

Assigned for all purposes to: Michael Antonovich Antelope Valley Courthouse, Judicial Officer: Stephen Morgan

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

PETER HALL, on behalf of the State of
California, as a private attorney general,

Plaintiff,

vs.

SUBURBAN PROPANE, L.P., a Limited
Partnership; SUBURBAN SALES &
SERVICE, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 22AVCV00103

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
221, 226(a), 226.7, 227.3, 510, 512,
558(a)(1)(2), 1194, 1197, 1197.1, 1198,
2802, California Code of Regulations,
Title 8, Section 11040, Subdivision 5(A)-
(B)

1 Plaintiff Peter Hall (“PLAINTIFF”), an individual, on behalf of himself and all other
2 similarly situated current and former employees alleges on information and belief, except for
3 his own acts and knowledge which are based on personal knowledge, the following:

4 INTRODUCTION

5 1. PLAINTIFF brings this action against Defendants Suburban Propane, L.P. and
6 Suburban Sales & Service, Inc. (referred to as “DEFENDANT”) seeking only to recover PAGA
7 civil penalties for himself, and on behalf of all current and former aggrieved employees that
8 worked for DEFENDANT. PLAINTIFF does not seek to recover anything other than
9 penalties as permitted by California Labor Code § 2699. To the extent that statutory
10 violations are mentioned for wage violations, PLAINTIFF does not seek underlying general
11 and/or special damages for those violations, but simply the civil penalties permitted by
12 California Labor Code § 2699.

13 2. California has enacted the PAGA to permit an individual to bring an action on
14 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
15 nature of this action.

16 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
17 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
18 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
19 complaint should be construed as attempting to obtain any relief that would not be available in
20 a PAGA-only action.

21 THE PARTIES

22 4. Defendant Suburban Propane, L.P. is a limited partnership that at all relevant
23 times mentioned herein conducted and continues to conduct substantial business in the state of
24 California.

25 5. Defendant Suburban Sales & Service, Inc. is a corporation that at all relevant
26 times mentioned herein conducted and continues to conduct substantial business in the state of
27 California.
28

1 6. Suburban Propane, L.P. and Suburban Sales & Service, Inc. were the joint
2 employers of PLAINTIFF as evidenced by paycheck and by the company PLAINTIFF
3 performed work respectively, and are therefore jointly responsible as employers for the conduct
4 alleged herein, and are therefore collectively referred to herein as “DEFENDANT.”

5 7. DEFENDANT specializes in propane, heating oil and refined fuels as well as the
6 marketing of natural gas and electricity in deregulated markets.

7 8. PLAINTIFF was employed by DEFENDANT in California from November of
8 2016 to September of 2021 and was at all times classified by DEFENDANT as a non-exempt
9 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
10 payment of minimum and overtime wages due for all time worked.

11 9. PLAINTIFF, and such persons that may be added from time to time who satisfy
12 the requirements and exhaust the administrative procedures under the Private Attorney General
13 Act, brings this Representative Action on behalf of the State of California with respect to
14 himself and all individuals who are or previously were employed by Suburban Propane, L.P.
15 and/or Suburban Sales & Service, Inc. in California and classified as non-exempt employees
16 (“AGGRIEVED EMPLOYEES”) during the time period of November 16, 2020 until a date as
17 determined by the Court (the "PAGA PERIOD").

18 10. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
19 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
20 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT’s
21 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3,
22 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title
23 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon the
24 foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees within
25 the meaning of Labor Code § 2699, *et seq.*

26 11. The true names and capacities, whether individual, corporate, subsidiary,
27 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
28 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant

1 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
2 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
3 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
4 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
5 responsible in some manner for one or more of the events and happenings that proximately
6 caused the injuries and damages hereinafter alleged.

7 12. The agents, servants and/or employees of the Defendants and each of them acting
8 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
9 agent, servant and/or employee of the Defendants, and personally participated in the conduct
10 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
11 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
12 all Defendants are jointly and severally liable to PLAINTIFF and the other AGGRIEVED
13 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
14 agents, servants and/or employees.

15 **THE CONDUCT**

16 13. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
17 required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all their time worked,
18 meaning the time during which an employee is subject to the control of an employer, including
19 all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF
20 and other AGGRIEVED EMPLOYEES to work without paying them for all the time they are
21 under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to
22 work while clocked out during what is supposed to be PLAINTIFF's off-duty meal break.
23 PLAINTIFF is from time to time interrupted by work assignments while clocked out for what
24 should be PLAINTIFF's off-duty meal break. PLAINTIFF and other AGGRIEVED
25 EMPLOYEES also worked off the clock with respect to time spent undergoing mandatory drug
26 testing or any other testing and/or examination required as a condition of employment.
27 DEFENDANT, as a matter of established company policy and procedure, administers a uniform
28 practice of rounding the actual time worked and recorded by PLAINTIFF and other

1 AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT, so that during the course
2 of their employment, PLAINTIFF and other AGGRIEVED EMPLOYEES are paid less than
3 they would have been paid had they been paid for actual recorded time rather than “rounded”
4 time. Additionally, DEFENDANT engages in the practice of requiring PLAINTIFF and other
5 AGGRIEVED EMPLOYEES to perform work off the clock in that DEFENDANT, as a
6 condition of employment, required these employees to submit to mandatory temperature checks
7 and symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT’s
8 timekeeping system for the workday. As a result, PLAINTIFF and other AGGRIEVED
9 EMPLOYEES forfeit minimum wage, overtime wage compensation, and off-duty meal breaks
10 by working without their time being correctly recorded and without compensation at the
11 applicable rates. DEFENDANT’s policy and practice not to pay PLAINTIFF and other
12 AGGRIEVED EMPLOYEES for all time worked, is evidenced by DEFENDANT’s business
13 records.

14 14. State law provides that employees must be paid overtime and meal and rest break
15 premiums at one-and-one-half times their “regular rate of pay.” PLAINTIFF and other
16 AGGRIEVED EMPLOYEES are compensated at an hourly rate plus incentive pay that is tied
17 to specific elements of an employee’s performance.

18 15. The second component of PLAINTIFF’s and other AGGRIEVED EMPLOYEES’
19 compensation is DEFENDANT’s non-discretionary incentive program that paid PLAINTIFF
20 and other AGGRIEVED EMPLOYEES incentive wages based on their performance for
21 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
22 hourly basis with incentive compensation when the employees met the various performance
23 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
24 overtime and meal and rest break premiums to PLAINTIFF and other AGGRIEVED
25 EMPLOYEES, DEFENDANT failed to include the incentive compensation as part of the
26 employees’ “regular rate of pay” for purposes of calculating overtime pay and meal and rest
27 break premium pay. Management and supervisors described the incentive program to potential
28 and new employees as part of the compensation package. As a matter of law, the incentive

1 compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must be
2 included in the “regular rate of pay.” The failure to do so has resulted in a underpayment of
3 overtime compensation and meal and rest break premiums to PLAINTIFF and other
4 AGGRIEVED EMPLOYEES by DEFENDANT.

5 16. As a result of their rigorous work schedules, PLAINTIFF and other AGGRIEVED
6 EMPLOYEES were from time to time unable to take thirty (30) minute off duty meal breaks
7 and were not fully relieved of duty for their meal periods. PLAINTIFF and other AGGRIEVED
8 EMPLOYEES were required from time to time to perform work as ordered by DEFENDANT
9 for more than five (5) hours during some shifts without receiving a meal break. Further,
10 DEFENDANT from time to time failed to provide PLAINTIFF and other AGGRIEVED
11 EMPLOYEES with a second off-duty meal period for some workdays in which these employees
12 were required by DEFENDANT to work ten (10) hours of work. DEFENDANT also engaged
13 in the practice of rounding the meal period times to avoid paying penalties to PLAINTIFF and
14 other AGGRIEVED EMPLOYEES. PLAINTIFF and other AGGRIEVED EMPLOYEES
15 therefore forfeit meal breaks without additional compensation and in accordance with
16 DEFENDANT’s corporate policy and practice.

17 17. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED EMPLOYEES
18 were also required from time to time to work in excess of four (4) hours without being provided
19 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
20 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
21 time, a first and second rest period of at least ten (10) minutes for some shifts worked of
22 between six (6) and eight (8) hours from time to time, and a first, second and third rest period
23 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
24 PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with one hour
25 wages in lieu thereof. Additionally, the applicable California Wage Order requires employers
26 to provide employees with off-duty rest periods, which the California Supreme Court defined
27 as time during which an employee is relieved from all work related duties and free from
28 employer control. In so doing, the Court held that the requirement under California law that

1 employers authorize and permit all employees to take rest period means that employers must
2 relieve employees of all duties and relinquish control over how employees spend their time
3 which includes control over the locations where employees may take their rest period.
4 Employers cannot impose controls that prohibit an employee from taking a brief walk - five
5 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and other
6 AGGRIEVED EMPLOYEES from unconstrained walks and is unlawful based on
7 DEFENDANT's rule which states PLAINTIFF and other AGGRIEVED EMPLOYEES cannot
8 leave the work premises during their rest period.

9 18. During the PAGA PERIOD, DEFENDANT failed to accurately record and pay
10 PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual amount of time these
11 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
12 DEFENDANT was required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for
13 all time worked, meaning the time during which an employee was subject to the control of an
14 employer, including all the time the employee was permitted or suffered to permit this work.
15 DEFENDANT required these employees to work off the clock without paying them for all the
16 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have
17 known that PLAINTIFF and the other AGGRIEVED EMPLOYEES were under compensated
18 for all time worked. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited
19 time worked by working without their time being accurately recorded and without compensation
20 at the applicable minimum wage and overtime wage rates. To the extent that the time worked
21 off the clock does not qualify for overtime premium payment, DEFENDANT fails to pay
22 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
23 1197, and 1197.1.

24 19. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
25 other AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed
26 to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226
27 provides that every employer shall furnish each of his or her employees with an accurate
28 itemized wage statement in writing showing, among other things, gross wages earned and all

1 applicable hourly rates in effect during the pay period and the corresponding amount of time
2 worked at each hourly rate. PLAINTIFF and other AGGRIEVED EMPLOYEES were paid on
3 an hourly basis. As such, the wage statements should reflect all applicable hourly rates during
4 the pay period and the total hours worked, and the applicable pay period in which the wages
5 were earned pursuant to California Labor Code Section 226(a). The wage statements
6 DEFENDANT provided to PLAINTIFF and other AGGRIEVED EMPLOYEES failed to
7 identify such information. More specifically, the wage statements failed to identify the accurate
8 total hours worked each pay period. When the hours shown on the wage statements were added
9 up, they did not equal the actual total hours worked during the pay period. Aside, from the
10 violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
11 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
12 As a result, DEFENDANT from time to time provided PLAINTIFF and the other AGGRIEVED
13 EMPLOYEES with wage statements which violated Cal. Lab. Code § 226.

14 20. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
15 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the
16 wages are paid not more than seven (7) calendar days following the close of the payroll period.
17 Cal. Lab. Code § 210 provides:

18 [I]n addition to, and entirely independent and apart from, any other penalty provided in
19 this article, every person who fails to pay the wages of each employee as provided in
20 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial
21 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
22 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)
23 for each failure to pay each employee, plus 25 percent of the amount unlawfully
24 withheld.

25 21. DEFENDANT from time to time failed to pay PLAINTIFF and other
26 AGGRIEVED EMPLOYEES within seven (7) days of the close of the payroll period in
27 accordance with Cal. Lab. Code § 204(d).

28 22. DEFENDANT underpaid sick pay wages to PLAINTIFF and other AGGRIEVED
EMPLOYEES by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
Code Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-
discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT

1 underpaid sick pay to PLAINTIFF and other AGGRIEVED EMPLOYEES at their base rates
2 of pay.

3 23. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
4 employees be calculated by dividing the employee's total wages, not including overtime
5 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
6 of employment.

7 24. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at
8 the regular rate of pay. PLAINTIFF and other AGGRIEVED EMPLOYEES routinely earned
9 non-discretionary incentive wages which increased their regular rate of pay. However, when
10 sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and other AGGRIEVED
11 EMPLOYEES, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab.
12 Code Section 246.

13 25. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and
14 other AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time
15 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and believes
16 and based thereon alleges that such failure to pay sick pay at regular rate was willful, such that
17 PLAINTIFF and other AGGRIEVED EMPLOYEES whose employment has separated are
18 entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

19 26. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
20 to collect or receive from an employee any part of wages theretofore paid by said employer to
21 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and other
22 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to
23 PLAINTIFF and other AGGRIEVED EMPLOYEES, failed to disclose all aspects of the
24 deductions from compensation payable to PLAINTIFF and other AGGRIEVED EMPLOYEES,
25 and thereby failed to pay these employees all wages due at each applicable pay period and upon
26 termination.

27 27. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
28 PLAINTIFF and the other AGGRIEVED EMPLOYEES for required business expenses

1 incurred by the PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of
2 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
3 2802, employers are required to indemnify employees for all expenses incurred in the course
4 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
5 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
6 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
7 directions of the employer, even though unlawful, unless the employee, at the time of obeying
8 the directions, believed them to be unlawful."

9 28. In the course of their employment PLAINTIFF and other AGGRIEVED
10 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal
11 cellular phones as a result of and in furtherance of their job duties as employees for
12 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated
13 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,
14 PLAINTIFF and other AGGRIEVED EMPLOYEES were required by DEFENDANT to use
15 their personal cellular phones. As a result, in the course of their employment with
16 DEFENDANT, PLAINTIFF and other AGGRIEVED EMPLOYEES incurred unreimbursed
17 business expenses which included, but were not limited to, costs related to the use of their
18 personal cellular phones all on behalf of and for the benefit of DEFENDANT.

19 29. All of the conduct and violations alleged herein occurred during the PAGA
20 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
21 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
22 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018.

23 **JURISDICTION AND VENUE**

24 30. This Court has jurisdiction over this Action pursuant to California Code of Civil
25 Procedure, Section 410.10.

26 31. Venue is proper in this Court pursuant to California Code of Civil Procedure,
27 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
28 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities

1 in this County and/or conducts substantial business in this County, and (ii) committed the
2 wrongful conduct herein alleged in this County against PLAINTIFF and other AGGRIEVED
3 EMPLOYEES.

4
5 **FIRST CAUSE OF ACTION**

6 **For Violation of the Private Attorneys General Act**

7 **[Cal. Lab. Code §§ 2698, *et seq.*]**

8 **(By PLAINTIFF and Against All Defendants)**

9 32. PLAINTIFF realleges and incorporates by this reference, as though fully set
10 forth herein, the prior paragraphs of this Complaint.

11 33. PAGA is a mechanism by which the State of California itself can enforce state
12 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
13 the state's labor law enforcement agencies. An action to recover civil penalties under
14 PAGA is fundamentally a law enforcement action designed to protect the public and not to
15 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
16 but to create a means of "deputizing" citizens as private attorneys general to enforce the
17 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
18 public interest to allow aggrieved employees, acting as private attorneys general to recover
19 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
20 claims cannot be subject to arbitration.

21 34. PLAINTIFF, and such persons that may be added from time to time who
22 satisfy the requirements and exhaust the administrative procedures under the Private
23 Attorney General Act, brings this Representative Action on behalf of the State of California
24 with respect to himself and all individuals who are or previously were employed by
25 Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. in California and classified
26 as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period of
27 November 16, 2020 until a date as determined by the Court (the "PAGA PERIOD").

28 35. On November 16, 2021, PLAINTIFF gave written notice by electronic mail to

1 the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
2 employer of the specific provisions of this code alleged to have been violated as required by
3 Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to add these allegations
4 to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may
5 now commence a representative civil action under PAGA pursuant to Section 2699 as the
6 proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as herein
7 defined.

8 36. The policies, acts and practices heretofore described were and are an unlawful
9 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
10 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to
11 properly record and provide legally required meal and rest periods, (c) failed to pay
12 minimum wages, (d) failed to pay overtime wages and sick pay wages, (e) failed to
13 reimburse employees for required expenses, and (f) failed to pay wages when due, all in
14 violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204
15 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198,
16 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the
17 applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
18 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
19 Labor Code Private Attorney General Act of 2004 as the representative of the State of
20 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
21 EMPLOYEES.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
24 severally, as follows:

- 25 1. On behalf of the State of California and with respect to all AGGRIEVED
26 EMPLOYEES:

27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 A) Recovery of civil penalties as prescribed by the Labor Code Private
2 Attorneys General Act of 2004; and,

3 B) An award of attorneys' fees and cost of suit, as allowable under the
4 law, including, but not limited to, pursuant to Labor Code §2699.

5 Dated: February 16, 2022 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
6 LLP

7
8 By: /s/ Nicholas De Blouw
 Nicholas J. De Blouw

9 Attorneys for Plaintiff
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28