

BY FAX

FILED
Superior Court Of California,
Sacramento
01/24/2022
mwhitaker
By _____, Deputy
Case Number:
34-2022-00314362

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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SACRAMENTO

15 CYNTHIA NOYES, as an aggrieved
16 employee pursuant to the Private Attorneys
17 General Act ("PAGA"), on behalf of the
18 State of California and other aggrieved
19 employees,

20 Plaintiff,

21 vs.

22 LENNAR TITLE, INC., a California
23 corporation; LENNAR CORPORATION, a
24 Delaware corporation; CALATLANTIC
25 GROUP, INC., a Delaware corporation; and
26 DOES 1 through 10, inclusive,

27 Defendants.
28

Case No.:

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Cynthia Noyes, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations of
9 any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order
11 were committed, as set forth in this complaint, at any time between one year prior to the filing
12 of the pre-filing written notice to the Labor and Workforce Development Agency (“LWDA”) in this case on November 18, 2021, until judgment (“non-party Aggrieved Employees”).
13 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.
14

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional notions
22 of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this
23 action given that the State of California, as the real party in interest in this action, is not a
24 “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726
25 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated
26 to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action,
27 and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties
28 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court because Defendants employ or employed persons within the County of Sacramento and have violated the requirements of the California Labor Code and applicable IWC Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable IWC Wage Order in at least 3 locations within the County of Sacramento, including Defendants' branches located in Elk Grove (9240 Laguna Springs Dr #100, Elk Grove, California 95758) and Gold River (11344 Coloma Rd. Suite, Gold River, California 95670). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Sacramento County, and Plaintiff could bring an action filed under PAGA in any county in which an aggrieved employee worked and Labor Code violations occurred, venue is proper. *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal. App. 5th 1069 (2021).

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Cynthia Noyes is a resident of city of Concord in Contra Costa County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately February to April 2021. Plaintiff worked for Defendants as an Escrow Closing Assistant / Senior Escrow Assistant at their branch in Walnut Creek, California. Plaintiff typically worked eight (8) hours or more per day, and five (5) or more days per week. At the time her employment ended, Plaintiff was compensated approximately \$30.00 per hour. Her job duties included, without limitation, answering phones, setting up appointments for viewings, mailing packages to clients, and assisting with closing files.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute a dispute resolution policy and/or arbitration agreement at the time of their

1 hire or during their employment. On further information and belief, Defendants' dispute
2 resolution policy and/or arbitration agreement was and is both procedurally and substantively
3 unconscionable. Specifically, Defendants presented new hires with a document entitled
4 "Dispute Resolution – Mediation and Arbitration Policy" ("ADR Policy") employees had to
5 review and sign immediately. The ADR Policy was one of several documents presented to new
6 employees for signature during the orientation process. Employees, including Plaintiff and
7 other non-party Aggrieved Employees, did not have a meaningful opportunity to negotiate the
8 terms of the ADR Policy. Rather, it was provided to Defendants' employees for them to sign
9 on a take-it or leave-it basis at the time they were hired, along with all of the other on-boarding
10 documents.

11 8. LENNAR TITLE, INC. was and is, upon information and belief, a California
12 corporation, and at all times hereinafter mentioned, an employer whose employees are engaged
13 throughout this county and the State of California.

14 9. LENNAR CORPORATION was and is, upon information and belief, a Delaware
15 corporation, and at all times hereinafter mentioned, an employer whose employees are engaged
16 throughout this county and the State of California.

17 10. CALATLANTIC GROUP, INC. was and is, upon information and belief, a
18 Delaware corporation, and at all times hereinafter mentioned, an employer whose employees
19 are engaged throughout this county and the State of California.

20 11. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
21 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the
22 complaint and serve such fictitiously named Defendants once their names and capacities
23 become known.

24 12. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
25 were the partners, agents, owners, or managers of LENNAR TITLE, INC.; LENNAR
26 CORPORATION; and CALATLANTIC GROUP, INC. at all relevant times.

27 13. Plaintiff is informed and believes, and thereon alleges, that each and all of the
28 acts and omissions alleged herein was performed by, or is attributable to, LENNAR TITLE,

1 INC.; LENNAR CORPORATION; and CALATLANTIC GROUP, INC.; and/or DOES 1
2 through 10 (collectively, “Defendants” or “LENNAR”), each acting as the agent, employee,
3 alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants
4 and was acting within the course and scope of such agency, employment, joint venture, or
5 concerted activity with legal authority to act on the others’ behalf. The acts of any and all
6 Defendants were in accordance with, and represent, the official policy of Defendants.

7 14. At all relevant times, Defendants, and each of them, ratified each and every act
8 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
9 and abetted the acts and omissions of each and all the other Defendants in proximately causing
10 the damages herein alleged.

11 15. Plaintiff is informed and believes, and thereon alleges, that each of said
12 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
13 omissions, occurrences, and transactions alleged herein.

14 16. Under California law, Defendants are jointly and severally liable as employers
15 for the violations alleged herein because they have each exercised sufficient control over the
16 wages, hours, working conditions, and employment status of Plaintiff and other non-party
17 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
18 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
19 of employment, determined their rate of pay, and maintained their employment records.
20 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
21 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a common-
22 law employment relationship. As joint employers of Plaintiff and other non-party Aggrieved
23 Employees, Defendants are jointly and severally liable for the civil penalties available to
24 Plaintiff and other non-party Aggrieved Employees under the law.

25 17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
26 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
27 non-party Aggrieved Employees because Defendants have:

28 ///

- 1 (a) jointly exercised meaningful control over the work performed by Plaintiff
2 and other non-party Aggrieved Employees;
- 3 (b) jointly exercised meaningful control over Plaintiff's and other non-party
4 Aggrieved Employees' wages, hours, and working conditions, including
5 the quantity, quality standards, speed, scheduling, and operative details
6 of the tasks performed by Plaintiff and other non-party Aggrieved
7 Employees;
- 8 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
9 perform work which is an integral part of Defendants' businesses; and
- 10 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
11 Employees as a matter of economic reality in that Plaintiff and other non-
12 party Aggrieved Employees were dependent on Defendants, who shared
13 the power to set the wages of Plaintiff and other non-party Aggrieved
14 Employees and determined their working conditions, and who jointly
15 reaped the benefits from the underpayment of their wages and
16 noncompliance with other statutory provisions governing their
17 employment.

18 18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
19 there has existed a unity of interest and ownership between Defendants such that any
20 individuality and separateness between the entities has ceased.

21 19. Furthermore, Defendants are jointly and severally liable as employers for the
22 violations alleged herein because Defendants have acted as a single integrated enterprise.
23 Courts consider four factors in determining whether two or more entities may be treated as a
24 single employer for the purposes of determining liability for labor code violations:
25 (1) centralized control of labor relations; (2) interrelation of operations; (3) common
26 management; and (4) common ownership or financial control. No factor is controlling and all
27 need not be present.

28 ///

1 20. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
2 Defendants have acted as a single integrated enterprise because:

- 3 (a) Defendant LENNAR CORPORATION made final decisions regarding
4 employment matters related to Plaintiff and other non-party Aggrieved
5 Employees in the same manner and through the same entity, regardless of
6 which entity was acting as Plaintiff's and other non-party Aggrieved
7 Employees' immediate employer;
- 8 (b) Defendant LENNAR CORPORATION controlled day-to-day
9 employment decisions of Defendants LENNAR TITLE, INC. and
10 CALATLANTIC GROUP, INC.
- 11 (c) Defendants shared common officers, directors, and/or managers;
- 12 (d) Defendants utilized the same bank accounts, accounting records, lines of
13 credit, payroll preparation, telephone lines, company websites, office
14 space, facilities, employees and/or other facets of operation; and/or
- 15 (e) Defendants were subject to common ownership and financial control.

16 21. LENNAR TITLE, INC.; LENNAR CORPORATION; CALATLANTIC
17 GROUP, INC.; and DOES 1 through 10 are therefore alter egos of each other.

18 22. Adherence to the fiction of the separate existence of Defendants would permit an
19 abuse of the corporate privilege, and would promote injustice by protecting Defendants from
20 liability for the wrongful acts committed by them under the name LENNAR.

21 23. Plaintiff further alleges, upon information and belief, that Defendants LENNAR
22 TITLE, INC.; LENNAR CORPORATION; and CALATLANTIC GROUP, INC. are alter egos
23 of each other for the following reasons:

- 24 (a) According to LENNAR CORPORATION's SEC Form 10-K filing for
25 2020¹, LENNAR TITLE, INC. and CALATLANTIC GROUP, INC. are
26 wholly-owned subsidiaries of LENNAR CORPORATION;

27
28 ¹ 10-K Annual Report 01/22/2021, "SEC filings"
<https://investors.lennar.com/financials/sec-filings> (last accessed January 3, 2022).

- (b) According to Defendants’ most recent “Statement of Information” forms filed with the California Secretary of State, LENNAR TITLE, INC.; LENNAR CORPORATION; and CALATLANTIC GROUP, INC. share common officers and/or directors, including, but not limited to, Chief Executive Officer Richard Beckwitt and Chief Financial Officer Diane Bessette;
- (c) On the California Secretary of State’s website (<https://businesssearch.sos.ca.gov>), LENNAR TITLE, INC.; LENNAR CORPORATION; and CALATLANTIC GROUP, INC. share the same entity and mailing address, “700 N.W. 107th Avenue, Suite 400, Miami, FL 33172;”
- (d) On the California Secretary of State’s website, LENNAR TITLE, INC.; LENNAR CORPORATION; and CALATLANTIC GROUP, INC. share the same service of process, “Corporate Creations Network, Inc. (C2250455);” and
- (e) On information and belief, LENNAR TITLE, INC.; LENNAR CORPORATION; and CALATLANTIC GROUP, INC. utilize the same standardized employment forms, including, but not limited to, employee scheduling and communication forms, and issue the same employment policies, including, but not limited to, the Employee Handbook.

PAGA REPRESENTATIVE ALLEGATIONS

24. Defendants are a homebuilder and an originator of residential and commercial mortgage loans, provider of insurance and closing services, and a developer of multifamily rental properties. Upon information and belief, Defendants maintain a centralized Human Resources (“HR”) department at their corporate headquarters in Miami, Florida, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

1 25. In particular, Plaintiff and other non-party Aggrieved Employees, on information
2 and belief, received the same standardized documents and/or written policies. Upon
3 information and belief, the usage of standardized documents and/or written policies, including
4 new-hire documents, indicate that Defendants dictated policies at the corporate level and
5 implemented them company-wide, regardless of their employees' assigned locations or
6 positions. Upon information and belief, Defendants set forth uniform policies and procedures
7 in several documents provided at an employee's time of hire.

8 26. Upon information and belief, Defendants maintain a centralized Payroll
9 department at their corporate headquarters in Miami, Florida, which processes payroll for all
10 non-exempt, hourly paid employees working for Defendants at their various locations and
11 jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based
12 upon information and belief, Defendants issue the same formatted wage statements to all non-
13 exempt, hourly paid employees in California, irrespective of their work locations. Upon
14 information and belief, Defendants process payroll for departing employees in the same manner
15 throughout the State of California, regardless of the manner in which each employee's
16 employment ends.

17 27. Defendants continue to employ non-exempt or hourly paid employees in
18 California.

19 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
20 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
21 advisors knowledgeable about California labor and wage law, employment and personnel
22 practices, and about the requirements of California law.

23 29. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
24 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
25 were not recorded.

26 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
28 receive certain wages for overtime compensation and that they were not receiving certain wages

1 for overtime compensation.

2 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that other non-party Aggrieved Employees were entitled to be paid at a
4 regular rate of pay, and corresponding overtime rates of pay, that included as eligible income
5 all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of
6 compensation, but failed to incorporate all forms of remuneration in calculating the regular rate
7 of pay for other non-party Aggrieved Employees.

8 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
10 receive at least minimum wages for compensation and that they were not receiving at least
11 minimum wages for work that was required to be done off-the-clock. In violation of the
12 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
13 least minimum wages for work done off-the-clock.

14 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 meal periods in accordance with the California Labor Code and applicable IWC Wage Order or
17 payment of one (1) additional hour of pay at their regular rates of pay when they were not
18 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other
19 non-party Aggrieved Employees were not provided with all meal periods or payment of one (1)
20 additional hour of pay at their regular rates of pay when they did not receive a timely,
21 uninterrupted, thirty (30) minute meal period.

22 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to rest
24 periods in accordance with the California Labor Code and applicable IWC Wage Order or
25 payment of one (1) additional hour of pay at their regular rates of pay when they were not
26 authorized and permitted to take a compliant rest period. In violation of the California Labor
27 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to
28 take compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved

1 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
2 they were not authorized and permitted to take a compliant rest period.

3 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
5 receive complete and accurate wage statements in accordance with California law. In violation
6 of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not
7 provided complete and accurate wage statements.

8 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that they had a duty to maintain accurate and complete payroll records in
10 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
11 knowingly, and intentionally failed to do so.

12 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
14 timely payment of wages during their employment. In violation of the California Labor Code,
15 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
16 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
17 premiums, within permissible time periods.

18 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
20 timely payment of all wages earned upon termination of employment. In violation of the
21 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
22 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
23 and/or meal and rest period premiums, within permissible time periods.

24 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
26 receive reimbursement for all business-related expenses and costs they incurred during the
27 course and scope of their employment and that they did not receive reimbursement of applicable
28 business-related expenses and costs incurred.

1 40. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, Defendants knew or should have known that Defendants had a duty to provide
3 Plaintiff and other non-party Aggrieved Employees with written notice of the material terms of
4 their employment with Defendants as required by the California Wage Theft Prevention Act,
5 but failed to do so.

6 41. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
8 and other non-party Aggrieved Employees for all hours worked, and that Defendants had the
9 financial ability to pay such compensation, but failed to do so, and falsely represented to
10 Plaintiff and other non-party Aggrieved Employees that they were properly denied wages, all
11 in order to increase Defendants' profits.

12 42. At all times herein set forth, PAGA provides that any provision of law under the
13 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
14 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
15 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
16 behalf of themselves and other current or former employees pursuant to procedures outlined in
17 California Labor Code section 2699.3.

18 43. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
19 person who was employed by the alleged violator and against whom one or more of the alleged
20 violations was committed."

21 44. Plaintiff and other current and former employees of Defendants are "aggrieved
22 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
23 or former employees and one or more of the alleged violations were committed against them.

24 45. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
25 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
26 requirements have been met:

- 27 (a) The aggrieved employee shall give written notice by online filing
28 (hereinafter "Employee's Notice") to the LWDA and by certified mail to

1 the employer of the specific provisions of the California Labor Code
2 alleged to have been violated, including the facts and theories to support
3 the alleged violations.

4 (b) An aggrieved employee's notice filed with the LWDA pursuant to
5 2699.3(a) and any employer response to that notice shall be accompanied
6 by a filing fee of seventy-five dollars (\$75).

7 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
8 employer and the aggrieved employee by certified mail that it does not
9 intend to investigate the alleged violation within sixty (60) calendar days
10 of the postmark date of the Employee's Notice. Upon receipt of the
11 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
12 (65) calendar days of the postmark date of the Employee's Notice, the
13 aggrieved employee may commence a civil action pursuant to California
14 Labor Code section 2699 to recover civil penalties in addition to any other
15 penalties to which the employee may be entitled.

16 46. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
17 through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision
18 other than those listed in Section 2699.5 after the following requirements have been met:

19 (a) The aggrieved employee or representative shall give written notice by
20 online filing to the LWDA and by certified mail to the employer of the
21 specific provisions of the California Labor Code alleged to have been
22 violated (other than those listed in Section 2699.5), including the facts
23 and theories to support the alleged violation.

24 (b) An aggrieved employee's notice filed with the LWDA pursuant to
25 2699.3(c) and any employer response to that notice shall be accompanied
26 by a filing fee of seventy-five dollars (\$75).

27 (c) The employer may cure the alleged violation within thirty-three (33)
28 calendar days of the postmark date of the notice. The employer shall give

1 written notice by certified mail within that period of time to the aggrieved
2 employee or representative and the agency if the alleged violation is
3 cured, including a description of actions taken, and no civil action
4 pursuant to Section 2699 may commence. If the alleged violation is not
5 cured within the 33-day period, the employee may commence a civil
6 action pursuant to Section 2699.

7 47. On November 18, 2021, Plaintiff provided written notice by online filing to the
8 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
9 Code alleged to have been violated, including facts and theories to support the alleged
10 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice
11 was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA
12 PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff
13 PAGA Case Number LWDA-CM-852826-21. A true and correct copy of Plaintiff's written
14 notice to the LWDA and Defendants dated November 18, 2021 is attached hereto as "Exhibit
15 1."

16 48. As of the filing date of this complaint, over 65 days have passed since Plaintiff
17 sent the written notice described above, and the LWDA has not responded that it intends to
18 investigate Plaintiff's claims, and Defendants have not cured the violations.

19 49. Thus, Plaintiff has satisfied the administrative prerequisites under California
20 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
21 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
22 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

23 50. Labor Code section 558(a) provides "[a]ny employer or other person acting on
24 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
25 provision regulating hours and days of work in any order of the Industrial Welfare Commission
26 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
27 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)
28 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for

each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties under Labor Code section 558 for himself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private attorney general, does not seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC Wage Order.

51. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved Employees’ rights by violating various sections of the California Labor Code as set forth above.

52. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

53. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.*

(Against all Defendants)

54. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

55. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section

1 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510,
2 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved
3 employees, including Plaintiff, to recover civil penalties for violations of those Labor Code
4 sections not found in section 2699.5, including sections 516, 1182.12, and 2810.5.

5 56. Defendants' conduct, as alleged herein, violates numerous sections of the
6 California Labor Code, including, but not limited to, the following:

- 7 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
8 Wage Order for Defendants' failure to compensate Plaintiff and other
9 non-party Aggrieved Employees with all required overtime pay and
10 failure to properly calculate the overtime rates paid to other non-party
11 Aggrieved Employees, as set forth below;
- 12 (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the
13 applicable IWC Wage Order for Defendants' failure to compensate
14 Plaintiff and other non-party Aggrieved Employees with at least
15 minimum wages for all hours worked, as set forth below;
- 16 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
17 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
18 and other non-party Aggrieved Employees with meal periods, as set forth
19 below;
- 20 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
21 IWC Wage Order for Defendants' failure to authorize and permit Plaintiff
22 and other non-party Aggrieved Employees to take rest periods, as set forth
23 below;
- 24 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
25 IWC Wage Order for failure to provide accurate and complete wage
26 statements to Plaintiff and other non-party Aggrieved Employees, as set
27 forth below;

28 ///

- 1 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
2 IWC Wage Order for failure to maintain payroll records, as set forth
3 below;
- 4 (g) Violation of Labor Code section 204 for failure to pay all earned wages
5 during employment, as set forth below;
- 6 (h) Violation of Labor Code sections 201 and 202 for failure to pay all earned
7 wages upon termination, as set forth below;
- 8 (i) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
9 and other non-party Aggrieved Employees for all business expenses
10 necessarily incurred, as set forth below; and
- 11 (j) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
12 provide written notice of information material to Plaintiff's and other
13 non-party Aggrieved Employees' employment with Defendants, as set
14 forth below.

15 **FAILURE TO PAY OVERTIME**

16 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

17 57. Labor Code section 1198 makes it illegal to employ an employee under
18 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
19 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
20 shall be the . . . standard conditions of labor for employees. The employment of any employee
21 . . . under conditions of labor prohibited by the order is unlawful.”

22 58. California Labor Code section 1198 and the applicable IWC Wage Order provide
23 that it is unlawful to employ persons without compensating them at a rate of pay either time-
24 and-one-half or two-times that person's regular rate of pay, depending on the number of hours
25 worked by the person on a daily or weekly basis.

26 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
27 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
28 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and

1 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
2 hours in a workweek.

3 60. The applicable IWC Wage Order further provides that Defendants are and were
4 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
5 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
6 An employee's regular rate of pay includes all remuneration for employment paid to, or on
7 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

8 61. California Labor Code section 510 codifies the right to overtime compensation
9 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
10 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
11 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
12 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
13 the seventh (7th) day of work.

14 62. Defendants willfully failed to pay all overtime wages owed to Plaintiff and other
15 non-party Aggrieved Employees. During the relevant time period, Plaintiff and other non-party
16 Aggrieved Employees were not paid overtime premiums for all of the hours they worked in
17 excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of
18 forty (40) hours in a week, because all hours that they worked were not recorded.

19 63. First, Defendants had, and continue to have, a company-wide policy and/or
20 practice of discouraging and impeding Plaintiff and other non-party Aggrieved Employees from
21 recording hours worked that were outside of their scheduled shifts in order to limit the amount
22 of overtime employees could accrue. On information and belief, this policy of limiting
23 overtime, coupled with Defendants' assignment of heavy workloads and strict deadlines (*see*
24 *infra*), led Plaintiff and other non-party Aggrieved Employees to work off-the-clock outside of
25 their scheduled shift times in order to complete their assigned tasks. Because Defendants
26 discouraged overtime accrual by, among other things, requiring employees to obtain approval
27 of overtime hours from Defendants' supervisors, Plaintiff and other non-party Aggrieved
28 Employees were required to complete assigned tasks outside of their scheduled shifts without

1 being compensated for the time they worked.

2 64. For instance, Defendants had a practice of requiring employees to arrive early to
3 opening shifts but did not permit them to clock in before their scheduled shift start-times.
4 Plaintiff and other non-party Aggrieved Employees were instructed to arrive 15 minutes prior
5 to the start of their scheduled shifts to perform opening duties, such as activating the phone and
6 voicemail system and preparing the office for the day. As a further example, about three (3)
7 times per week for around two (2) hours each instance, Plaintiff and other non-party Aggrieved
8 Employees would be required to clock out at the end of their scheduled shifts and continue
9 working, auditing and sending files, and preparing the office for the following day.

10 65. Further, Defendants' management pressured Plaintiff and other non-party
11 Aggrieved Employees to respond to phone calls after-hours and on their days off, in order to
12 maintain client satisfaction with Defendants' services, but did not allow them to record this time
13 worked. For example, after her scheduled shifts, Plaintiff would answer 3-4 phone calls per
14 week from clients, with each call lasting 10-15 minutes.

15 66. Finally, due to the heavy workload, Plaintiff was required to spend three (3)
16 hours completing online trainings while at home or during her off days, as there was no time
17 during her scheduled shifts to complete the trainings. At all times, Plaintiff and other non-party
18 Aggrieved Employees remained under Defendants' control. This off-the-clock work could have
19 been recorded by Defendants, but it refused to do so to avoid payment of additional wages to
20 Plaintiff and other non-party Aggrieved Employees.

21 67. Second, during the relevant period, Defendants had a company-wide policy
22 and/or practice of improperly rounding employee clock-in and clock-out duration times to the
23 nearest quarter-hour in their timekeeping system. Defendants' rounding policy resulted in the
24 failure to compensate Plaintiff and other non-party Aggrieved Employees fully for all hours
25 worked, causing Plaintiff and other non-party Aggrieved Employees to not be paid overtime
26 wages for all of the overtime hours they actually worked. Upon information and belief,
27 Defendants' rounding policy was, and continues to be, unfair and has, over time, resulted in the
28 underpayment of wages to Plaintiff and other non-party Aggrieved Employees. To the extent

1 Defendants' rounding policy took away time worked that was eligible for overtime, Plaintiff
2 and other non-party Aggrieved Employees were denied overtime pay for all hours worked.
3 Alternatively, Defendants had, and continue to have, a company-wide policy and/or practice of
4 failing to record hours worked by its employees. Instead, on information and belief,
5 Defendants' policy and/or practice is to simply pay employees, including Plaintiff and other
6 non-party Aggrieved Employees, for the hours they are scheduled to work. Because Defendants
7 failed to accurately record their actual hours worked, Plaintiff and other non-party Aggrieved
8 Employees were not paid for all hours worked before or after their scheduled shifts.

9 68. Third, Defendants had, and continue to have, a company-wide policy and/or
10 practice of understaffing their locations while assigning heavy workloads and enforcing strict
11 deadlines for filing clients' paperwork, which resulted in a failure to provide Plaintiff and other
12 non-party Aggrieved Employees with adequate meal period coverage. On information and
13 belief, Defendants also failed to schedule meal periods, which further caused Plaintiff and other
14 non-party Aggrieved Employees to not be relieved of their duties for compliant meal periods.
15 As a result, Plaintiff and other non-party Aggrieved Employees were not afforded timely,
16 uninterrupted thirty (30) minute meal periods during shifts in which they were entitled to receive
17 meal periods. For example, Plaintiff would be required to transfer the office phone line to her
18 personal mobile device and continue answering phone calls throughout her meal period due to
19 the heavy workload, understaffing, and lack of coverage available to meet customer demand.
20 Thus, Plaintiff and other non-party Aggrieved Employees missed meal periods and/or had meal
21 periods cut short or interrupted in order to handle their workloads. Defendants did not
22 compensate Plaintiff and other non-party Aggrieved Employees for the time they spent working
23 off the clock during meal periods.

24 69. Further, on information and belief, because Defendants frowned upon employees
25 accruing meal period penalties, Defendants pressured Plaintiff and other non-party Aggrieved
26 Employees to clock out for meal periods and/or adjusted their time records to reflect compliant
27 meal periods, even when they did not receive a compliant meal period, in order to strictly limit
28 meal penalties that Defendants would otherwise owe. Thus, Plaintiff and other non-party

1 Aggrieved Employees performed work during meal periods for which they were not paid.

2 70. Defendants knew or should have known that, as a result of these company-wide
3 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
4 their assigned duties off-the-clock before and after their shifts and/or during meal periods, and
5 were suffered or permitted to perform work for which they were not paid. Because Plaintiff
6 and other non-party Aggrieved Employees worked shifts of eight (8) hours a day or more, or
7 forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium
8 pay.

9 71. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
10 correct overtime rate for the recorded overtime hours that they generated. In addition to an
11 hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay,
12 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
13 California Labor Code, Defendants failed to incorporate all compensation, including incentive
14 pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
15 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times
16 when other non-party Aggrieved Employees worked overtime and received these other forms
17 of pay, Defendants failed to pay all overtime wages by paying a lower overtime rate than
18 required.

19 72. For example, Defendants paid other non-party Aggrieved Employees
20 nondiscretionary bonuses and/or incentive pay. During pay periods that other non-party
21 Aggrieved Employees were paid overtime wages, Defendants failed to incorporate the
22 nondiscretionary bonuses and/or incentive pay into other non-party Aggrieved Employees'
23 regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime
24 hours worked. Specifically, Defendants paid other non-party Aggrieved Employees 1.5 times
25 their hourly rate of pay instead of 1.5 times their regular rate of pay. Defendants' failure to
26 properly calculate the overtime rates of pay based on all remuneration paid has resulted in an
27 underpayment of overtime wages to other non-party Aggrieved Employees on a company-wide
28 basis.

73. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PAY MINIMUM WAGES

VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198

74. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 4-2001 order as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11040(2)(K) (defining "Hours Worked").

75. As stated, during the relevant time period, due to Defendants' restrictions on overtime accrual, Defendants systematically failed to pay Plaintiff and other non-party Aggrieved Employees for actual hours worked before and after scheduled shifts, because these hours were not appropriately recorded. Plaintiff and other non-party Aggrieved Employees were required to complete various tasks off-the-clock, before and after their scheduled shifts, such as performing opening duties, auditing and sending files, preparing the office for the workday, responding to phone calls from clients, and completing online trainings. Also, as stated above, Defendants had a policy of rounding Plaintiff's and other non-party Aggrieved Employees' hourly clock-in and clock-out duration times to the quarter-hour in their timekeeping system, resulting in the failure to compensate Plaintiff and other non-party Aggrieved Employees fully for all hours worked. Alternatively, Defendants had a company-wide policy and/or practice of only paying Plaintiff and other non-party Aggrieved Employees for their scheduled shifts, rather than their actual hours worked, because Defendants failed to track hours worked outside scheduled shifts.

1 76. Thus, Defendants did not pay at least minimum wages for all hours worked by
2 Plaintiff and other non-party Aggrieved Employees. To the extent that these off-the-clock hours
3 did not qualify for overtime premium payment, Defendants did not pay at least minimum wages
4 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
5 1194, 1197, and 1198.

6 77. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
7 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
8 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
9 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

10 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

11 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

12 78. At all relevant times herein set forth, the applicable IWC Wage Order and
13 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
14 other non-party Aggrieved Employees' employment by Defendants.

15 79. At all relevant times herein set forth, California Labor Code section 512(a)
16 provides that an employer may not require, cause, or permit an employee to work for a period
17 of more than five (5) hours per day without providing the employee with a meal period of not
18 less than thirty (30) minutes, except that if the total work period per day of the employee is not
19 more than six (6) hours, the meal period may be waived by mutual consent of both the employer
20 and the employee. Under California law, first meal periods must start after no more than five
21 hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

22 80. At all relevant times herein set forth, California Labor Code sections 226.7,
23 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
24 meal period mandated by an applicable order of the IWC.

25 81. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), and
26 1198, and the applicable IWC Wage Order also require employers to provide a second meal
27 period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or
28 to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if

1 the total hours worked is no more than twelve (12) hours, the second meal period may be waived
2 by mutual consent of the employer and the employee only if the first meal period was not
3 waived.

4 82. First, as stated, Defendants had, and continue to have, company-wide policies
5 and/or practices of understaffing their locations, which, combined with the practice of assigning
6 heavy workloads and strict filing deadlines, discouraging employees from incurring overtime,
7 and failing to schedule meal periods, resulted in a lack of meal period coverage and prevented
8 Plaintiff and other non-party Aggrieved Employees from taking all timely meal periods to which
9 they were entitled. As a result, Plaintiff and other non-party Aggrieved Employees were forced
10 to work in excess of five (5) hours before taking a meal period, and, at times, had their meal
11 periods interrupted and/or had to forgo their meal periods altogether. For example, as stated,
12 Plaintiff's meal periods were cut short or interrupted because Defendants' management would
13 require Plaintiff to transfer the office phone line to her personal mobile device and continue
14 responding to client phone calls during her meal periods. As a further example, Plaintiff and
15 other non-party Aggrieved Employees would take their meal periods after their fifth hour of
16 work on regular basis due to the heavy workload and lack of coverage.

17 83. Moreover, on information and belief, because Defendants frowned upon
18 employees accruing meal period penalties, Defendants' management pressured Plaintiff and
19 other non-party Aggrieved Employees to clock out for meal periods and/or adjusted their time
20 records to reflect compliant meal periods, even when they did not receive a compliant meal
21 period, in order to strictly limit meal penalties that Defendants would otherwise owe. For
22 example, at Defendants' management's direction, Plaintiff would log that her meal period was
23 taken within the first five (5) hours of her shift, even though she would continue working
24 through her meal period.

25 84. Second, during the relevant time period, Defendant maintained a company-wide,
26 unlawful written meal period policy insofar as it fails to state the timing of when meal periods
27 must occur. Defendants' non-compliant written meal period policy fails to mention that
28 employees are entitled to a second 30-minute meal period when working shifts in excess of ten

(10) hours, and Defendants systematically, and on a company-wide basis, did not permit Plaintiff and other non-party Aggrieved Employees to take all second 30-minute meal periods when working shifts in excess of ten (10) hours. Thus, during the relevant time period, Plaintiff and other non-party Aggrieved Employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

85. At all times mentioned herein, Defendants knew or should have known that as a result of their policies, Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to take timely, uninterrupted meal periods. Defendants further knew or should have known that they did not pay Plaintiff and other non-party Aggrieved Employees meal period premiums when meal periods were missed, late, short, and/or interrupted.

86. As set forth above, Defendants had a company-wide policy and/or practice of rounding employee clock-in and clock-out duration times in its timekeeping system, which prevented Plaintiff and other non-party Aggrieved Employees from receiving all meal period premiums when they took late and/or shortened meal periods. As stated, Defendants' rounding policy rounded employees' clock-in and clock-out times in their timekeeping system to the nearest quarter (0.25) of an hour. To the extent that Defendants' timekeeping system reported that Plaintiff and other non-party Aggrieved Employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Plaintiff and other non-party Aggrieved Employees were entitled to a meal period penalty. Thus, Plaintiff and other non-party Aggrieved Employees did not receive meal period penalties for these improperly rounded meal periods.

87. Furthermore, Defendants engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods were not provided. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants did pay other non-party Aggrieved Employees meal period premium pay

1 for missed, late, and interrupted meal periods, Defendants did not pay other non-party
2 Aggrieved Employees at the correct rate of pay for premiums because Defendants
3 systematically failed to include all forms of compensation, such as, incentive pay,
4 nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular
5 rate of pay.

6 88. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
7 Employees compliant meal periods and failed to pay the full meal period premiums due.
8 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
9 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
10 therefore entitled to recover civil penalties pursuant to California Labor Code sections 558
11 and/or 2699(a), (f), and (g).

12 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

13 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

14 89. At all relevant times herein set forth, the applicable IWC Wage Order and
15 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
16 non-party Aggrieved Employees' employment by Defendants.

17 90. At all relevant times, the applicable IWC Wage Order provides that "[e]very
18 employer shall authorize and permit all employees to take rest periods, which insofar as
19 practicable shall be in the middle of each work period" and that the "rest period time shall be
20 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
21 hours or major fraction thereof" unless the total daily work time is less than three and one-half
22 (3 ½) hours.

23 91. At all relevant times, California Labor Code section 226.7 provides that no
24 employer shall require an employee to work during any rest period mandated by an applicable
25 order of the California IWC. To comply with its obligation to authorize and permit rest periods
26 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
27 must "relinquish any control over how employees spend their break time, and relieve their
28 employees of all duties—including the obligation that an employee remain on call. A rest

period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

92. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

93. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. Defendants maintained and implemented, on a company-wide basis, a non-compliant written rest period policy that prevented Plaintiff and other non-party Aggrieved Employees from taking compliant rest periods. Defendants’ non-compliant policy fails to correctly state the timing of when rest periods must occur. The policy states, in relevant part:

Two 10-Minute Breaks Must be Taken by Non-Exempts for Every 4 Hours Worked: For a regular business day, California law requires non-exempt associates to take two ten minute breaks for every 4 hours worked—one mid-morning and another mid-afternoon.

However, under California law, an employee is entitled to rest periods for every four (4) hours worked or major fraction thereof. Thus, Defendants’ written rest period policy is non-compliant on its face, as it fails to authorize and permit employees to take a first rest period for shifts between 3.5 and 6 hours, a second rest period for shifts between 6 and 10 hours, a third rest period for shifts between 10 and 14 hours, and so on.

94. Additionally, on information and belief, during the relevant time period, Defendants maintained and implemented a company-wide on-premises rest period policy, which mandated that Plaintiff and/or other non-party Aggrieved Employees remain on the work premises during their rest periods. Because Plaintiff and/or other non-party Aggrieved Employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, Defendants effectively maintained control over Plaintiff and/or other non-party

1 Aggrieved Employees during rest periods.

2 95. As a result of Defendants' practices and policies, Plaintiff and other non-party
3 Aggrieved Employees worked shifts in excess of 3.5 hours and in excess of 6 hours without
4 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
5 throughout her employment, Plaintiff rarely took any rest periods. On the few occasions when
6 she was able to take a rest period, her supervisor would ask her to transfer the office phone to
7 her personal mobile device and continue answering calls during her rest periods.

8 96. Defendants also have engaged in a company-wide practice and/or policy of not
9 paying all rest period premiums owed when compliant rest periods are not authorized or
10 permitted. Thus, because of this practice and/or policy, Plaintiff and other non-party Aggrieved
11 Employees have not received premium pay for all missed rest periods. Alternatively, to the
12 extent that Defendants did pay other non-party Aggrieved Employees one (1) additional hour
13 of premium pay for missed rest periods, Defendants did not pay other non-party Aggrieved
14 Employees at the correct rate of pay for premiums because Defendants failed to include all
15 forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of
16 remuneration, in the regular rate of pay.

17 97. Defendants' conduct violates the applicable IWC Wage Order and California
18 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees
19 are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
20 2699(a), (f), and (g).

21 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**

22 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

23 98. At all relevant times herein, California Labor Code section 226(a) provides that
24 every employer shall furnish each of his or her employees an accurate and complete itemized
25 wage statement in writing, including, but not limited to, the name and address of the legal entity
26 that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable
27 rates of pay.

28 ///

1 99. During the relevant time period, Defendants have knowingly and intentionally
2 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
3 inaccurate wage statements. For example, Defendants issued uniform wage statements to
4 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
5 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
6 the pay period, including rates of pay for overtime wages and/or meal and rest period premiums,
7 and the corresponding number of hours worked at each hourly rate. Specifically, Defendants
8 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

9 100. Because Defendants did not record the time Plaintiff and other non-party
10 Aggrieved Employees spent working off-the-clock, improperly rounded Plaintiff's and other
11 non-party Aggrieved Employees' hours worked, and deducted time from their records for meal
12 periods that were interrupted and/or missed (and therefore time for which they should have been
13 paid), Defendants did not list the correct amount of gross wages and net wages earned by
14 Plaintiff and other non-party Aggrieved Employees, in compliance with section 226(a)(1) and
15 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total
16 number of the hours worked by Plaintiff and other non-party Aggrieved Employees, in violation
17 of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay
18 period and the corresponding accurate number of hours worked at each hourly rate, in violation
19 of section 226(a)(9).

20 101. In addition, because Defendants did not calculate other non-party Aggrieved
21 Employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal
22 and rest period premiums, Defendants did not list the correct amount of gross wages in
23 compliance with section 226(a)(1) and did not list the correct amount of net wages in violation
24 of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect
25 during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest
26 period premiums, in violation of section 226(a)(9).

27 102. The wage statement deficiencies also include, without limitation, failing to list
28 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a

1 piece-rate basis; failing to list all deductions; failing to list the name of the employee and only
2 the last four digits of his or her social security number or an employee identification number
3 other than a social security number; failing to list the correct name and address of the legal
4 entity that is the employer; failing to list the inclusive dates of the period for which aggrieved
5 employees were paid; and/or failing to state all hours worked as a result of not recording or
6 stating hours worked off-the-clock. In addition, Defendants failed to provide Plaintiff and other
7 non-party Aggrieved Employees the option to elect to receive hard copies of their wage
8 statements at any time and/or failed to provide them with the ability to easily access the
9 information and convert the electronic wage statements into hard copies at no expense to them.

10 103. California Labor Code section 1174(d) provides that “[e]very person employing
11 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
12 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
13 plants or establishments at which employees are employed, payroll records showing the hours
14 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
15 applicable piece rate paid to, employees employed at the respective plants or
16 establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500
17 civil penalty if they fail to maintain accurate and complete records as required by section
18 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
19 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party
20 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
21 result of failing to record the off-the-clock hours that they worked and improperly rounding
22 Plaintiff’s and other non-party Aggrieved Employees’ total hours worked.

23 104. California Labor Code section 1198 provides that the maximum hours of work
24 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
25 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
26 of any employees for longer hours than those fixed by the order or under conditions of labor
27 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
28 are required to keep accurate time records showing when the employee begins and ends each

1 work period and meal period. During the relevant time period, Defendants failed, on a
2 company-wide basis, to keep accurate records of work period and meal period start and end
3 times for Plaintiff and other non-party Aggrieved Employees in violation of section 1198. Also,
4 as stated, Defendants engaged in a company-wide practice and/or policy of falsifying Plaintiff's
5 and other non-party Aggrieved Employees' time records by recording that compliant meal
6 periods were taken regardless of if or when meal periods were actually taken, and thereby failed
7 to keep accurate records of meal start and end times for Plaintiff and other non-party Aggrieved
8 Employees. Furthermore, in light of Defendants' failure to provide Plaintiff and other non-
9 party Aggrieved Employees with second 30-minute meal periods to which they were entitled,
10 Defendants kept no records of meal start and end times for second meal periods.

11 105. Defendants' conduct violates California Labor Code sections 226(a), 1174(d),
12 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
13 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

14 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

15 **VIOLATION OF LABOR CODE SECTION 204**

16 106. At all relevant times herein set forth, California Labor Code section 204 requires
17 that all wages earned by any person in any employment between the 1st and the 15th days,
18 inclusive, of any calendar month, other than those wages due upon termination of an employee,
19 are due and payable between the 16th and the 26th day of the month during which the labor was
20 performed. Labor Code section 204 further provides that all wages earned by any person in any
21 employment between the 16th and the last day, inclusive, of any calendar month, other than
22 those wages due upon termination of an employee, are due and payable between the 1st and the
23 10th day of the following month.

24 107. At all relevant times herein, California Labor Code section 204 also requires that
25 all wages earned for labor in excess of the normal work period shall be paid no later than the
26 payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor
27 Code section 204 provides that the requirements of this section are deemed satisfied by the
28 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more

1 than seven (7) calendar days following the close of the payroll period.

2 108. During the relevant time period, Defendants willfully failed to pay Plaintiff and
3 other non-party Aggrieved Employees all wages due to them, including, but not limited to,
4 overtime wages, minimum wages, and/or meal and rest period premiums, within the time
5 periods specified by California Labor Code section 204.

6 109. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
7 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

8 **FAILURE TO PAY WAGES UPON TERMINATION**

9 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

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

17 111. For example, Plaintiff's last date of work was March 31, 2021. However, on
18 April 2, 2021, Defendants only provided Plaintiff with a paycheck that included some of the
19 wages due to her from the prior pay period, and not the accrued vacation wages, retroactive
20 overtime wages, and other wages owed which were paid out at later dates. Upon information
21 and belief, Defendants have, and continue to have, a policy and/or practice of withholding
22 accrued vacation wages, retroactive overtime wages, and other wages owed to former
23 employees and did not issue all of Plaintiff's wages due until nearly one month after her
24 termination. Thus, Defendants failed to pay Plaintiff her final wages immediately, in violation
25 of California Labor Code section 201.

26 112. Additionally, Defendants willfully failed to pay Plaintiff and other non-party
27 Aggrieved Employees who are no longer employed by Defendants their earned and unpaid
28 wages set forth above, including but not limited to, overtime wages, minimum wages, and/or

1 meal and rest period premiums, either at the time of discharge or within seventy-two (72) hours
2 of their leaving Defendants' employ.

3 113. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
4 who are no longer employed by Defendants their wages earned and unpaid at the time of
5 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
6 California Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved
7 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 256
8 and/or 2699(a), (f), and (g).

9 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

10 **VIOLATION OF LABOR CODE SECTION 2802**

11 114. At all times herein set forth, California Labor Code section 2802 provides that
12 an employer must reimburse employees for all necessary expenditures and losses incurred by
13 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
14 to prevent employers from passing off their cost of doing business and operating expenses on
15 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
16 (2014). The applicable wage order, IWC Wage Order No. 4-2001, provides that: "[w]hen the
17 employer requires the use of tools or equipment or they are necessary to the performance of a
18 job, such tools and equipment shall be provided and maintained by the employer, except that an
19 employee whose wages are at least two (2) times the minimum wage may provide and maintain
20 hand tools and equipment customarily required by the particular trade or craft."

21 115. During the relevant time period, Plaintiff and other non-party Aggrieved
22 Employees were required to use their personal mobile devices, including, but not limited to,
23 cellular phones, and/or mobile data, to carry out their job duties, but Defendants failed to
24 reimburse them for the costs of their work-related mobile device expenses. For example, about
25 3-4 times per week, Plaintiff used her personal cellular phone to converse with clients after her
26 regularly scheduled shifts for 10-15 minutes per instance. As another example, and as stated
27 above, Defendants' management required Plaintiff to transfer the office line to her personal
28 cellular phone during her meal and rest periods and keep answering calls. Although Defendants

1 required Plaintiff and other non-party Aggrieved Employees to utilize their personal mobile
2 devices and/or mobile data to carry out their work-related responsibilities, Defendants failed to
3 reimburse them for these costs.

4 116. Defendants could have provided Plaintiff and other non-party Aggrieved
5 Employees with the actual tools for use on the job, such as company mobile devices, or could
6 have reimbursed employees for the costs of their mobile device usage. Instead, Defendants
7 passed these operating costs off onto Plaintiff and other non-party Aggrieved Employees.

8 117. Defendants' company-wide policy and/or practice of passing on their operating
9 costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code
10 section 2802. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
11 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

12 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
13 **EMPLOYMENT**

14 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

15 118. California's Wage Theft Prevention Act was enacted to ensure that employers
16 provide employees with basic information material to their employment relationship at the time
17 of hiring, and to ensure that employees are given written and timely notice of any changes to
18 basic information material to their employment. Codified at California Labor Code section
19 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
20 provide written notice to employees containing basic and material payroll information,
21 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,
22 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the
23 regular payday designated by the employer, and any allowances claims as part of the minimum
24 wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

25 119. During the relevant time period, Defendants failed to provide Plaintiff and other
26 non-party Aggrieved Employees with written notice that lists all the requisite information set
27 forth in Labor Code section 2810.5(a)(1)(A)-(C).

28 ///

120. Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with written notice of basic information regarding their employment with Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); 2802 (by failing to reimburse business expenses) and 2810.5 (by failing to provide written notice of information material to employment);

3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

4. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California

1 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194,
2 1197, 1198, 2802, and 2810.5;

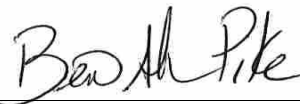
3 5. For pre-judgment and post-judgment interest as provided by law; and

4 6. For such other and further relief as the Court may deem equitable and
5 appropriate.

6
7 Dated: January 24, 2022

Respectfully submitted,

8 Capstone Law APC

9
10 By: 

11 Bevin Allen Pike
12 Daniel S. Jonathan
13 Trisha K. Monesi

14 Attorneys for Plaintiff Cynthia Noyes
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EXHIBIT “1”

NINEL KOCHARYAN
310.712.8146 Direct
Ninel.Kocharyan@capstonelawyers.com

November 18, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Cynthia Noyes v. Lennar Title, Inc., et al.*

Dear PAGA Administrator:

This office represents Cynthia Noyes in connection with her claims under the California Labor Code. Ms. Noyes was an employee of LENNAR TITLE, INC.; LENNAR CORPORATION; CALATLANTIC TITLE INC.; and/or CALATLANTIC GROUP, INC. For the purpose of this letter, Ms. Noyes collectively refers to these entities as “LENNAR.”

The employers may be contacted directly at the addresses below:

LENNAR TITLE, INC.
700 N.W. 107TH AVENUE, SUITE 400
MIAMI, FL 33172

CALATLANTIC TITLE INC.
700 NORTHWEST 107TH AVENUE,
SUITE 200
MIAMI, FL 33712

LENNAR CORPORATION
700 NW 107TH AVENUE, SUITE 400
MIAMI, FL 33172

CALATLANTIC GROUP, INC.
700 NW 107TH AVENUE, SUITE 400
MIAMI, FL 33172

Ms. Noyes intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Noyes seeks relief on behalf of herself, the State of California, and other persons who are or were employed by LENNAR in California as a non-exempt, hourly paid employee and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

LENNAR employed Ms. Noyes as a non-exempt, hourly paid Escrow Closing Assistant / Senior Escrow Assistant from approximately February to April 2021. Ms. Noyes worked for LENNAR at its Walnut Creek branch. She typically worked eight (8) hours or more per day, and five (5) or more days per week. Her primary job duties included, without limitation, answering phones, setting up

appointments for viewings, mailing packages to clients, and assisting with closing files.

LENNAR has committed one or more of the following Labor Code violations against Ms. Noyes, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

LENNAR’s Company-Wide and Uniform Payroll and HR Practices

LENNAR is a homebuilder and an originator of residential and commercial mortgage loans, provider of insurance and closing services, and a developer of multifamily rental properties. LENNAR operates 46 branch locations in California. Upon information and belief, LENNAR maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Miami, Florida, for all non-exempt, hourly paid employees working for LENNAR in California, including Ms. Noyes and other aggrieved employees. At all relevant times, LENNAR issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Noyes and other aggrieved employees, regardless of their location or position.

Upon information and belief, LENNAR maintains a centralized Payroll department at its corporate headquarters in Miami, Florida, which processes payroll for all non-exempt, hourly paid employees working for LENNAR in California, including Ms. Noyes and other aggrieved employees. Further, LENNAR issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Noyes and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, LENNAR utilized the same methods and formulas when calculating wages due to Ms. Noyes and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working 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 (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

LENNAR willfully failed to pay all overtime wages owed to Ms. Noyes and other aggrieved employees. During the relevant time period, Ms. Noyes and other aggrieved employees were not

¹ These facts, theories, and claims are based on Ms. Noyes’s experience and counsel’s review of those records currently available relating to Ms. Noyes’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Noyes reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, LENNAR had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Ms. Noyes and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with LENNAR's assignment of heavy workloads and strict deadlines (*see infra*), led Ms. Noyes and other aggrieved employees to work off-the-clock outside of their scheduled shift times in order to complete their assigned tasks. Because LENNAR discouraged overtime accrual by, among other things, requiring employees to obtain approval of overtime hours from LENNAR's supervisors, Ms. Noyes and other aggrieved employees were required to complete assigned tasks outside of their scheduled shifts without being compensated for the time they worked.

For instance, LENNAR had a practice of requiring employees to arrive early to opening shifts but did not permit them to clock in before their scheduled shift start-times. Ms. Noyes and other aggrieved employees were instructed to arrive 15 minutes prior to the start of their scheduled shifts to perform opening duties, such as activating the phone and voicemail system and preparing the office for the day. As a further example, about three (3) times per week for around two (2) hours each instance, Ms. Noyes and other aggrieved employees would be required to clock out at the end of their scheduled shifts and continue working, auditing and sending files and preparing the office for the following day.

Further, LENNAR's management pressured Ms. Noyes and other aggrieved employees to respond to phone calls after-hours and on their days off, in order to maintain clientele satisfaction with LENNAR's services, but did not allow them to record this time worked. For example, after her scheduled shifts, Ms. Noyes would answer 3-4 phone calls per week from clients, with each call lasting 10-15 minutes.

Finally, due to the heavy workload, Ms. Noyes was required to spend three (3) hours completing online trainings while at home or during her off days, as there was no time during her scheduled shifts to complete the trainings. At all times, Ms. Noyes and other aggrieved employees remained under LENNAR's control. This off-the-clock work could have been recorded by LENNAR, but it refused to do so to avoid payment of additional wages to Ms. Noyes and other aggrieved employees.

Second, during the relevant period, LENNAR had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in their timekeeping system. LENNAR's rounding policy resulted in the failure to compensate Ms. Noyes and other aggrieved employees fully for all hours worked, causing Ms. Noyes and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, LENNAR's rounding policy has, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Noyes and other aggrieved employees. To the extent LENNAR's rounding policy took away time worked that was eligible for overtime, Ms. Noyes and other aggrieved employees were denied overtime pay for all hours worked. Alternatively, LENNAR had, and continues to have, a company-wide policy and/or practice of failing to record hours worked by its employees. Instead, on information and belief, LENNAR's policy and/or practice is to simply pay employees, including Ms. Noyes and other aggrieved employees, for the hours they are scheduled to work. Because LENNAR failed to accurately record

their actual hours worked, Ms. Noyes and other aggrieved employees were not paid for all hours worked before or after their scheduled shifts.

Third, LENNAR had, and continues to have, a company-wide policy and/or practice of understaffing its locations while assigning heavy workloads and enforcing strict deadlines for filing clients' paperwork, which resulted in a failure to provide Ms. Noyes and other aggrieved employees with adequate meal period coverage. On information and belief, LENNAR also failed to schedule meal periods, which further caused Ms. Noyes and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. Noyes and other aggrieved employees were not afforded timely, uninterrupted thirty (30) minute meal periods during shifts in which they were entitled to receive meal periods. For example, Ms. Noyes would be required to transfer the office phone line to her personal mobile device and continue answering phone calls throughout her meal period due to the heavy workload, understaffing, and lack of coverage available to meet customer demand. Thus, Ms. Noyes and other aggrieved employees missed meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. LENNAR did not compensate Ms. Noyes and other aggrieved employees for the time they spent working off the clock during meal periods.

Further, on information and belief, because LENNAR frowned upon employees accruing meal period penalties, LENNAR pressured Ms. Noyes and other aggrieved employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that LENNAR would otherwise owe. Thus, Ms. Noyes and other aggrieved employees performed work during meal periods for which they were not paid.

LENNAR knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Noyes and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Noyes and other aggrieved employees regularly worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Noyes and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, LENNAR did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, LENNAR paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, LENNAR failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, LENNAR failed to pay all overtime wages by paying a lower overtime rate than required.

LENNAR's failure to pay Ms. Noyes and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 4-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11040(2)(K) (defining “Hours Worked”).

As stated, during the relevant time period, due to LENNAR’s restrictions on overtime accrual, LENNAR systematically failed to pay Ms. Noyes and other aggrieved employees for actual hours worked before and after scheduled shifts, because these hours were not appropriately recorded. Ms. Noyes and other aggrieved employees were required to complete various tasks off-the-clock, before and after their scheduled shifts, such as performing opening duties, auditing and sending files, preparing the office for the workday, responding to phone calls from clients, and completing online trainings. Also, as stated above, LENNAR had a policy of rounding Ms. Noyes’s and other aggrieved employees’ hourly clock-in and clock-out duration times to the quarter-hour in its timekeeping system, resulting in the failure to compensate Ms. Noyes and other aggrieved employees fully for all hours worked. Alternatively, LENNAR had a company-wide policy and/or practice of only paying Ms. Noyes and other aggrieved employees for their scheduled shifts, rather than their actual hours worked, because LENNAR failed to track hours worked outside scheduled shifts.

Additionally, as set forth above, due to LENNAR’s uniform practices of understaffing its locations, assignment of heavy workloads and enforcement of strict filing deadlines, failure to schedule meal periods, and subsequent lack of meal period coverage, Ms. Noyes and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Further, to limit the meal penalties that LENNAR would otherwise owe, LENNAR pressured Ms. Noyes and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, but required them to continue working, time for which they were not paid.

Thus, LENNAR did not pay minimum wages for all hours worked by Ms. Noyes and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, LENNAR did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, LENNAR regularly failed to pay at least minimum wages to Ms. Noyes and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at

the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, 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.

First, as stated, LENNAR had, and continues to have, company-wide policies and/or practices of understaffing its locations, which, combined with the practice of assigning heavy workloads and strict filing deadlines, discouraging employees from incurring overtime, and failing to schedule meal periods, resulted in a lack of meal period coverage and prevented Ms. Noyes and other aggrieved employees from taking all timely meal periods to which they were entitled. As a result, Ms. Noyes and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period, and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, as stated, Ms. Noyes's meal periods were cut short or interrupted because LENNAR's management would require Ms. Noyes to transfer the office phone line to her personal mobile device and continue responding to client phone calls during her meal periods. As a further example, Ms. Noyes and other aggrieved employees would take their meal periods after their fifth hour of work on regular basis due to the heavy workload and lack of coverage.

Moreover, on information and belief, because LENNAR frowned upon employees accruing meal period penalties, LENNAR's management pressured Ms. Noyes and other aggrieved employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that LENNAR would otherwise owe. For example, at LENNAR's management's direction, Ms. Noyes would log that her meal period was taken within the first five (5) hours of her shift, even though she would continue working through her meal period.

Second, during the relevant time period, LENNAR maintained a company-wide, unlawful written meal period policy insofar as it fails to state the timing of when meal periods must occur. LENNAR's non-compliant written meal period policy fails to mention that employees are entitled to a second 30-minute meal period when working shifts in excess of ten (10) hours, and LENNAR systematically, and on a company-wide basis, did not permit Ms. Noyes and other aggrieved employees to take all second 30-minute meal periods when working shifts in excess of ten (10) hours. Thus, during the relevant time period, Ms. Noyes and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Ms. Noyes and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

LENNAR knew or should have known that as a result of its policies, Ms. Noyes and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods.

LENNAR further knew or should have known that it did not pay Ms. Noyes and other aggrieved employees meal period premiums when meal periods were missed, late, short, and/or interrupted.

As set forth above, LENNAR had a company-wide policy and/or practice of rounding employee clock-in and clock-out duration times in its timekeeping system, which prevented Ms. Noyes and other aggrieved employees from receiving all meal period premiums when they took late and/or shortened meal periods. As stated, LENNAR's rounding policy rounded employees' clock-in and clock-out times in its timekeeping system to the nearest quarter (0.25) of an hour. To the extent that LENNAR's timekeeping system reported that Ms. Noyes and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Noyes and other aggrieved employees were entitled to a meal period penalty. Thus, Ms. Noyes and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

LENNAR also has engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Noyes and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that LENNAR did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, LENNAR did not pay other aggrieved employees at the correct rate of pay for premiums because LENNAR systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, LENNAR failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Noyes and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. 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. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, LENNAR regularly failed to authorize and permit Ms. Noyes and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. LENNAR maintained and implemented, on a company-wide basis, a non-compliant written rest period policy that prevented Ms. Noyes and other aggrieved employees from taking compliant rest periods. LENNAR's non-compliant policy fails to correctly state the timing of when rest periods must occur. The policy states, in relevant part:

Two 10-Minute Breaks Must be Taken by Non-Exempts for Every 4 Hours Worked:
For a regular business day, California law requires non-exempt associates to take two ten minute breaks for every 4 hours worked—one mid-morning and another mid-afternoon.

However, under California law, an employee is entitled to rest periods for every four (4) hours worked or major fraction thereof. Thus, LENNAR's written rest period policy is non-compliant on its face, as it fails to authorize and permit employees to take a first rest period for shifts between 3.5 and 6 hours, a second rest period for shifts between 6 and 10 hours, a third rest period for shifts between 10 and 14 hours, and so on.

As a result of LENNAR's practices and policies, Ms. Noyes and other aggrieved employees worked shifts in excess of 3.5 hours and in excess of 6 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Noyes rarely took any rest periods. On the few occasions when she was able to take a rest period, her supervisor would ask her to transfer the office phone to her personal mobile device and continue answering calls during her rest periods.

LENNAR also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Ms. Noyes and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that LENNAR did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, LENNAR did not pay other aggrieved employees at the correct rate of pay for premiums because LENNAR failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, LENNAR failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Noyes and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. LENNAR has not provided Ms. Noyes and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any

employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, LENNAR has knowingly and intentionally provided Ms. Noyes and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, LENNAR issued uniform wage statements to Ms. Noyes and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, LENNAR violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, because LENNAR did not record the time Ms. Noyes and other aggrieved employees spent working off-the-clock, improperly rounded Ms. Noyes's and other aggrieved employees' hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), LENNAR did not list the correct amount of gross wages and net wages earned by Ms. Noyes and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, LENNAR failed to accurately list the total number of the hours worked by Ms. Noyes and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because LENNAR did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, LENNAR did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). LENNAR also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the 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; failing to list the correct name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock. In addition, LENNAR failed to provide Ms. Noyes and other aggrieved employees the option to elect to receive hard copies of their wage statements at any time and/or failed to provide them with the ability to easily access the information and convert the electronic wage statements into hard copies at no expense to them.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, 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. . . ." Labor Code section 1174.5 provides that

employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), LENNAR willfully failed to maintain accurate payroll records for Ms. Noyes and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Noyes's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, LENNAR failed, on a company-wide basis, to keep accurate records of work period and meal period start and end times for Ms. Noyes and other aggrieved employees in violation of section 1198. Also, as stated, LENNAR engaged in a company-wide practice and/or policy of falsifying Ms. Noyes's and other aggrieved employees' time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Noyes and other aggrieved employees. Furthermore, in light of LENNAR's failure to provide Ms. Noyes and other aggrieved employees with second 30-minute meal periods to which they were entitled, LENNAR kept no records of meal start and end times for second meal periods.

Because LENNAR failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Noyes and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Noyes and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

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. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, LENNAR failed to pay Ms. Noyes and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 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.

For example, Ms. Noyes's last date of work was March 31, 2021. However, on April 2, 2021, LENNAR only provided Ms. Noyes with a paycheck that included some of the wages due to her from the prior pay period, and not the accrued vacation wages, retrospective overtime wages, and other wages owed which were paid out at later dates. Upon information and belief, LENNAR has, and continues to have, a policy and/or practice of withholding accrued vacation wages, retrospective overtime wages, and other wages owed to former employees and did not issue all of Ms. Noyes's wages due until nearly one month after her termination. Thus, LENNAR failed to pay Ms. Noyes her final wages immediately, in violation of California Labor Code section 201.

Additionally, LENNAR willfully failed to pay Ms. Noyes and other aggrieved employees who are no longer employed by LENNAR the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums either at the time of discharge, or within seventy-two (72) hours of their leaving LENNAR's employ.

Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 4-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, Ms. Noyes and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data, to carry out their job duties, but LENNAR failed to reimburse them for the costs of their work-related mobile

device expenses. For example, about 3-4 times per week, Ms. Noyes used her personal cellular phone to converse with clients after her regularly scheduled shifts for 10-15 minutes per instance. As another example, and as stated above, LENNAR's management required Ms. Noyes to transfer the office line to her personal cellular phone during her meal and rest periods and keep answering calls. Although LENNAR required Ms. Noyes and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, LENNAR failed to reimburse them for these costs.

LENNAR could have provided Ms. Noyes and other aggrieved employees with the actual tools for use on the job, such as company mobile devices, or could have reimbursed employees for the costs of their mobile device usage. Instead, LENNAR passed these operating costs off onto Ms. Noyes and other aggrieved employees.

Thus, LENNAR had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

LENNAR failed to provide Ms. Noyes and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). LENNAR's failure to provide Ms. Noyes and other aggrieved employees with written notice of basic information regarding their employment with LENNAR is in violation of Labor Code section 2810.5.

Ms. Noyes and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid

employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” LENNAR, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Noyes’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Noyes seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Noyes, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against LENNAR for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Noyes seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Noyes’s reasonable attempt to settle her dispute with LENNAR prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform LENNAR of Ms. Noyes’s aforementioned grievances and the proposed remedies as detailed below, while affording LENNAR a reasonable opportunity to satisfy Ms. Noyes’s demands.

Demand is hereby made that LENNAR shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. LENNAR shall pay Ms. Noyes and all other aggrieved employees employed by LENNAR at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. LENNAR shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. LENNAR shall conduct a survey or interview all current and former aggrieved employees in California who worked for LENNAR in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device expenses or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. LENNAR shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. LENNAR also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was

not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. LENNAR shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for LENNAR's benefit, including, but not limited to, costs of mobile device usage and data, as required by Labor Code section 2802.
6. LENNAR shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. LENNAR shall provide Ms. Noyes and all aggrieved employees employed by LENNAR at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. LENNAR shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
9. LENNAR shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
10. LENNAR shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 4-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Ninel Kocharyan

Copy: LENNAR TITLE, INC. (via U.S. Certified Mail); LENNAR CORPORATION (via U.S. Certified Mail); CALATLANTIC TITLE INC. (via U.S. Certified Mail); CALATLANTIC GROUP, INC. (via U.S. Certified Mail)

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Capstone
 LAW APC
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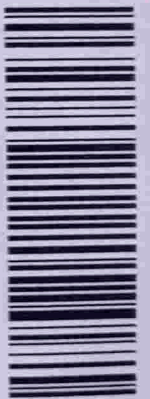
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LENNAR CORPORATION
 700 NW 107TH AVENUE, SUITE 400
 MIAMI, FL 33172

Capstone
 LAW APC
 1875 Century Park East, Suite 1000
 Los Angeles, California 90067

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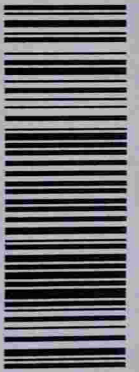
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 1875 Century Park East, Suite 1000
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LAW APC
1875 Century Park East, Suite 1000
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700 NORTHWEST 107TH AVENUE, SUITE 200
MIAMI, FL ~~33442~~
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700 NORTHWEST 107TH AVE, STE 200
MIAMI, FL ~~33442~~ 33172



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A. Signature

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☐ Agent

☐ Addressee

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City, State, ZIP+4®
MIAMI, FL 33172

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7021 0950 0001 0025 2390

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

Official USE

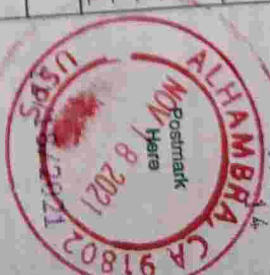
Certified Mail Fee \$3.75

0702

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$3.05
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00

Postage \$1.56

Total Postage and Fees \$8.36



Sent To
CALATIANE TITLE, INC.

Street and Apt. No., or PO Box No.
700 NORTHWEST 10TH AVE, STE 200

City, State, ZIP+4®
MIAMI, FL 33172

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7021 0950 0001 0025 2406

U.S. Postal Service™
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Official USE

Certified Mail Fee \$3.75

0702

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$3.05
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00

Postage \$1.56

Total Postage and Fees \$8.36



Sent To
KENNAE CORPORATION

Street and Apt. No., or PO Box No.
700 N.W. 18TH AVE, STE 400

City, State, ZIP+4®
MIAMI, FL 33172

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7021 0950 0001 0025 2383

U.S. Postal Service™
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For delivery information, visit our website at www.usps.com®.

Official USE

Certified Mail Fee \$3.75

0702

Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$3.05
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00

Postage \$1.56

Total Postage and Fees \$8.36



Sent To
CALATIANE GROUP INC.

Street and Apt. No., or PO Box No.
700 N.W. 10TH AVE, STE 400

City, State, ZIP+4®
MIAMI, FL 33172

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7021 0950 0001 0025 2376

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: LENNAR TITLE, INC. 700 N.W. 107TH AVE, STE 400 MIAMI, FL 33172		A. Signature X  ☐ Agent ☐ Addressee	
2. Article Number (Transfer from service label) 7021 0950 0001 0025 2390		B. Received by (Printed Name) EM C. Date of Delivery 1/23/21	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No			
PS Form 3811, July 2020 PSN 7530-02-000-9053			

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: LENNAR CORPORATION 700 N.W. 107TH AVE, STE 400 MIAMI, FL 33172		A. Signature X  ☐ Agent ☐ Addressee	
2. Article Number (Transfer from service label) 7021 0950 0001 0025 2383		B. Received by (Printed Name) EM C. Date of Delivery 1/23/21	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No			
PS Form 3811, July 2020 PSN 7530-02-000-9053			

Domestic Return Receipt