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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LEXY BARAJAS, as an aggrieved employee
and private attorney general,

Plaintiff,

vs.

H. W. HUNTER, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. **22STCV01892**

**COMPLAINT FOR ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 ET
SEQ.**

1 Plaintiff LEXY BARAJAS (“Plaintiff”), individually and as an aggrieved employee and
2 private attorney general pursuant to the Labor Code Private Attorneys General Act of 2004, based
3 upon facts that either have evidentiary support or are likely to have evidentiary support after a
4 reasonable opportunity for further investigation and discovery, alleges as follows:

5 **INTRODUCTION**

6 1. This is a representative enforcement action brought by Plaintiff against Defendants H.
7 W. HUNTER, INC. and DOES 1 through 50 (collectively “Defendants”) under the Labor Code Private
8 Attorneys General Act of 2004, California Labor Code sections 2698, et seq. (“PAGA”) to recover
9 civil penalties on behalf of Plaintiff, the State of California, and all individuals who worked for
10 Defendants in the State of California as hourly-paid and/or non-exempt employees at any time during
11 the period from November 10, 2020 to final judgment (“Aggrieved Employees”).

12 2. Plaintiff alleges that throughout the time period involved in this case, Defendants hired
13 Plaintiff and Aggrieved Employees but failed to properly pay them all wages owed for all time worked
14 (including minimum wages, straight time wages, and overtime wages), failed to provide them with all
15 meal periods and rest periods to which they were entitled, failed to timely pay them all wages during
16 their employment, failed to timely pay them all wages due upon termination of their employment,
17 failed to provide them with accurate itemized wage statements, failed to maintain accurate payroll
18 records, and failed to reimburse them for necessary business expenses.

19 3. As a result, Defendants violated California Labor Code sections 201, 202, 203, 204,
20 226(a), 226.7, 227.3, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the
21 applicable Industrial Welfare Commission (“IWC”) Wage Orders. Through this action, Plaintiff seeks
22 to recover all available remedies under PAGA, including, but not limited to, civil penalties and
23 attorney’s fees and costs.

24 **JURISDICTION AND VENUE**

25 4. This Court has jurisdiction over this action pursuant to the California Constitution,
26 Article VI, section 10. The statutes under which this action is brought do not specify any other basis
27 for jurisdiction.

28 5. This Court has jurisdiction over all Defendants because, upon information and belief,

1 Defendants are citizens and residents of California, regularly conduct business in California, have
2 sufficient minimum contacts in California, and/or otherwise intentionally avail themselves of the
3 California market so as to render the exercise of jurisdiction over them by California courts consistent
4 with traditional notions of fair play and substantial justice. Further, no federal question is at issue
5 because the claims asserted herein are based solely on California law.

6 6. Venue is proper in the judicial district and the County of Los Angeles, California,
7 because Plaintiff and many of the Aggrieved Employees worked for Defendants in the County of Los
8 Angeles. Upon information and belief, Defendants maintain offices, have agents, employ individuals,
9 and/or transact business in the State of California, County of Los Angeles.

10 **THE PARTIES**

11 7. Plaintiff LEXY BARAJAS is an individual residing the State of California County of
12 Los Angeles.

13 8. Defendant H. W. HUNTER, INC. is and at all times herein mentioned was, a
14 corporation organized and existing under the laws of the State of California, and registered to do
15 business in the state of California.

16 9. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under
17 the fictitious names DOES 1 through 50 but will seek leave of this Court to amend the complaint and
18 serve such fictitiously named Defendants once their names and capacities become known.

19 10. Plaintiff is informed and believes, and based thereon alleges, that each and all of the
20 acts and omissions alleged herein were performed by, or are attributable to Defendant H. W.
21 HUNTER, INC. and/or DOES 1 through 50, each acting as the agent, employee, alter ego, and/or joint
22 venturer of, or working in concert with, each of the other co-Defendants and within the course and
23 scope of such agency, employment, joint venture, or concerted activity with legal authority to act on
24 the others' behalf. The acts of any and all Defendants represent and were in accordance with
25 Defendants' official policy.

26 11. At all relevant times, Defendants were the employers of Plaintiff within the meaning
27 of all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the
28 working conditions, wages, working hours, and conditions of employment of Plaintiff so as to make

1 each of said Defendants and employers liable under the statutory provisions set forth herein.

2 12. Defendants had the authority to hire and terminate Plaintiff and the Aggrieved
3 Employees, to set work rules and conditions governing Plaintiff and the Aggrieved Employees'
4 employment, and to supervise their daily employment activities.

5 13. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's
6 and the Aggrieved Employees' employment for them to be joint employers of Plaintiff and the
7 Aggrieved Employees.

8 14. Defendants directly hired and paid wages and benefits to Plaintiff and the Aggrieved
9 Employees.

10 15. Defendants continue to employ hourly paid and/or non-exempt employees within the
11 State of California.

12 16. At all relevant times, Defendants, and each of them, ratified each and every act or
13 omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted
14 the acts and omissions of each and all the other Defendants in proximately causing the damages herein
15 alleged.

16 17. Plaintiff is informed and believes, and based thereon alleges, that each of said
17 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
18 omissions, occurrences, and transactions alleged herein.

19 **GENERAL ALLEGATIONS**

20 18. Defendants are a car dealership located in Lancaster, California.

21 19. From approximately March of 2019 to October 2021, Defendants, jointly and severally,
22 employed Plaintiff as a non-exempt, hourly-paid Service Advisor in the County of Los Angeles.

23 20. At all relevant times set forth herein, Defendants employed Plaintiff and Aggrieved
24 Employees as hourly-paid or non-exempt employees.

25 21. Plaintiff is informed and believe, and thereon allege that Defendants engaged in an
26 ongoing scheme of wage abuse against their hourly-paid or non-exempt employees. As set forth in
27 more detail below, this scheme involved, *inter alia*, failing to pay Plaintiff and Aggrieved Employees
28 all wages owed for all time worked (including minimum wages, straight time wages, and overtime

wages); failing to permit Plaintiff and Aggrieved Employees to take timely and duty-free meal periods and rest periods in violation of California law; failing to reimburse Plaintiff and Aggrieved Employees for all necessary business-related expenses; failing to timely pay all wages owed to Plaintiff and Aggrieved Employees during employment and upon cessation of their employment; failing to maintain required records; failing to provide accurate itemized wage statements to Plaintiff and Aggrieved Employees; failing to reimburse Plaintiff and Aggrieved Employees for all business-related expenses and costs; and failing to pay wages owed for accrued vacation time.

22. Throughout the time period involved in this case, Defendants have implemented policies and practices which failed to provide Plaintiff and Aggrieved Employees with timely and duty-free meal periods. Defendants routinely failed to relieve Plaintiff and Aggrieved Employees of all duties during their meal periods, regularly failed to relinquish control over Plaintiff and Aggrieved Employees during their meal periods, regularly failed to permit Plaintiff and Aggrieved Employees a reasonable opportunity to take their meal periods, and regularly impeded or discouraged Plaintiff and Aggrieved Employees from taking thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work and/or from taking a second thirty (30) minute uninterrupted meal break no later than their tenth hour of work for shifts lasting more than ten (10) hours. Defendants also failed to maintain accurate records of meal periods taken by Plaintiff and Aggrieved Employees.

23. Throughout the time period involved in this case, Defendants did not adequately inform Plaintiff and Aggrieved Employees of their right to take meal periods under California law. Moreover, Defendants systematically disregarded their own written policies regarding the provision and timing of meal periods for Plaintiff and Aggrieved Employees. Instead, Defendants' actual policy and practice was to schedule Plaintiff and Aggrieved Employees in a way the prohibited them from taking timely and duty-free meal periods, and to require Plaintiff and Aggrieved Employees to work through their meal periods, for which they were not compensated.

24. Throughout the time period involved in this case, Defendants failed to pay Plaintiff and Aggrieved Employees premium wages for meal periods that were missed, late, interrupted, or shortened in violation of California law. Defendants knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive all meal periods or payment of one additional hour of pay at their regular rate of pay when a meal period was missed, short, late, and/or interrupted.

1 Notwithstanding this knowledge, Defendants routinely failed to provide legally compliant meal
2 periods to Plaintiff and Aggrieved Employees, and routinely failed pay one additional hour of pay to
3 Plaintiff and Aggrieved Employees at their regular rate of pay when a meal period was missed, short,
4 late, and/or interrupted.

5 25. Throughout the time period involved in this case, Defendants have implemented
6 policies and practices which prohibited Plaintiff and Aggrieved Employees from taking timely and
7 duty-free rest periods. Defendants regularly failed to provide, authorize, and permit Plaintiff and
8 Aggrieved Employees to take full, uninterrupted, off-duty rest periods for every shift lasting three and
9 one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting
10 six (6) to ten (10) hours, and failed to make a good faith effort to authorize, permit, and provide such
11 rest breaks in the middle of each work period.

12 26. Throughout the time period involved in this case, Defendants did not adequately inform
13 Plaintiff and Aggrieved Employees of their right to take rest periods under California law. Moreover,
14 Defendants systematically disregarded their own written policies regarding the provision and timing
15 of rest periods for Plaintiff and Aggrieved Employees. Instead, Defendants' actual policy and practice
16 was to schedule Plaintiff and Aggrieved Employees in a way that regularly prohibited them from
17 taking timely and duty free rest periods, and to regularly require Plaintiff and Aggrieved Employees
18 to work through their rest periods.

19 27. Throughout the time period involved in this case, Defendants failed to pay Plaintiff and
20 Aggrieved Employees premium wages for rest periods that were missed, late, interrupted, or shortened
21 in violation of California law. Defendants knew or should have known that Plaintiff and Aggrieved
22 Employees were entitled to receive all rest periods or payment of one additional hour of pay at their
23 regular rate of pay when a rest period was missed, short, late, and/or interrupted. Notwithstanding this
24 knowledge, Defendants routinely failed to authorize and permit Plaintiff and Aggrieved Employees
25 to take duty-free rest periods, and failed to pay one additional hour of pay to Plaintiff and Aggrieved
26 Employees at their regular rate of pay when a rest period was missed, short, late and/or interrupted.

27 28. Throughout the time period involved in this case, Defendant regularly required Plaintiff
28 and Aggrieved Employees to perform work off-the-clock. Although Defendants prohibited overtime,
Defendants still regularly required Plaintiff and Aggrieved Employees complete all of their assigned
duties. To do so, Plaintiff and Aggrieved Employees were regularly required to perform work off-the-

1 clock for which they were not compensated.

2 29. Throughout the time period involved in this case, Defendants implemented policies that
3 prohibited Plaintiff and the Aggrieved Employees from accurately recording the actual time worked,
4 resulting in a failure to pay Plaintiff and the Aggrieved Employees all wages owed.

5 30. Throughout the time period involved in this case, Plaintiff and Aggrieved Employees
6 worked more than eight (8) hours in a day, and/or forty (40) hours in a week.

7 31. Throughout the time period involved in this case, Defendants regularly failed to pay
8 overtime compensation to Plaintiff and Aggrieved Employees when they worked in excess of eight
9 (8) hours in a single work day and/or forty (40) hours in a single work week, or in excess of twelve
10 (12) hours in a single work day and/or eighty (80) hours in a single work week. Defendants knew or
11 should have known that Plaintiff and Aggrieved Employees were entitled to receive certain wages for
12 overtime or double overtime compensation and that they were not receiving wages for overtime or
double overtime compensation.

13 32. Throughout the time period involved in this case, Defendants failed to pay overtime to
14 Plaintiff and the Aggrieved Employees for all overtime hours worked based on regular rates of pay
15 correctly calculated to include all applicable remuneration, including non-discretionary commissions,
16 bonuses and performance pay.

17 33. Throughout the time period involved in this case, Defendants regularly failed to pay
18 Plaintiff and Aggrieved Employees at least minimum wages for all hours worked. Defendants knew
19 or should have known that Plaintiff and Aggrieved Employees were entitled to receive at least
20 minimum wages for all hours worked and that they were not receiving at least minimum wages for all
21 hours worked. Defendants' failure to pay minimum wages included, *inter alia*, failing to pay Plaintiff
22 and Aggrieved Employees at the required minimum wage pursuant to California law, and requiring
23 Plaintiff and Aggrieved Employees to perform work off the clock.

24 34. Throughout the time period involved in this case, Defendants regularly failed to pay
25 Plaintiff and the Aggrieved Employees all wages owed to them upon discharge or resignation.
26 Defendant knew or should have known that Plaintiff and the Aggrieved Employees were entitled to
27 receive all wages owed to them upon termination within the time permissible under California Labor
28 Code section 202. Plaintiff and the Aggrieved Employees did not receive payment of all final wages
owed to them upon discharge or resignation, including overtime compensation and minimum wages

1 within any time permissible under California Labor Code section 202.

2 35. Throughout the time period involved in this case, Defendants regularly failed to pay
3 Plaintiff and Aggrieved Employees all wages within any time permissible under California law,
4 including, *inter alia*, California Labor Code section 204. Defendants knew or should have known that
5 Plaintiff and Aggrieved Employees were entitled to receive all wages owed to them during their
6 employment. Plaintiff and Aggrieved Employees did not receive payment of all wages, including
7 overtime compensation, minimum wages, and meal and rest period premiums, within any time
8 permissible under California Labor Code section 204.

9 36. Throughout the time period involved in this case, Defendants regularly failed to
10 provide complete or accurate wage statements to Plaintiff and Aggrieved Employees. Defendants
11 knew or should have known that Plaintiff and Aggrieved Employees were entitled to receive complete
12 and accurate wage statements in accordance with California law, but, in fact, they did not receive
13 complete and accurate wage statements from Defendants. The deficiencies included, *inter alia*, the
14 failure to include the total number of hours worked, the actual gross wages earned, the correct rates of
15 pay, and all applicable hourly rates.

16 37. Throughout the time period involved in this case, Defendants regularly failed to keep
17 complete or accurate payroll records for Plaintiff and Aggrieved Employees. Defendants knew or
18 should have known that Defendants were required keep complete and accurate payroll records for
19 Plaintiff and Aggrieved Employees in accordance with California law, but, in fact, did not keep
20 complete and accurate payroll records.

21 38. Throughout the time period involved in this case, Defendants regularly failed to
22 maintain accurate records relating to Plaintiff's and the Aggrieved Employees' work periods, meal
23 periods, total daily hours, hours per pay period, and applicable pay rates.

24 39. Throughout the time period involved in this case, Defendants regularly failed to pay
25 Plaintiff and Aggrieved Employees for vested but unused vacation time. Defendants knew or should
26 have known that Plaintiff and Aggrieved Employees were entitled to receive all wages owed to them
27 upon termination, including vested and unused vacation time. Plaintiff and Aggrieved Employees did
28 not receive payment of all final wages owed to them upon discharge or resignation, including vested
and unused vacation time.

40. Throughout the time period involved in this case, Defendants failed to reimburse

1 Plaintiff and the Aggrieved Employees for all necessary business-related expenses, including but not
2 limited to use of their personal cell phones. Defendants knew or should have known that Defendants
3 were required to reimburse Plaintiff and the Aggrieved Employees for all necessary business-related
4 expenses and costs, but, in fact, failed to do so in violation of California law.

5 41. Throughout the time period involved in this case, Defendants knew or should have
6 known that they had a duty to compensate Plaintiff and Aggrieved Employees pursuant to California
7 law. Defendants had the financial ability to pay such compensation, but willfully, knowingly, and
8 intentionally failed to do so, and falsely represented to Plaintiff and Aggrieved Employees that they
9 paid all wages owed to them, all in order to increase Defendants' profits.

10 **PAGA ALLEGATIONS**

11 42. At all times set forth herein, PAGA was applicable to Plaintiff's employment by
12 Defendants.

13 43. At all times set forth herein, PAGA provides that any provision of law under the
14 California Labor Code that provides for a civil penalty, including unpaid wages and premium wages,
15 to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA")
16 for violations of the California Labor Code may, as an alternative, be recovered through a civil action
17 brought by an aggrieved employee on behalf of herself and other current or former employees pursuant
18 to procedures outlined in California Labor Code section 2699.3.

19 44. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is
20 any person that was employed by the alleged violator and against whom one or more of the alleged
21 violations was committed.

22 45. Plaintiff was employed by Defendants and the alleged violations were committed
23 against her during her time of employment. Plaintiff is therefore an aggrieved employee. Plaintiff and
24 the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c)
25 in that they are current or former employees of Defendants and one of more of the alleged violations
26 were committed against them.

27 46. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
28 including Plaintiff, may pursue a civil action arising under PAGA after the following requirements

1 have been met:

2 (a) The aggrieved employee shall give written notice by certified mail (hereinafter
3 “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the
4 Labor Code alleged to have been violated, including the facts and theories to support the
5 alleged violations.

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

14 47. Plaintiff has exhausted her administrative remedies pursuant to Labor Code § 2699.3.
15 On November 10, 2021, Plaintiff, through her counsel of record, by online filing with the Labor and
16 Workforce Development Agency (“LWDA”) and by certified mail to the Defendants, notified
17 Defendants and the LWDA of the specific provisions of the Labor Code and IWC Wage Orders that
18 Defendants have violated, including the facts and theories to support the violations, and of Plaintiff’s
19 intent to bring a claim for civil penalties under PAGA. Plaintiff also paid the filing fee required under
20 Labor Code § 2699.3. As of the filing of this Complaint, more than 65 days have elapsed since the
21 mailing of Plaintiff’s November 10, 2021 notice, and the Labor and Workforce Development Agency
22 has not indicated that it intends to investigate the violations discussed in the notice. Accordingly,
23 Plaintiff may commence a civil action to recover penalties for herself and other Aggrieved Employees
24 pursuant to Labor Code § 2699.3.

25 48. Accordingly, the administrative prerequisites under California Labor Code section
26 2699.3(a) to recover civil penalties against Defendants have been fully exhausted and Plaintiff may
27 commence a civil action to recover penalties against Defendants, in addition to other remedies for
28 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3 510, 512(a),

1 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

2 **FIRST CAUSE OF ACTION**

3 **Violation of California Labor Code §§ 2698, Et Seq.**

4 **(Against All Defendants)**

5 49. Plaintiff incorporates herein by specific reference, as though fully set forth, the
6 allegations in all preceding paragraphs.

7 50. Plaintiff brings this action as a representative action on behalf of themselves, other
8 Aggrieved Employees, and the State of California in their capacity as a private attorney general
9 pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et seq.
10 (“PAGA”).

11 51. PAGA expressly provides for a private right of action to recover civil penalties for
12 violations of the Labor Code as follows: “Notwithstanding any other provision of law, any provision
13 of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
14 Development Agency or any of its departments, divisions, commissions, boards, agencies, or
15 employees, for a violation of this code, may, as an alternative, be recovered through a civil action
16 brought by an aggrieved employee on behalf of himself or herself and other current or former
17 employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code § 2699(a).

18 52. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
19 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
20 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

21 53. Plaintiff and the other hourly-paid, non-exempt employees are “Aggrieved Employees”
22 as defined by California Labor Code section 2699(c) in that they are all current or former employees
23 of Defendants, and one or more of the alleged violations were committed against them.

24 54. As set forth in detail above and below, during all times relevant to this Action,
25 Defendant has routinely subjected Plaintiff and the Aggrieved Employees to violations of California
26 Labor Codes by:

- 27 (a) Failing to pay Plaintiff and the Aggrieved Employees all earned minimum wage
28 compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*

- 1 (b) Failing to pay Plaintiff and the Aggrieved Employees all earned overtime
2 compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*
- 3 (c) Failing to provide legally required meal periods to Plaintiff and the Aggrieved
4 Employees, and failing to pay Plaintiff and the Aggrieved Employees an additional
5 hour of premium pay for meal period violations in violation of Labor Code §§ 226.7
6 and 512.
- 7 (d) Failing to provide authorize and permit Plaintiff and the Aggrieved Employees to
8 take duty-free rest periods, and failing to pay Plaintiff and the Aggrieved
9 Employees an additional hour of premium pay for rest period violations in violation
10 of Labor Code §§ 226.7 and 512.
- 11 (e) Failing to timely pay Plaintiff and the Aggrieved Employees all wages at end of
12 their employment in violation of Labor Code § 203.
- 13 (f) Failing to timely pay Plaintiff and the Aggrieved Employees all wages owed during
14 employment in violation of Labor Code § 204.
- 15 (g) Failing to furnish Plaintiff and the Aggrieved Employees with complete, accurate,
16 itemized wage statements in violation of Labor Code § 226.
- 17 (h) Failing to maintain accurate records relating to Plaintiff and the Aggrieved
18 Employees' work periods, meal periods, total daily hours, hours per pay period,
19 total wages and compensation, and applicable pay rates in violation of Labor Code
20 § 1174(d) and the applicable IWC Wage Order.
- 21 (i) Failing to reimburse Plaintiff and the Aggrieved Employees for necessary business-
22 related expenses in violation of Labor Code §§ 2800 and 2802.
- 23 (j) Failing to pay Plaintiff and the Aggrieved Employees for all vested but unused
24 vacation time in violation of Labor Code § 227.3.

25 55. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5,
26 Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of
27 civil penalties for Plaintiff, all Aggrieved Employees, and the State of California against Defendants
28 for violations of Labor Code sections set forth herein, including but penalties under California Labor
Code sections 2699, 558, 210, 1197.1, 226, 226.3, 1174.5, and 1197.1, penalties under the applicable

1 IWC Wage Order, and any and all additional penalties and remedies as provided by the California
2 Labor Code and/or other statutes.

3 56. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
4 Aggrieved Employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for
5 the enforcement of labor laws and education of employers and employees about their rights and
6 responsibilities and twenty-five (25%) to the Aggrieved Employees.

7 57. Plaintiff was compelled to retain the services of counsel to file this court action, and to
8 assess and collect the civil penalties owed by Defendants. Plaintiff therefore seeks an award of
9 reasonable attorney's fees and costs pursuant to Labor Code §§ 210, 218.5, 2699(g)(1), and any other
10 applicable statute.

11 **Failure to Pay Overtime Wages**

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

16 59. Specifically, the applicable IWC Wage Order provides that Defendants are and were
17 required to pay Plaintiff and Aggrieved Employees employed by Defendants, and working more than
18 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-and-one-half
19 for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

20 60. The applicable IWC Wage Order further provides that Defendants are and were
21 required to pay Plaintiff and Aggrieved Employees employed by Defendants, and working more than
22 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.

23 61. California Labor Code section 510 codifies the right to overtime compensation at one-
24 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
25 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to
26 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours
27 in a day or in excess of eight (8) hours in a day on the seventh day of work.

28 62. During the relevant time period, Plaintiff and Aggrieved Employees regularly worked

1 in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty
2 (40) hours in a week performing work duties “off-the-clock.”

3 63. During the relevant time periods, Defendants further failed to pay overtime to Plaintiff
4 and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly
5 calculated to include all applicable remuneration, including non-discretionary commissions, non-
6 discretionary bonuses, and non-discretionary performance pay.

7 64. Defendants’ failure to pay Plaintiff and Aggrieved Employees the unpaid balance of
8 overtime compensation, as required by California law, violates the provisions of California Labor
9 Code sections 510 and 1198, and is therefore unlawful.

10 **Failure to Pay Minimum Wages**

11 65. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 have
12 provided that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to
13 employees, and the payment of a wage less than the minimum so fixed is unlawful. Defendants’ failure
14 to pay minimum wages included, *inter alia*, Defendants’ failure to pay Plaintiff and the Aggrieved
15 Employees any wages for time spent working “off-the-clock.” Accordingly, Defendants regularly
16 failed to pay at least minimum wages to Plaintiff and Aggrieved Employees for all of the hours they
17 worked in violation of California Labor Code sections 1194, 1197 and 1197.1.

18 66. Defendants’ failure to pay Plaintiff and Aggrieved Employees the minimum wage as
19 required violates California Labor Code sections 1194, 1197 and 1197.1.

20 **Failure to Provide Meal Periods**

21 67. At all relevant times herein set forth, California Labor Code section 226.7 has provided
22 that no employer shall require an employee to work during any meal period mandated by an applicable
23 IWC Order.

24 68. At all relevant times herein set forth, California Labor Code section 512(a) has
25 provided that an employer may not require, cause, or permit an employee to work for a period of more
26 than five (5) hours per day without providing the employee with a meal period of not less than thirty
27 (30) minutes, except that if the total work period per day of the employee is not more than six (6)
28 hours, the meal period may be waived by mutual consent of both the employer and the employee.

1 69. During the relevant time period, Plaintiff and Aggrieved Employees who were
2 scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally
3 mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours
4 without a meal period of not less than thirty (30) minutes.

5 70. During the relevant time period, Plaintiff and the Aggrieved Employees,
6 who were scheduled to work for a period of time in excess of six (6) hours, were required to work for
7 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
8 minutes.

9 71. During the relevant time period, Plaintiff and the Aggrieved Employees,
10 who were scheduled to work for a period of time in excess of ten (10) hours but no longer then twelve
11 (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were
12 required to work in excess of ten (10) hours without receiving a second uninterrupted meal period of
13 not less than thirty (30) minutes.

14 72. During the relevant time period, Plaintiff and the Aggrieved Employees,
15 who were scheduled to work for a period of time in excess of twelve (12) hours, were required to work
16 for periods longer than ten (10) hours without a second uninterrupted meal period of not less than
17 thirty (30) minutes.

18 73. During the relevant time period, Defendants willfully required Plaintiff and the
19 Aggrieved Employees to work during meal periods and failed to compensate Plaintiff and Aggrieved
20 Employees for work performed during meal periods. By way of example, Defendants failed to relieve
21 Plaintiff of all duties such that Plaintiff could take compliant meal periods. As a result, Plaintiff worked
22 through mandated meal periods.

23 74. Defendants failed to pay Plaintiff and the Aggrieved Employees the full meal period
24 premium due in violation of California Labor Code sections 226.7 and 512 on each occasion when a
25 timely, uninterrupted meal period of at least thirty (30) minutes was not provided. Defendants failed
26 to incorporate all nondiscretionary payments for work performed by Plaintiff and the Aggrieved
27 Employees in the regular rate of compensation.

28 75. Defendants' conduct violates applicable IWC Wage Order(s), and California Labor

Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

76. At all relevant times, California Labor Code section 226.7 has provided that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

77. At all relevant times, 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 (3½) hours.

78. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and the Aggrieved Employees are entitled to recover from Defendants one (1) additional hour of pay at the employee’s regular hourly rate of compensation for each work day that the rest period was not provided.

79. During the relevant time period, Defendants required Plaintiff and the Aggrieved Employees to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period, or major fraction thereof worked. During the relevant time period, Defendants willfully required Plaintiff and the Aggrieved Employees to work during rest periods. By way of example, Defendants failed to relieve Plaintiff of all duties such that Plaintiff could take compliant rest periods. As a result, Plaintiff worked through mandated rest periods.

80. Defendants failed to pay Plaintiff and Aggrieved Employees the full rest period premium due in violation of California Labor Code sections 226.7 and 512 on each occasion when a timely, uninterrupted rest period of at least ten (10) minutes was not provided. Defendants failed to incorporate all nondiscretionary payments for work performed by Plaintiff and the Aggrieved Employees in the regular rate of compensation.

81. Defendants’ conduct violates the applicable IWC Wage Orders and California Labor Code section 226.7.

1 **Failure to Timely Pay Wages During Employment**

2 82. At all relevant times herein set forth, California Labor Code section 204 has provided
3 that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of
4 any calendar month, other than those wages due upon termination of an employee, are due and payable
5 between the 16th and the 26th day of the month during which the labor was performed.

6 83. At all times herein set forth, California Labor Code section 204 has provided that all
7 wages earned by any person in any employment between the 16th and the last day, inclusive, of any
8 calendar month, other than those wages due upon termination of an employee, are due and payable
9 between the 1st and the 10th day of the following month.

10 84. At all times herein set forth, California Labor Code section 204 has provided that all
11 wages earned for labor in excess of the normal work period shall be paid no later than the payday for
12 the next regular payroll period.

13 85. During the relevant time period, Defendants intentionally and willfully failed to pay
14 Plaintiff and the Aggrieved Employees all wages due to them, within any time period permissible
15 under California Labor Code section 204, including wages for overtime compensation, minimum wage
16 compensation, meal period premiums, and rest period premiums.

17 **Failure to Timely Pay Wages Upon Termination**

18 86. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
19 to pay all earned and unpaid wages to an employee who is discharged. California Labor Code section
20 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid
21 at the time of discharge are due and payable immediately. California Labor Code section 202 mandates
22 that if an employee quits, his or her wages shall become due and payable not later than seventy-two
23 (72) hours thereafter, unless the employee has given seventy-two (72) hours notice of his or her
24 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

25 87. California Labor Code section 203 provides that if an employer willfully fails to pay,
26 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
27 discharged or who quits, the wages of the employee shall continue as a penalty from the due date
28 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not

1 continue for more than thirty (30) days.

2 88. At the time that Plaintiff and the Aggrieved Employees' employment with Defendants
3 ended, Defendants knowingly and willfully failed to pay Plaintiff and the Aggrieved Employees all
4 wages owed to them pursuant to California Labor Code sections 201 and 202, including, without
5 limitation, overtime wages, minimum wages, meal period premium wages, rest period premium
6 wages, and wages owed for accrued vacation time.

7 **Failure to Provide Compliant Wage Statements**

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

21 90. Defendants have intentionally and willfully failed to provide employees with complete
22 and accurate wage statements. The deficiencies include, among other things, the failure to state all
23 correct rates of pay, all hours worked, all meal period premium wages earned, and all rest period
24 premium wages earned.

25 **Failure to Keep Requisite Payroll Records**

26 91. At all relevant times set forth herein, California Labor Code section 1174(d) has
27 required an employer to keep, at a central location in the state or at the plants or establishments at
28 which employees are employed, payroll records showing the hours worked daily by and the wages

1 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
2 employed at the respective plants or establishments. These records shall be kept in accordance with
3 rules established for this purpose by the commission, but in any case shall be kept on file for not less
4 than two years.

5 92. Defendants have intentionally and willfully failed to keep accurate and complete
6 payroll records showing the hours worked daily and the wages paid, to Plaintiff and the Aggrieved
7 Employees.

8 93. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiff
9 and the Aggrieved Employees have suffered injury and damage to their statutorily-protected rights.

10 94. More specifically, Plaintiff and the Aggrieved Employees have been injured by
11 Defendants' intentional and willful violation of California Labor Code section 1174(d) because they
12 were denied both their legal right and protected interest, in having available, accurate and complete
13 payroll records pursuant to California Labor Code section 1174(d).

14 **Failure to Reimburse Necessary Business Expenses**

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

19 96. Plaintiff and the Aggrieved Employees incurred necessary business-related expenses
20 and costs that were not fully reimbursed by Defendants, including, but not limited to, use of personal
21 cell phones.

22 97. Defendants intentionally and willfully failed to reimburse Plaintiff and the Aggrieved
23 Employees for all necessary business-related expenses and costs.

24
25 **PRAYER FOR RELIEF**

26 Plaintiff prays for relief and judgment against Defendants, jointly and severally, as follows:

27 1. For statutory attorneys' fees and costs pursuant to sections 210, 218.5 and 2699(g)(1)
28 of California Labor Code;

1 2. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210,
2 558, 226, 226.3, 1174.5, 1197.1 and all other penalties allowed by the California Labor Code and/or
3 other applicable statutes; and

4 3. For such other and further relief as the Court may deem proper.

5 Respectfully Submitted,

6 Dated: January 18, 2022

BLACKSTONE LAW, APC

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8 By: _____
9 S. Emi Minne
10 Attorneys for Plaintiff Lexy Barajas
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