employment

111. At all times relevant herein, Defendants were required to pay their employees within a specified time period pursuant to the mandate of Labor Code § 204.

112. As a pattern and practice, Defendants regularly failed to pay Plaintiff and other aggrieved current and former employees all wages due and owing them within the required time period.

Failure to Timely Pay Wages Upon Termination

113. At all times relevant herein, Defendants were required to pay their employees all wages owed in a timely fashion at the end of employment pursuant to California Labor Code §§ 201 to 204.

114. As a result of Defendants' Labor Code violations alleged above, Defendants failed to pay Plaintiff and the other aggrieved former employees their final wages pursuant to Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to Labor Code § 203.

Failure to Provide Complete and Accurate Wage Statements

115. At all times relevant herein, Defendants were required to keep *accurate* records regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

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1 116. As a result of Defendants' various Labor Code violations, Defendants failed to
2 keep accurate records regarding Plaintiff and other aggrieved current and former employees.
3 For example, Defendants failed in their affirmative obligation to keep accurate records
4 regarding Plaintiff and other aggrieved current and former employees' gross wages earned,
5 total hours worked, all deductions, net wages earned, and all applicable hourly rates and the
6 number of hours worked at each hourly rate.

7 **Failure to Reimburse Business Expenses**

8 117. At all times relevant herein, Defendants were required to reimburse their
9 employees for any and all necessary expenditures or losses incurred by the employees in direct
10 consequences of the discharge or his or her duties pursuant to the mandate of Labor Code §§
11 2800 and 2802.

12 118. As a pattern and practice, Defendants regularly failed to pay Plaintiff and other
13 aggrieved current and former employees all business expenses incurred and owing them within
14 the required time period.

15 **Failure to Pay Sick Leave Pay**

16 119. California Labor Code § 246(l) allows an employer to calculate paid sick leave
17 for non-exempt employees using two (2) methods. Per § 246(l), Defendants may pay sick leave
18 either in the same manner as the regular rate of pay for the workweek in which the employee
19 uses paid sick time, whether or not the employee actually works overtime in that workweek or
20 by dividing the employee's total wages, not including overtime premium pay, by the
21 employee's total hours worked in the full pay periods of the prior 90 days of employment. Lab.
22 Code § 246(l)(1)-(2).

23 120. As a policy and practice, Defendant failed to properly calculate and pay sick
24 leave to Plaintiff and other aggrieved current and former employees pursuant to the methods
25 outlined in Labor Code section 246(l).

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Penalties

121. Pursuant to California Labor Code § 2699, Plaintiff, individually, and on behalf of other current and former aggrieved employees, requests and is entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant, as well as all statutory penalties against Defendants, and each of them, including but not limited to:

122. Penalties under California Labor Code § 2699 in the amount of a 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;

123. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

124. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a 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;

125. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

126. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

127. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

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1 **NINTH CAUSE OF ACTION**

2 **(Violation of California Business & Professions Code §§ 17200, *et seq.*)**

3 **(Against BROKEN ARROW COMMUNICATIONS, INC. and DOES 1 through 100)**

4 128. Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 127, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 129. Defendants' conduct, as alleged herein, has been, and continues to be unfair,
8 unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants'
9 competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public
10 interest within the meaning of Code of Civil Procedure section 1021.5.

11 130. Defendants' activities as alleged herein are violations of California law, and
12 constitute unlawful business acts and practices in violation of California Business &
13 Professions Code section 17200, *et seq.*

14 131. A violation of California Business & Professions Code section 17200, *et seq.*
15 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
16 pattern and practice of requiring Plaintiff and other class members work overtime hours
17 without paying them proper compensation violate California Labor Code sections 510 and
18 1198. Additionally, Defendants' pattern and practice of requiring Plaintiff and other class
19 members, to work through their meal and rest periods without paying them proper
20 compensation violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants'
21 pattern and practice of failing to timely pay wages to Plaintiff and other class members violate
22 California Labor Code sections 201 and 202. Defendants also violated California Labor Code
23 sections 226(a), 246, 1194, 1197, 2800 and 2802.

24 132. As a result of the herein described violations of California law, Defendants
25 unlawfully gained an unfair advantage over other businesses.

26 133. Plaintiff and other class members (but not all) have been personally injured by
27 Defendants' unlawful business acts and practices as alleged herein, including but not
28 necessarily limited to the loss of money and/or property.

1 134. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
2 Plaintiff and other class members are entitled to restitution of the wages withheld and retained
3 by Defendants during a period that commences four years prior to the filing of this Complaint;
4 an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and
5 other applicable laws; and an award of costs.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, individually, and on behalf of other members of the general public similarly
8 situated, requests a trial by jury.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually, on behalf of all other members of the general
11 public similarly situated, and on behalf of aggrieved employees pursuant to PAGA prays for
12 relief and judgment against Defendants, jointly and severally, as follows:

13 **Class Certification**

- 14 1. That this action be certified as a class action;
15 2. That Plaintiff be appointed as representative of the Class;
16 3. That counsel for Plaintiff be appointed as Class Counsel; and
17 4. That Defendants provide to Class Counsel immediately the names and most
18 current contact information (address, e-mail and telephone numbers) of all class members.

19 **As to the First Cause of Action**

- 20 5. That the Court declare, adjudge, and decree that Defendants violated California
21 Labor Code sections 246, 510, and 1198 and applicable IWC Wage Orders by willfully failing
22 to pay all overtime wages due to Plaintiff and other class members (but not all);

- 23 6. For paid sick days being unlawfully withheld, the dollar amount of paid sick
24 days withheld from the employee multiplied by three (3), or two hundred fifty dollars (\$250),
25 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
26 (\$4,000), shall be included in the administrative penalty, pursuant to California Labor Code
27 section 248.5(b);

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1 7. For general unpaid wages at overtime wage rates and such general and special
2 damages as may be appropriate;

3 8. For pre-judgment interest on any unpaid overtime compensation commencing
4 from the date such amounts were due;

5 9. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Labor Code section 1194; and

7 10. For such other and further relief as the court may deem just and proper.

8 **As to the Second Cause of Action**

9 11. That the Court declare, adjudge, and decree that Defendants violated California
10 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
11 provide all meal periods (including second meal periods) to Plaintiff and other class members
12 (but not all);

13 12. That the Court make an award to Plaintiff and the other class members of one
14 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
15 period was not provided;

16 13. For all actual, consequential, and incidental losses and damages, according to
17 proof;

18 14. For premium wages pursuant to California Labor Code section 226.7(b);

19 15. For pre-judgment interest on any unpaid wages from the date such amounts
20 were due;

21 16. For reasonable attorneys' fees and costs of suit incurred herein; and

22 17. For such other and further relief as the court may deem just and proper.

23 **As to the Third Cause of Action**

24 18. That the Court declare, adjudge, and decree that Defendants violated California
25 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
26 rest periods to Plaintiff and other class members (but not all);

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1 19. That the Court make an award to Plaintiff and the other class members of one
2 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
3 period was not provided;

4 20. For all actual, consequential, and incidental losses and damages, according to
5 proof;

6 21. For premium wages pursuant to California Labor Code section 226.7(b);

7 22. For pre-judgment interest on any unpaid wages from the date such amounts
8 were due; and

9 23. For such other and further relief as the court may deem just and proper.

10 **As to the Fourth Cause of Action**

11 24. That the Court declare, adjudge, and decree that Defendants violated California
12 Labor Code sections 1194 and 1197 by willfully failing to pay minimum wages to Plaintiff and
13 other class members (but not all);

14 25. For general unpaid wages and such general and special damages as may be
15 appropriate;

16 26. For pre-judgment interest on any unpaid compensation from the date such
17 amounts were due;

18 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
19 California Labor Code section 1194(a);

20 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

21 29. For such other and further relief as the court may deem just and proper.

22 **As to the Fifth Cause of Action**

23 30. That the Court declare, adjudge, and decree that Defendants violated California
24 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
25 time of termination of the employment of Plaintiff and other class members (but not all) no
26 longer employed by Defendants;

27 31. For all actual, consequential, and incidental losses and damages, according to
28 proof;

32. For statutory wage penalties pursuant to California Labor Code section 203 for the other class members who have left Defendants' employ;

33. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

34. For such other and further relief as the court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and other class members (but not all), and willfully failed to provide accurate itemized wage statements thereto;

36. For actual, consequential, and incidental losses and damages, according to proof;

37. For statutory penalties pursuant to California Labor Code section 226(e);

38. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g); and

39. For such other and further relief as the court may deem just and proper.

As to the Seventh Cause of Action

40. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and other class members (but not all) for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

41. For actual, consequential, and incidental losses and damages, according to proof;

42. For the imposition of civil penalties and/or statutory penalties;

43. For punitive damages and/or exemplary damages according to proof at trial;

44. For reasonable attorneys' fees and costs of suit incurred herein; and

45. For such other and further relief as the court may deem just and proper.

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As to the Eighth Cause of Action

46. For civil penalties pursuant to statute as set forth in Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.2, 226.3, 226.7, 246, 510, 512(a), 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802;

47. For costs and attorneys' fees pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute; and

48. For such other and further relief that the court may deem just and proper.

As to the Ninth Cause of Action

49. That the Court declare, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to properly calculate and pay sick leave to Plaintiff and other class members, failing to pay Plaintiff's and other class members' wages timely as required by California Labor Code section 201, 202.

50. For restitution of unpaid wages to Plaintiff and other class members and all pre-judgment interest from the day such amounts were due and payable;

51. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, *et seq.*;

52. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

53. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, *et seq.*; and

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54. For such other and further relief as the court may deem just and proper.

Dated: October 20, 2021

JUSTICE LAW CORPORATION

By: 
Douglas Han
Shunt Tatavos-Gharajeh
Josh B. Tran
Attorneys for Plaintiff

EXHIBIT 1

October 19, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: Broken Arrow Communications, Inc.

Dear Representative:

We have been retained to represent Shonie Shoemaker against Broken Arrow Communications, Inc. for violations of California wage-and-hour laws (hereinafter collectively referred to as "BROKEN ARROW").

Ms. Shoemaker is pursuing their California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Ms. Shoemaker may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

BROKEN ARROW is a New Mexico corporation located at 4455 Anaheim Ave. NE, Albuquerque, NM 87113-1664.

BROKEN ARROW employed Ms. Shoemaker as an hourly-paid non-exempt Tower Technician during the relevant time period in the State of California. BROKEN ARROW directly controlled the wages, hours and working conditions of Ms. Shoemaker and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

The "aggrieved employees" that Ms. Shoemaker may seek penalties on behalf of all current and former hourly-paid or non-exempt employees of BROKEN ARROW within the State of California.

BROKEN ARROW failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly pay minimum and overtime wages, failed to pay premium wages for noncompliant meal and rest breaks, failed to issue compliant wage statements, failed to provide timely wages, and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

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LWDA

October 19, 2021

Page 2 of 6

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, Ms. Shoemaker has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at BROKEN ARROW, regardless of their classification, job title, location, or whether they were hired directly or through a staffing agency.

BROKEN ARROW has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.2, 226.3, 226.7, 246, 510, 512(a), 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double-time overtime wages, and make it unlawful to work employees for hours longer than eight (8) hours in one day and/or over forty (40) hours in one week without paying the premium overtime rates. During the relevant time period, Ms. Shoemaker and other aggrieved employees routinely worked in excess of eight (8) hours in a day and forty (40) hours in a week. BROKEN ARROW failed to compensate Ms. Shoemaker and other aggrieved employees for all hours worked. For instance, BROKEN ARROW forced employees to work additional hours off-the-clock pre-shift, post-shift, and during meal breaks for which they were not compensated (*i.e.*, preparing tools for the workday, donning and doffing personal protective equipment ("PPE"), cleaning up the work premises). This issue with off-the-clock work was exacerbated by BROKEN ARROW's stringent policies. Therefore, Ms. Shoemaker and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate 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. During the relevant time period, BROKEN ARROW failed to pay aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate 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.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one (1) additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, BROKEN ARROW routinely required Ms. Shoemaker and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with BROKEN ARROW's policies and expectations. Specifically, the volume of time-sensitive workloads BROKEN ARROW regularly assigned Ms. Shoemaker and other aggrieved employees prevented them from having reasonable opportunities to take their meal and rest breaks. This issue with heavy time-sensitive workloads was worsened by BROKEN ARROW's workplace conditions, i.e., climbing over 200-ft. tall cellular towers that made it infeasible to properly take breaks. Lastly, BROKEN ARROW failed to authorize and permit Ms. Shoemaker and other aggrieved employees to take the requisite number of meal breaks, including second meal breaks, when working shifts that exceeded ten (10) hours in length. Despite these facts, BROKEN ARROW failed to compensate Ms. Shoemaker and other aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than thirty (30) days. During the relevant time period, BROKEN ARROW failed to pay Ms. Shoemaker and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 203, including for uncompensated off-the-clock work, unpaid overtime premiums, and premium wages for failing to provide legally mandated meal and rest breaks, and therefore is liable under California Labor Code section 203.

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California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, BROKEN ARROW failed to pay Ms. Shoemaker and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums, and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, BROKEN ARROW did not provide Ms. Shoemaker and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from BROKEN ARROW were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Ms. Shoemaker and other aggrieved employees, (2) total hours worked by Ms. Shoemaker and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Ms. Shoemaker and other aggrieved employees (4) all deductions for Ms. Shoemaker and other aggrieved employees, (5) net wages earned by Ms. Shoemaker and other aggrieved employees, (6) the inclusive dates of the period for which Ms. Shoemaker and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a 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 Ms. Shoemaker and other aggrieved employees.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, BROKEN ARROW failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Ms. Shoemaker and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, BROKEN ARROW did not provide Ms. Shoemaker and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre-shift, post-shift, and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Ms. Shoemaker and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by BROKEN ARROW, including purchasing safety glasses, boots, and tools, and using their personal cell phones.

We believe that Ms. Shoemaker and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.2, 226.3, 226.7, 246, 510, 512(a), 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Ms. Shoemaker will seek these penalties on her own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of BROKEN ARROW within one year of the date of this letter, as allowed by law.

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LWDA
October 19, 2021
Page 6 of 6

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a stylized flourish at the end.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

Stephen DeMars
c/o Broken Arrow Communications, Inc.
3160 Scott St.
Vista, CA 92081
Agent for Service of Process for Broken Arrow Communications, Inc.

CC: (By Electronic Mail Only):

Matthew A. Farmer, Esq.
mfarmer@littler.com
LITTLER MENDELSON P.C.
Counsel of Record for Broken Arrow Communications, Inc.

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On December 27, 2021, I served the foregoing document described as

Power S

PROOF OF SERVICE