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County of Los Angeles

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SERG RAMIREZ and FRITZGERALD DE
ROXAS, individually, on behalf of other
members of the general public similarly
situated, and as aggrieved employees
pursuant to the Private Attorneys General
Act ("PAGA"), on behalf of the State of
California and other aggrieved employees,

Plaintiff,

vs.

BAXALTA US INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 21STCV07572

*[Assigned for All Purposes to Hon. Kenneth R.
Freeman – Dept. 14]*

**THIRD AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (2) Violation of California Labor Code §§ 510, 511, and 1198 (Unpaid Overtime);
- (3) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (4) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to

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- Provide Meal Periods);
- (5) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
 - (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
 - (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
 - (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
 - (9) Claim for Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
 - (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
 - (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiffs Serg Ramirez and Fritzgerald De Roxas, individually and on behalf of all other
2 similarly situated individuals, Plaintiff De Roxas as an aggrieved employee and on behalf of the
3 State of California and all other aggrieved employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiffs, the State of California, and other
8 current and former employees who worked for Defendants in California as a non-exempt, hourly
9 paid employee and received at least one wage statement and against whom one or more
10 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision
11 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”)
12 Wage Order were committed, as set forth in this complaint. The monetary damages, penalties,
13 and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court
14 and will be established according to proof at trial. This Court has jurisdiction over this action
15 pursuant to the California Constitution, Article VI, section 10. The statutes under which this
16 action is brought do not specify any other basis for jurisdiction. Plaintiffs’ share of damages,
17 penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
21 over them by the California courts consistent with traditional notions of fair play and substantial
22 justice.

23 3. Venue as to each Defendant is proper in this judicial district, pursuant to Code
24 of Civil Procedure §395 because Defendants operate within California and do business within
25 Los Angeles County, Defendants employ persons in this county and employed Plaintiffs in this
26 county, and thus a substantial portion of the transactions and occurrences related to this action
27 occurred in this county.

28 4. This case should be classified as complex according to Rule 3.400 of the

California Rules of Court, and assigned to a complex litigation judge and department, as it will involve substantial documentary evidence, a large number of witnesses, and is likely to involve extensive motion practice raising difficult or novel issues that will be time-consuming to resolve and would require substantial post judgment judicial supervision.

THE PARTIES

5. Plaintiff Serg Ramirez is a resident of California. Plaintiff Ramirez and all Proposed Class Members were regularly required to work without being provided accurate itemized wage statements that show total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

6. Plaintiff Fritzgerald De Roxas is a resident of Los Angeles, in Los Angeles County, California. Defendants employed Plaintiff De Roxas as an hourly paid, non-exempt Manufacturing Technician from approximately December 2005 to August 2021. During his employment, Plaintiff De Roxas typically worked eight (8) to twelve (12) hours per day and three (3) to four (4) days per week. Plaintiff De Roxas' primary job duties included, without limitation, handling biological materials, loading blood plasma into tanks, and processing blood plasma.

7. BAXALTA US INC. was and is, upon information and belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California. Defendant's corporate address is believed to be 1200 Lakeside Drive, Bannockburn, IL 60015. Upon information and belief, Defendant employed Plaintiffs and similarly situated persons as hourly employees within California. Defendant has done and does business throughout the State of California.

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

9. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

1 were the partners, agents, owners, or managers BAXALTA US INC. at all relevant times.

2 10. Plaintiff is informed and believes, and thereon alleges, that each and all of the
3 acts and omissions alleged herein was performed by, or is attributable to, BAXALTA US INC.
4 and/or DOES 1 through 10 (collectively, “Defendants” or “BAXALTA”), each acting as the
5 agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other
6 co-Defendants and was acting within the course and scope of such agency, employment, joint
7 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
8 and all Defendants were in accordance with, and represent, the official policy of Defendants.

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

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

16 **GENERAL ALLEGATIONS**

17 13. Defendants are a leading global biotechnology company focused on serving
18 patients with rare diseases and other highly specialized conditions. Upon information and
19 belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their
20 company headquarters in Bannockburn, Illinois, which is responsible for the recruiting and
21 hiring of new employees, and communicating and implementing Defendants’ company-wide
22 policies, including timekeeping policies and meal and rest period policies, to employees
23 throughout California.

24 14. In particular, Plaintiffs and class members, on information and belief, received
25 the same standardized documents and/or written policies. Upon information and belief, the
26 usage of standardized documents and/or written policies, including new-hire documents,
27 indicate that Defendants dictated policies at the corporate level and implemented them
28 company-wide, regardless of their employees’ assigned locations or positions. Upon

1 information and belief, Defendants set forth uniform policies and procedures in several
2 documents provided at an employee's time of hire.

3 15. Upon information and belief, Defendants maintain a centralized Payroll
4 department at their company headquarters in Bannockburn, Illinois, which processes payroll for
5 all non-exempt, hourly paid employees working for Defendants at their various locations and
6 jobsites in California, including Plaintiffs and class members. Based upon information and
7 belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid
8 employees in California, irrespective of their work locations. Upon information and belief,
9 Defendants process payroll for departing employees in the same manner throughout the State
10 of California, regardless of the manner in which each employee's employment ends.

11 16. Defendants continue to employ non-exempt or hourly paid employees in
12 California.

13 17. Plaintiffs are informed and believe, and thereon allege, that at all times herein
14 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
15 advisors knowledgeable about California labor and wage law, employment and personnel
16 practices, and about the requirements of California law.

17 18. Plaintiffs are informed and believe, and thereon alleges, that Defendants knew or
18 should have known that Plaintiffs and class members were entitled to receive complete and
19 accurate wage statements in accordance with California law. In violation of the California
20 Labor Code, Plaintiffs and class members were not provided complete and accurate wage
21 statements.

22 19. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
23 should have known that they had a duty to maintain accurate and complete payroll records in
24 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
25 knowingly, and intentionally failed to do so.

26 20. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class
27 members were not paid for all hours worked because all hours worked were not recorded.

28 21. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiffs and class members were entitled to receive certain wages for
2 overtime compensation and that they were not receiving certain wages for overtime
3 compensation.

4 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
5 should have known that Plaintiffs and class members were entitled to be paid at a regular rate
6 of pay, and corresponding overtime rates of pay, that included as eligible income all
7 remuneration required by law, including but not limited to, all income derived from shift
8 differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of compensation,
9 but failed to include all forms of remuneration in calculating the regular rate of pay for Plaintiffs
10 and class members.

11 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and class members were entitled to receive at least minimum
13 wages for compensation and that they were not receiving at least minimum wages for work that
14 was required to be done off-the-clock. In violation of the California Labor Code, Plaintiffs and
15 class members were not paid at least minimum wages for work done off-the-clock.

16 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
17 should have known that Plaintiffs and class members were entitled to meal periods in
18 accordance with the California Labor Code and applicable IWC Wage Order or payment of one
19 (1) additional hour of pay at their regular rates of pay when they were not provided with timely,
20 uninterrupted, thirty (30) minute meal periods and that Plaintiffs and class members were not
21 provided with all meal periods or payment of one (1) additional hour of pay at their regular rates
22 of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

23 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and class members were entitled to rest periods in accordance
25 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
26 additional hour of pay at their regular rates of pay when they were not authorized and permitted
27 to take a compliant rest period. In violation of the California Labor Code, Plaintiffs and class
28 members were not authorized and permitted to take compliant rest periods, nor did Defendants

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

3 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that Plaintiffs and class members were entitled to timely payment of all
5 wages earned upon termination of employment. In violation of the California Labor Code,
6 Plaintiffs and class members did not receive payment of all wages due, including, but not limited
7 to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or
8 reporting time pay, within permissible time periods.

9 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
10 should have known that Plaintiffs and class members were entitled to timely payment of wages
11 during their employment. In violation of the California Labor Code, Plaintiffs and class
12 members did not receive payment of all wages, including, but not limited to, overtime wages,
13 minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay,
14 within permissible time periods.

15 28. Plaintiffs are informed and believes, and thereon alleges, that Defendants knew
16 or should have known that Plaintiffs and class members were entitled to receive sick leave
17 benefits to be paid at a regular rate of pay, that included, as eligible income, all income derived
18 from shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of
19 compensation, but failed to include all forms of remuneration in calculating the regular rate of
20 pay for sick leave pay.

21 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known that Plaintiffs and class members were entitled to receive all reporting time
23 pay when Defendants required Plaintiffs and class members to report to work but were put to
24 work for less than half of their regular scheduled shift. In violation of the California Labor
25 Code and applicable IWC Wage Order, Plaintiffs and class members were not paid all reporting
26 time pay.

27 30. Plaintiffs are informed and believe, and thereon alleges, that Defendants knew or
28 should have known that Plaintiffs and class members were entitled to receive full reimbursement

1 for all business-related expenses and costs they incurred during the course and scope of their
2 employment and that they did not receive full reimbursement of applicable business-related
3 expenses and costs incurred.

4 31. Plaintiffs are informed and believes, and thereon alleges, that at all times herein
5 mentioned, Defendants knew or should have known that they had a duty to provide Plaintiffs
6 and class members with safety devices and safeguards, such as personal protective equipment
7 to protect their life, safety, and health in the workplace, but failed to do so.

8 32. Plaintiffs are informed and believe, and thereon allege, that at all times herein
9 mentioned, Defendants knew or should have known that they had a duty to compensate
10 Plaintiffs and class members for all hours worked, and that Defendants had the financial ability
11 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
12 represented to Plaintiffs and class members that they were properly denied wages, all in order
13 to increase Defendants' profits.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

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

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

24 35. Plaintiffs and other current and former employees of Defendants are "aggrieved
25 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
26 or former employees and one or more of the alleged violations were committed against them.

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

1 following requirements have been met:

- 2 (a) The aggrieved employee shall give written notice by online filing
3 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail to
4 the employer of the specific provisions of the California Labor Code
5 alleged to have been violated, including the facts and theories to support
6 the alleged violations.
- 7 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
8 2699.3(a) and any employer response to that notice shall be accompanied
9 by a filing fee of seventy-five dollars (\$75).
- 10 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
11 employer and the aggrieved employee by certified mail that it does not
12 intend to investigate the alleged violation within sixty (60) calendar days
13 of the postmark date of the Employee’s Notice. Upon receipt of the
14 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
15 (65) calendar days of the postmark date of the Employee’s Notice, the
16 aggrieved employee may commence a civil action pursuant to California
17 Labor Code section 2699 to recover civil penalties in addition to any other
18 penalties to which the employee may be entitled.

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

- 22 (a) The aggrieved employee or representative shall give written notice by
23 online filing to the LWDA and by certified mail to the employer of the
24 specific provisions of the California Labor Code alleged to have been
25 violated (other than those listed in Section 2699.5), including the facts
26 and theories to support the alleged violation.
- 27 (b) An aggrieved employee’s notice filed with the LWDA pursuant
28 to 2699.3(c) and any employer response to that notice shall be

1 accompanied by a filing fee of seventy-five dollars (\$75).

2 (c) The employer may cure the alleged violation within thirty-three (33)
3 calendar days of the postmark date of the notice. The employer shall give
4 written notice by certified mail within that period of time to the aggrieved
5 employee or representative and the agency if the alleged violation is
6 cured, including a description of actions taken, and no civil action
7 pursuant to Section 2699 may commence. If the alleged violation is not
8 cured within the 33-day period, the employee may commence a civil
9 action pursuant to Section 2699.

10 38. On November 3, 2021, Plaintiff De Roxas provided written notice by online
11 filing to the LWDA and by certified mail to Defendants of the specific provisions of the
12 California Labor Code alleged to have been violated, including facts and theories to support the
13 alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff De
14 Roxas' written notice was accompanied with the applicable filing fee of seventy-five dollars
15 (\$75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff De Roxas' written
16 notice and assigned Plaintiff PAGA Case Number LWDA-CM-850975-21. A true and correct
17 copy of Plaintiff De Roxas's written notice to the LWDA and Defendants dated November 3,
18 2021, is attached hereto as "Exhibit 1."

19 39. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
20 sent the written notices described above, and the LWDA has not responded that it intends to
21 investigate Plaintiffs' claims, and Defendants have not cured the violations.

22 40. Thus, Plaintiffs have satisfied the administrative prerequisites under California
23 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
24 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 511, 512(a),
25 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403.

26 41. Labor Code section 558(a) provides "[a]ny employer or other person acting on
27 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
28 provision regulating hours and days of work in any order of the Industrial Welfare Commission

1 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
2 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)
3 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
4 each pay period for which the employee was underpaid. . . .” Labor Code section 558(c)
5 provides “[t]he civil penalties provided for in this section are in addition to any other civil or
6 criminal penalty provided by law.”

7 42. Defendants, at all times relevant to this complaint, were employers or persons
8 acting on behalf of an employer(s) who violated Plaintiffs’ and other aggrieved employees’
9 rights by violating various sections of the California Labor Code as set forth above.

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

13 44. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
14 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiffs, acting in the public interest as private
15 attorneys general, seeks assessment and collection of civil penalties for themselves, all other
16 aggrieved employees, and the State of California against Defendants for violations of California
17 Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12,
18 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403.

19 **CLASS ACTION ALLEGATIONS**

20 45. Plaintiffs bring this action on their own behalves, as well as on behalf of each
21 and all other persons similarly situated, and thus seek class certification under California Code
22 of Civil Procedure section 382.

23 46. All claims alleged herein arise under California law for which Plaintiffs seek
24 relief authorized by California law.

25 47. Plaintiffs’ proposed class consists of and is defined as follows:

26 All persons who worked for Defendants as non-exempt, hourly
27 paid employees in California, at any time from July 19, 2019, until
the date of trial (“Class”).

28 48. Plaintiffs’ proposed subclass consists of and is defined as follows:

1 All persons who worked for Defendants as non-exempt, hourly
2 paid employees in California and who received at least one wage
3 statement within one (1) year prior to the filing of the initial
4 complaint until the date of trial (“Subclass”).

4 49. Members of the Class and Subclass are referred to herein as “class members.”

5 50. Plaintiffs reserve the right to redefine the Class and Subclass and to add
6 additional subclasses as appropriate based on further investigation, discovery, and specific
7 theories of liability.

8 51. There are common questions of law and fact as to class members that predominate over
9 questions affecting only individual members, including, but not limited to:

- 10 (a) Whether Defendants provided Plaintiffs and class members with
11 complete and accurate wage statements as required by California Labor
12 Code section 226(a);
- 13 (b) Whether Defendants maintained accurate payroll records as required by
14 California Labor Code section 1174(d);
- 15 (a) Whether Defendants required Plaintiffs and class members to work over
16 eight (8) hours per day, over twelve (12) hours per day, or over forty (40)
17 hours per week and failed to pay all legally required overtime
18 compensation to Plaintiffs and class members;
- 19 (b) Whether Defendants failed to properly calculate the “regular rate” of pay
20 on which Plaintiffs’ and class members’ overtime rate of pay was based;
- 21 (c) Whether Defendants failed to pay Plaintiffs and class members at least
22 minimum wages for all hours worked;
- 23 (d) Whether Defendants failed to provide Plaintiffs and class members with
24 meal periods;
- 25 (e) Whether Defendants failed to authorize and permit Plaintiffs and class
26 members to take rest periods;
- 27 (f) Whether Defendants failed to pay earned overtime wages, minimum
28 wages, meal and rest period premiums, sick leave pay, and/or reporting

- time pay, due to Plaintiffs and class members upon their discharge;
- (g) Whether Defendants failed timely to pay overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, due to Plaintiffs and class members during their employment;
- (h) Whether Defendants failed to properly calculate the “regular rate” of pay upon which Plaintiffs’ and class members’ sick leave rate of pay was based;
- (i) Whether Defendants required Plaintiffs and class members to report to work, but failed to provide them with work or provided them with less than half their scheduled day’s work, without properly compensating them as required by California Code of Regulations, Title 8, section 11010, subsection 5;
- (j) Whether Defendants failed to reimburse Plaintiffs and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (k) Whether Defendants failed to provide Plaintiffs and class members with safety devices and safeguards, such as personal protective equipment;
- (l) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (m) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants’ violations of California law.

52. There is a well-defined community of interest in the litigation and the class members are readily ascertainable:

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiffs at this time; however, the class is estimated to be greater than one hundred (100) individuals and the

identity of such membership is readily ascertainable by inspection of Defendants' employment records.

(b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest, and Plaintiffs' claims (or defenses, if any) are typical of all class members as demonstrated herein.

(c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs acknowledge that they have an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

(e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through

negative references and/or other means. Class actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights while simultaneously protecting their privacy.

FIRST CAUSE OF ACTION

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

53. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

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

55. At all relevant times, Defendants have knowingly and intentionally provided Plaintiffs and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiffs and Subclass members 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 and the corresponding number of hours worked at each hourly rate by the employee, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

56. First, Defendants issue Plaintiffs and the Proposed Class itemized wage statements that fail to accurately show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and instead show "Details Not Displayed".

1 57. Frequently, "Total Hours" listed on the wage statements issued to Plaintiffs and
2 the Proposed Class are inaccurate because holiday pay/vacation is included.

3 58. Defendants issue Plaintiffs and the Proposed Class itemized wage statements
4 that fail to accurately show all applicable hourly rates in effect during the pay period
5 and the corresponding number of hours worked at each hourly rate by the employee and
6 instead show "LTD Imputed Income," "Shift Diff," "Environmental Diff," and "GTL Imputed
7 Income". These entries do not accurately show hours worked or hourly rates.

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

18 60. Third, because Defendants did not calculate Plaintiffs' and Subclass members'
19 regular rate of pay correctly for purposes of paying overtime wages, meal and rest period
20 premiums, and/or paid sick leave, Defendants did not list the correct amount of gross wages in
21 compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct
22 amount of net wages in violation of section 226(a)(5). Defendants also failed to correctly list
23 all applicable hourly rates in effect during the pay period, namely, correct rates of pay for
24 overtime wages, meal and rest premiums, and/or paid sick leave, in violation of section
25 226(a)(9).

26 61. The wage statement deficiencies also include, among other things, failing to list
27 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
28 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for

1 which employees were paid; failing to list the name of the employee and only the last four digits
2 of his or her social security number or an employee identification number other than a social
3 security number; failing to list the name and address of the legal entity that is the employer;
4 and/or failing to state all hours worked as a result of not recording or stating the hours they
5 worked off-the-clock.

6 62. California Labor Code section 1174(d) provides that “[e]very person employing
7 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
8 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
9 plants or establishments at which employees are employed, payroll records showing the hours
10 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
11 applicable piece rate paid to, employees employed at the respective plants or
12 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
13 Defendants willfully failed to maintain accurate payroll records for Plaintiffs and Subclass
14 members showing the daily hours they worked and the wages paid thereto as a result of failing
15 to record the off-the-clock hours that they worked and improperly rounding Plaintiffs’ and
16 Subclass members’ total hours worked.

17 63. California Labor Code section 1198 provides that the maximum hours of work
18 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
19 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
20 of any employees for longer hours than those fixed by the order or under conditions of labor
21 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
22 are required to keep accurate time records showing when the employee begins and ends each
23 work period and meal period. During the relevant time period, Defendants failed, on a
24 company-wide basis, to keep accurate records of work period and meal period start and stop
25 times for Plaintiffs and Subclass members, in violation of section 1198. Also, as stated,
26 Defendants engaged in a company-wide practice and/or policy of falsifying Plaintiffs’ and
27 Subclass members’ time records by recording that compliant meal periods were taken regardless
28 of if or when meal periods were actually taken, and thereby failed to keep accurate records of

1 meal start and end times for Plaintiffs and Subclass members. Furthermore, in light of
2 Defendants' failure to provide Plaintiffs and Subclass members with second 30-minute meal
3 periods to which they were entitled, Defendants kept no records of meal start and end times for
4 second meal periods.

5 64. Plaintiffs and Subclass members are entitled to recover from Defendants the
6 greater of their actual damages caused by Defendants' failure to comply with California Labor
7 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
8 employee.

9 **SECOND CAUSE OF ACTION**

10 **Violation of California Labor Code §§ 510, 511, and 1198—Unpaid Overtime** 11 **(Against all Defendants)**

12 65. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
13 every allegation set forth above.

14 66. Labor Code section 1198 makes it illegal to employ an employee under
15 conditions of labor that are prohibited by the applicable wage order. California Labor Code
16 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
17 be the . . . standard conditions of labor for employees. The employment of any employee . . .
18 under conditions of labor prohibited by the order is unlawful.”

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

23 68. Specifically, the applicable IWC Wage Order provides that Defendants are and
24 were required to pay Plaintiffs and class members working more than eight (8) hours in a day
25 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours
26 worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

27 69. The applicable IWC Wage Order further provides that Defendants are and were
28 required to pay Plaintiffs and class members 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.

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

71. California Labor Code section 511 allows the employer, with the employees' approval, to offer an alternative workweek schedule that authorizes employees to work no more than ten (10) hours per day and forty (40) hours per week without receiving overtime compensation. An alternative workweek schedule must pay the employees overtime at one and one-half (1 ½) times their regular hourly rate for work in excess of ten (10) hours per day or forty (40) hours per week. Overtime must be paid at twice the employees' regular hourly rate for work in excess of twelve (12) hours a day.

72. During the relevant time period, Defendants willfully failed to pay all overtime wages owed to Plaintiffs and class members. During the relevant time period, Plaintiffs and class members were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not recorded.

73. First, during the relevant time period, Defendants had a company-wide policy and/or practice of discouraging and impeding Plaintiffs and class members from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. This policy of limiting overtime, coupled with Defendants' practices of understaffing and assigning heavy workloads and productivity expectations, led Plaintiffs and class members to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, during weekend shifts, Defendants scheduled a 30-

1 minute gap between day and night shifts, but required Plaintiffs and class members to arrive to
2 work early on an alternating basis, to monitor product between the shifts.

3 74. Defendants' company-wide practices and policies to discourage and limit
4 overtime accrual also led Plaintiffs and class members to perform work-related duties after they
5 clocked out at their scheduled shift end-times. For example, after he clocked out for his shift,
6 Plaintiff De Roxas's supervisor sometimes required him to continue working and correct or
7 complete paperwork. Moreover, Plaintiff De Roxas and class members were required to
8 complete online trainings, such as ISO trainings, but Defendants did not have enough on-site
9 computers available to employees. As a result, Plaintiff De Roxas and class members were
10 required to complete some of these trainings at home. Defendants failed to track the time
11 Plaintiff De Roxas and class members spent completing the mandatory trainings, and Plaintiff
12 De Roxas and class members received no compensation for this time. Further, when Plaintiff
13 De Roxas and class members were assigned to work at Defendants' other facilities for special
14 projects, they were not compensated for their travel time. Thus, Defendants failed to track the
15 time spent working before and after scheduled shifts, and Plaintiff De Roxas and class members
16 received no compensation for this time.

17 75. Second, during the relevant period, Defendants implemented, on a company-
18 wide basis, an employer-imposed requirement that Plaintiffs and class members undergo
19 mandatory COVID-19 temperature checks and/or health screenings before clocking in for their
20 scheduled shifts. Prior to his shift, Plaintiffs were sometimes required to spend several minutes
21 per instance waiting and then undergoing the mandatory temperature check and/or health
22 screening, before being permitted to clock in for their shifts. Even though Defendants required
23 these health screenings, Defendants did not provide Plaintiffs and class members a mechanism
24 to record this time worked so they could be compensated for the time spent undergoing
25 mandatory temperature checks and/or health screenings.

26 76. Third, during the relevant period, Defendants had, and continue to have, a
27 company-wide policy and/or practice of improperly rounding employees' clock-in and clock-
28 out duration times in their timekeeping system to the nearest half (0.5) of an hour. Defendants'

1 rounding policy resulted in the failure to compensate Plaintiffs and class members fully for all
2 hours worked, causing Plaintiffs and class members to not be paid overtime wages for all of the
3 overtime hours they actually worked. Defendants' policy of rounding is unfair and has, over
4 time, resulted in the underpayment of wages to Plaintiffs and class members. To the extent
5 Defendants' rounding policy has taken away time worked that was eligible for overtime,
6 Plaintiffs and class members were denied overtime pay for all hours worked.

7 77. Fourth, as stated, Defendants had, and continue to have, a company-wide policy
8 of understaffing, such that there were too few employees on duty to handle the heavy workload,
9 meet productivity expectations, and provide uninterrupted meal period coverage. As a result,
10 Plaintiffs and class members were not provided adequate meal period coverage to allow them
11 to be relieved of their duties for compliant meal periods. In conjunction with understaffing their
12 facilities, Defendants had a company-wide practice or policy of failing to adhere to a schedule
13 for meal periods, which exacerbated the lack of meal period coverage. Consequently, Plaintiffs
14 and class members were required to work through and/or had their unpaid meal periods
15 interrupted in order to complete their assigned workloads.

16 78. Additionally, because Defendants frowned upon employees accruing meal period
17 penalties, Defendants' management pressured employees to clock out for meal periods and/or
18 adjusted time records to reflect compliant meal periods, regardless of whether they had actually
19 received a compliant meal period, in order to strictly limit meal penalties that Defendants would
20 otherwise owe. Thus, Defendants did not all record hours worked during meal periods and
21 Plaintiffs and/or class members performed work during meal periods for which they were not
22 paid.

23 79. Fifth, Defendants maintained a company-wide on-premises meal period policy,
24 which mandated that Plaintiffs and class members remain on Defendants' premises during their
25 meal periods. Because Plaintiffs and class members were restricted from leaving the premises
26 during meal periods, they were denied the ability to use their meal periods freely for their own
27 purposes, such as running personal errands. Thus, Defendants effectively maintained control
28 over Plaintiffs and class members during their meal periods.

1 80. Sixth, Defendants had, and continue to have, a company-wide policy and/or
2 practice of failing to pay proper overtime wages when they required Plaintiffs and class
3 members to work outside of their regularly scheduled alternative workweek schedule and failed
4 to pay all applicable overtime and/or double-time compensation owed for such hours of work.
5 In addition, to the extent Defendants implemented an alternative workweek schedule, as to
6 Plaintiffs and class members, Defendants failed to comply with all requirements for
7 implementing an alternative work week schedule, including, but not limited to, holding proper
8 workweek elections for the employees working alternative workweeks. Accordingly,
9 Defendants owe Plaintiffs and class members unpaid overtime wages.

10 81. Defendants knew or should have known that as a result of these company-wide
11 practices and/or policies, Plaintiffs and class members were performing their assigned duties
12 off-the-clock and/or during meal periods, and were suffered or permitted to perform work for
13 which they were not paid. Because Plaintiffs and class members worked shifts of eight (8)
14 hours or more a day and/or shifts of ten (10) hours or more a day, or forty (40) hours a week or
15 more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiffs
16 and class members were not paid overtime wages for all of the overtime hours they actually
17 worked.

18 82. Furthermore, Defendants did not pay Plaintiffs and class members the correct
19 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
20 wage, Defendants paid Plaintiffs and class members shift differential pay, incentive pay,
21 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
22 California Labor Code, Defendants failed to incorporate all compensation, including shift
23 differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration,
24 into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
25 Therefore, during times when Plaintiffs and class members worked overtime and received these
26 other forms of pay, Defendants failed to pay all overtime wages by paying a lower overtime rate
27 than required.

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83. Specifically, Defendants paid Plaintiffs and class members shift differential pay, incentive pay, and/or nondiscretionary bonuses which were listed on Plaintiffs' and class members' wage statements as "Shift08", "Shift10", "Recognition", "S T I P Bonus", and "Service Award", among others. During pay periods that Plaintiffs and class members were paid overtime wages, Defendants did not incorporate the shift differential pay, incentive pay, and/or nondiscretionary bonuses into Plaintiffs' and class members' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, Defendants paid Plaintiffs and class members 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. Defendants' failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Plaintiffs and class members on a company-wide basis.

84. Defendants' failure to pay Plaintiffs and class members the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510, 511, and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid Minimum Wages (Against all Defendants)

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

86. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, 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. 1-2001 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, § 11010(2)(G) (defining “Hours Worked”).

87. As set forth above, due to Defendants’ company-wide practices of restricting overtime accrual and understaffing while simultaneously assigning heavy workloads and deadlines, Defendants systematically failed to pay Plaintiffs and class members for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. As stated, Defendants required Plaintiffs and class members to perform work off-the-clock, including monitoring product, completing or correcting paperwork, taking mandatory online training, submitting to off-the-clock mandatory COVID-19 screenings and/or temperature checks, and traveling to different facilities. Also, as stated above, Defendants had a company-wide policy and/or practice of rounding Plaintiffs’ and class members’ hourly clock-in and clock-out duration times in their timekeeping system to the nearest half hour, resulting in the failure to compensate them for all hours worked.

88. Further, as also stated above, due to Defendants’ uniform practices of understaffing while assigning heavy workloads and productivity expectations, failing to adhere to a schedule for meal periods, and requiring employees to stay on the work premises during unpaid meal periods, Plaintiffs and class members were impeded from taking all uninterrupted meal periods to which they were entitled and forced to forego meal periods and/or had their meal periods cut short and/or interrupted by work. Moreover, as stated, in order to prevent employees from accruing meal period penalties, Defendants’ management pressured employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, but required them to continue working. Thus, Defendants systematically failed to pay Plaintiffs and/or class members for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

89. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent

1 paid leave or paid time off) in each year of the employee's employment. Further, Labor Code
2 section 246(l) provides that an employer shall calculate paid sick leave by using one of two
3 calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same
4 manner as the regular rate of pay for the workweek in which the employee uses paid sick time,
5 whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick
6 time for nonexempt employees shall be calculated by dividing the employee's total wages, not
7 including overtime premium pay, by the employee's total hours worked in the full pay periods
8 of the prior 90 days of employment."

9 90. During the relevant time period, Defendants did not pay Plaintiffs and class
10 members the correct sick leave rates of pay. In addition to an hourly wage, Defendants paid
11 Plaintiffs and class members shift differential pay, incentive pay, nondiscretionary bonuses,
12 and/or other forms of remuneration. However, in violation of the California Labor Code,
13 Defendants failed to incorporate all remunerations, including shift differential pay, incentive
14 pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes
15 of calculating the sick leave rate. Therefore, during times when Plaintiffs and class members
16 took sick leave and received these other forms of pay, Defendants failed to pay all sick leave
17 benefits by paying a lower sick leave rate than required. Specifically, Defendants paid Plaintiffs
18 and other aggrieved employees sick leave based on their hourly rate of pay instead of their
19 regular rate of pay.

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21 91. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiffs
22 and class members. To the extent that these off-the-clock hours did not qualify for overtime
23 premium payment, Defendants did not pay at least minimum wages for those hours worked off-
24 the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

25 92. Defendants' failure to pay Plaintiffs and class members minimum wages violates
26 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California
27 Labor Code section 1194.2, Plaintiffs and class members are entitled to recover liquidated
28 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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FOURTH CAUSE OF ACTION
Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period
Violations
(Against all Defendants)

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

94. At all relevant times herein set forth, California Labor Code section 512(a) provides that 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 a 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).

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

96. At all relevant times herein set forth, 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.

97. First, during the relevant time period, as stated, Defendants had, and continue to have, a company-wide policy and/or practice of understaffing their locations while assigning heavy workloads and productivity expectations, which created a lack of adequate meal period coverage and prevented Plaintiffs and class members from taking all timely, uninterrupted meal periods to which they were entitled. In conjunction with understaffing their locations, Defendants had a company-wide practice or policy of failing to adhere to a schedule for meal

1 periods, which exacerbated the lack of meal period coverage. As a result of Defendants' policies
2 and/or practices, Plaintiffs and class members were forced to work in excess of five (5) hours
3 before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo
4 their meal periods altogether.

5 98. Second, as stated, because Defendants frowned upon employees accruing meal
6 period penalties, Defendants' management pressured Plaintiffs and class members to clock out
7 for meal periods and/or adjusted their time records to reflect compliant meal periods, even when
8 they did not receive a compliant meal period, in order to strictly limit meal penalties that
9 Defendants would otherwise owe. For example, at Defendants' management's direction,
10 Plaintiff would log that his meal period was taken within the first five (5) hours of his shift,
11 even when he was only able to take his meal periods after his seventh hour of work.

12 99. Third, as set forth above, Defendants maintained and implemented a company-
13 wide on-premises meal period policy, which mandated that Plaintiffs and class members remain
14 on the work premises during their meal periods. Because Plaintiffs and class members were
15 restricted from leaving the premises during meal periods, they were denied the ability to use
16 their meal periods freely for their own purposes. Thus, Defendants effectively maintained
17 control over Plaintiffs and class members during meal periods.

18 100. Fourth, Defendants did not provide Plaintiffs and class members with second 30-
19 minute meal periods on days that they worked in excess of ten (10) hours in one day. During
20 his employment, Plaintiff worked shifts in excess of ten (10) or more hours per day every shift,
21 but was never provided a second 30-minute meal period. Plaintiffs and class members did not
22 sign valid meal period waivers on days that they were entitled to meal periods and were not
23 relieved of all duties.

24 101. At all times herein mentioned, Defendants knew or should have known that, as a
25 result of these policies, Plaintiffs and class members were prevented from being relieved of all
26 duties and required to perform some of their assigned duties during meal periods. Defendants
27 further knew or should have known that Defendants did not pay Plaintiffs and class members
28 meal period premiums when meal periods were late, interrupted, shortened, or missed.

1 102. As set forth above, Defendants have a company-wide policy and/or practice of
2 rounding employee clock-in and clock-out duration times in their timekeeping system, which
3 prevented Plaintiffs and class members from receiving all meal period premiums when they
4 took late and/or shortened meal periods. As stated, Defendants' rounding policy rounded
5 employees' clock-in and clock-out times in their timekeeping system to the nearest half (0.5) of
6 an hour. To the extent that Defendants' timekeeping system reported that Plaintiffs and class
7 members were provided with timely, full 30-minute meal periods when, in fact, the meal periods
8 were taken after the fifth hour of work or were less than 30 minutes, Plaintiffs and class
9 members were entitled to a meal period penalty. Thus, Plaintiffs and class members did not
10 receive meal period penalties for these improperly rounded meal periods.

11 103. Moreover, Defendants engaged in a company-wide practice and/or policy of not
12 paying all meal period premiums owed when compliant meal periods are not provided. Because
13 of this practice and/or policy, Plaintiffs and class members have not received premium pay for
14 all missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants did
15 pay Plaintiffs and class members premium pay for missed, late, and interrupted meal periods,
16 Defendants did not pay Plaintiffs and class members at the correct rate of pay for premiums
17 because Defendants systematically failed to include all forms of compensation, such as shift
18 differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration,
19 in the regular rate of pay. As a result, Defendants failed to provide Plaintiffs and class members
20 compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516
21 and failed to pay the full meal period premiums due.

22 104. Defendants' conduct violates the applicable IWC Wage Order, and California
23 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiffs and class members are therefore
24 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
25 rate of compensation for each work day that the meal period was not provided.

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1 **FIFTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations**
3 **(Against all Defendants)**

4 105. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
5 every allegation set forth above.

6 106. At all relevant times herein set forth, the applicable IWC Wage Order and
7 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs’ and class
8 members’ employment by Defendants.

9 107. At all relevant times, the applicable IWC Wage Order provides that “[e]very
10 employer shall authorize and permit all employees to take rest periods, which insofar as
11 practicable shall be in the middle of each work period” and that the “rest period time shall be
12 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
13 hours or major fraction thereof” unless the total daily work time is less than three and one-half
14 (3 ½) hours.

15 108. At all relevant times, California Labor Code section 226.7 provides that no
16 employer shall require an employee to work during any rest period mandated by an applicable
17 order of the California IWC. To comply with its obligation to authorize and permit rest periods
18 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
19 must “relinquish any control over how employees spend their break time, and relieve their
20 employees of all duties—including the obligation that an employee remain on call. A rest
21 period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
22 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code
23 section 226.7(c), Plaintiffs and class members are entitled to recover from Defendants one (1)
24 additional hour of pay at their regular rates of pay for each work day that a required rest period
25 was not authorized and permitted.

26 109. During the relevant time period, Defendants regularly failed to authorize and
27 permit Plaintiffs and class members to take a ten (10) minute rest period per each four (4) hour
28 period worked or major fraction thereof. As with meal periods, Defendants’ company-wide

1 practices, including understaffing and implementing heavy workloads and productivity
2 expectations, prevented Plaintiffs and class members from being able to take rest periods.
3 Defendants also failed to schedule rest periods and/or adhere to a schedule for rest periods,
4 which, coupled with Defendants' failure to provide adequate rest period coverage, further led
5 to Plaintiffs and class members not being authorized and permitted to take rest periods.

6 110. Furthermore, Defendants maintained and implemented a company-wide on-
7 premises rest period policy, which mandated that Plaintiffs and class members remain on the
8 premises during their rest periods. Because Plaintiffs and class members were restricted from
9 leaving Defendants' premises during rest periods, they were denied the ability to use their rest
10 periods freely for their own purposes, such as purchasing food at a nearby store. Thus,
11 Defendants effectively maintained control over Plaintiffs and class members during rest periods.

12 111. As a result of Defendants' practices and policies, Plaintiffs and class members
13 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
14 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
15 Plaintiff had to forego rest periods altogether, due to Defendants' policy of assigning heavy
16 workloads and failing to provide sufficient rest period coverage.

17 112. Defendants have also engaged in a company-wide practice and/or policy of not
18 paying all rest period premiums owed when compliant rest periods are not authorized and
19 permitted. Because of this practice and/or policy, Plaintiffs and class members have not
20 received premium pay for all missed rest periods. Alternatively, to the extent that Defendants
21 did pay Plaintiffs and class members one (1) additional hour of premium pay for missed rest
22 periods, Defendants did not pay Plaintiffs and class members at the correct rate of pay for
23 premiums because Defendants failed to include all forms of compensation, such as shift
24 differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration,
25 in the regular rate of pay. As a result, Defendants denied Plaintiffs and class members rest
26 periods and failed to pay them rest period premiums due, in violation of Labor Code sections
27 226.7 and 516, and the applicable IWC Wage Order.

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113. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiffs and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that a compliant rest period was not authorized and permitted.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon

Termination

(Against all Defendants)

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

115. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, that were not timely paid to Plaintiffs and those class members no longer employed by Defendants upon their termination.

116. At all times relevant herein set forth, 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.

117. Defendants willfully failed to pay Plaintiffs and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

118. Defendants' failure to pay Plaintiffs and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within

seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiffs and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

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

120. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay that were not timely paid to Plaintiffs and those class members.

121. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed. Labor Code section 204 further provides that all wages earned by any person in any employment between the sixteenth (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 first (1st) and the tenth (10th) day of the following month.

122. At all times relevant herein, Labor Code section 204 provides 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, at all times relevant herein, 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.

123. During the relevant time period, Defendants willfully failed to pay Plaintiffs and class members all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay within the time periods specified by California Labor Code section 204.

124. Defendants' failure to pay Plaintiffs and class members all wages due violates Labor Code section 204. Plaintiffs and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

EIGHTH CAUSE OF ACTION

Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section

11010 Subdivision 5(A)—Failure to Provide Reporting Time Pay

(Against all Defendants)

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

126. California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

127. The applicable IWC wage order, California Code of Regulations, Title 8, section 11010(5)(A), provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

128. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010(5)(A), because Defendants failed to pay Plaintiffs and class members reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled

1 day's work.

2 129. Defendants had a company-wide practice of sending Plaintiffs and class
3 members home early from their shifts, including before they had worked at least half of their
4 regular shift, but would not pay Plaintiffs and class members for half of their scheduled shift.
5 For example, Plaintiff would report to work, but would be sent home immediately or before
6 working half of his scheduled shift by Defendants' management because he was not needed.
7 Although Plaintiffs and class members would report to work based on the schedule that
8 Defendants provided to them, Defendants would send them home before they had worked at
9 least half of their scheduled shifts without giving them reporting time pay.

10 130. Accordingly, Plaintiffs and class members were not properly compensated with
11 reporting time pay in violation of California Labor Code section 1198 and California Code of
12 Regulations Title 8, section 11010(5)(A).

13 **NINTH CAUSE OF ACTION**

14 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 15 **(Against all Defendants)**

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

18 132. At all times herein set forth, California Labor Code section 2802 provides that
19 an employer must reimburse employees for all necessary expenditures and losses incurred by
20 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
21 to prevent employers from passing off their cost of doing business and operating expenses on
22 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
23 (2014). The applicable wage order, IWC Wage Order No. 1-2001, provides that: "[w]hen tools
24 or equipment are required by the employer or are necessary to the performance of a job, such
25 tools and equipment shall be provided and maintained by the employer, except that an employee
26 whose wages are at least two (2) times the minimum wage provided herein may be required to
27 provide and maintain hand tools and equipment customarily required by the trade or craft."

28 133. First, during the relevant time period, Plaintiffs and class members were required

1 to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile
2 data to carry out their job duties, but Defendants failed to reimburse them for the costs of their
3 work-related mobile device expenses. For example, Plaintiff was required to use his personal
4 cellular phone to converse with his supervisors, leads, and co-workers about work-related
5 matters via calls and/or text messages. Plaintiff also used his personal cellular phone to
6 complete the mandatory online trainings that he was unable to complete at work due to
7 Defendants' lack of a sufficient number of computers for employee use. Although Defendants
8 required Plaintiffs and class members to utilize their personal mobile devices and/or mobile data
9 to carry out their work-related responsibilities, Defendants failed to reimburse them for these
10 costs.

11 134. Second, during the relevant time period, Defendants had a company-wide policy
12 of requiring Plaintiffs and class members to utilize their own personal vehicles or obtain
13 alternate transportation to carry out company business, but failed to reimburse them for all costs
14 of travel, including mileage. For example, Plaintiff was required to drive an additional 15-20
15 miles to Defendants' facility in Van Nuys, California, to cover additional shifts, but Defendants
16 did not compensate him for his travel expenses or mileage.

17 135. Third, during the relevant time period, Defendants, on a company-wide basis,
18 required Plaintiffs and class members to wear safety devices and safeguards, such as protective
19 eyewear, to keep them safe in the workplace. For example, Plaintiffs and class members worked
20 in refrigerated facilities and were required to purchase safety goggles and handwarmers in order
21 to carry out their work-related duties. As another example, due to COVID-19, Plaintiff
22 purchased face masks to wear at work, because Defendants required face masks to be worn on
23 their premises, but did not provide them to employees. Although Defendants required Plaintiffs
24 and class members to purchase their own supplies and/or equipment for use on the job,
25 Defendants did not fully reimburse them for these expenses.

26 136. Defendants could have provided Plaintiffs and class members with the actual
27 tools for use on the job, such company mobile devices, company vehicles, and protective
28 equipment to be used for fulfilling work-related tasks. Or, Defendants could have reimbursed

1 employees for their mobile device usage, mileage, travel, and protective equipment expenses.
2 Instead, Defendants passed these operating costs off onto Plaintiffs and class members. At all
3 relevant times, Plaintiff did not earn at least two (2) times the minimum wage.

4 137. Defendants' company-wide policy and/or practice of passing on their operating
5 costs to Plaintiffs and class members violates California Labor Code section 2802. Defendants
6 have intentionally and willfully failed to reimburse Plaintiffs and other class members for
7 necessary business-related expenses and costs.

8 138. Plaintiffs and class members are entitled to recover from Defendants their
9 business-related expenses incurred during the course and scope of their employment, plus
10 interest.

11 **TENTH CAUSE OF ACTION**

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

13 **(Against all Defendants)**

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

16 140. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
17 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
18 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 510, 511,
19 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits
20 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor
21 Code sections not found in section 2699.5, including sections 246, 516, 1182.12, 6401, and
22 6403.

23 141. Defendants' conduct, as alleged herein, violates numerous sections of the
24 California Labor Code, including, but not limited to, the following:

- 25 (a) Violation of Labor Code sections 510, 511, and 1198, and the applicable
26 IWC Wage Order for Defendants' failure to compensate Plaintiffs and
27 other aggrieved employees with all required overtime pay and failure to
28 properly calculate the overtime rates paid to Plaintiffs and other aggrieved

employees, as alleged herein;

- (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiffs and other aggrieved employees with at least minimum wages for all hours worked, as alleged herein;
- (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to provide Plaintiffs and other aggrieved employees with meal periods, as alleged herein;
- (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit Plaintiffs and other aggrieved employees to take rest periods, as alleged herein;
- (e) Violation of Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiffs and other aggrieved employees, as alleged herein;
- (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as alleged herein;
- (g) Violation of Labor Code sections 201 and 202 for failure to pay all earned wages upon termination, as alleged herein;
- (h) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as alleged herein;
- (i) Violation of Labor Code section 246 for failure to properly calculate the sick leave paid to Plaintiffs and other aggrieved employees, as set forth below;
- (j) Violation of Labor Code section 1198 and the applicable IWC Wage Order for failure to pay reporting time pay when Plaintiffs and other

aggrieved employees were put to work for less than half of their regular scheduled shifts, as alleged herein;

(k) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs and other aggrieved employees for all business expenses necessarily incurred, as alleged herein; and

(l) Violation of Labor Code sections 6401 and 6403 for failure to provide Plaintiffs and other aggrieved employees with safety devices and safeguards for the workplace, as set forth below.

142. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

143. During the relevant time period, Defendants did not pay Plaintiffs and other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, Defendants paid Plaintiffs and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when

1 Plaintiffs and other aggrieved employees took sick leave and received these other forms of pay,
2 Defendants failed to pay all sick leave benefits by paying a lower sick leave rate than required.
3 Specifically, Defendants paid Plaintiffs and other aggrieved employees sick leave based on their
4 hourly rate of pay instead of their regular rate of pay.

5 144. Defendants' failure to properly calculate the sick leave rates of pay based on all
6 remuneration paid has resulted in an underpayment of sick leave benefits to Plaintiffs and other
7 aggrieved employees on a company-wide basis in violation of California Labor Code 246(l).
8 Plaintiffs and other aggrieved employees are therefore entitled to recover civil penalties,
9 pursuant to California Labor Code sections 248.5 and/or 2699(a), (f), and (g).

10 145. At all relevant times herein, California Labor Code section 6401 provides that
11 employers must furnish and use safety devices and safeguards, and adopt and use practices,
12 means, methods, operations, and processes which are reasonably adequate to render the
13 employment and place of employment safe and healthy. California Labor Code Section 6401
14 further provides that an employer must do everything reasonably necessary to protect the life,
15 safety and health of its employees.

16 146. During the relevant period, as stated, Defendants, on a company-wide basis,
17 failed to provide Plaintiffs and other aggrieved employees with personal protective equipment,
18 such as protective eyewear and masks, to keep them safe in the workplace. Despite the fact that
19 Defendants required employees to wear certain protective equipment, including protective
20 eyewear and masks, Defendants failed to provide such reasonably necessary equipment to
21 Plaintiffs and other aggrieved employees to keep them safe. Thus, Defendants' failure to
22 provide Plaintiffs and other aggrieved employees with safety devices and safeguards violates
23 Labor Code sections 6401 and 6403. Plaintiffs and other aggrieved employees are therefore
24 entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

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1 **ELEVENTH CAUSE OF ACTION**

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

3 **Unlawful Business Practices**

4 **(Against all Defendants)**

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

7 148. Defendants are “persons” as defined by California Business & Professions Code
8 sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
9 associations.

10 149. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
11 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
12 suffered injury in fact and has lost money as a result of Defendants’ unlawful business practices.
13 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of
14 Code of Civil Procedure section 1021.5.

15 150. Defendants’ activities, as alleged herein, are violations of California law, and
16 constitute unlawful business acts and practices in violation of California Business & Professions
17 Code sections 17200, *et seq.*

18 151. A violation of California Business & Professions Code sections 17200, *et seq.*
19 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
20 policies and practices have violated state law in at least the following respects:

21 (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and
22 class members, to work overtime without paying them proper
23 compensation in violation of California Labor Code sections 510, 511,
24 and 1198 and the applicable IWC Wage Order, and paying Plaintiffs and
25 class members overtime at a lower rate than required by law by failing to
26 properly calculate the regular rate of pay for purposes of overtime, as
27 alleged herein;

28 (b) Failing to pay at least minimum wage to Plaintiffs and class members in

violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order, as alleged herein;

(c) Failing to provide uninterrupted meal periods to Plaintiffs and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;

(d) Failing to authorize and permit Plaintiffs and class members to take uninterrupted rest periods in violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged herein;

(e) Failing to provide Plaintiffs and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein;

(f) Failing timely to pay all earned wages to Plaintiffs and class members in violation of California Labor Code section 204, as alleged herein;

(g) Failing to properly calculate the sick leave paid to Plaintiffs and class members in violation of Labor Code section 246(l), as set forth below;

(h) Failing to pay reporting time pay in violation of California Labor Code section 1198 and the applicable IWC Wage Order, as alleged herein;

(i) Failing to reimburse Plaintiffs and class members for all business expenses necessarily incurred in violation of California Labor Code sections 2802, as alleged herein; and

(j) Failing to provide Plaintiffs and class members with safety devices and safeguards, such as personal protective equipment, in violation of California Labor Code sections 6401 and 6403, as set forth below.

152. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one

1 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
2 employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent
3 paid leave or paid time off) in each year of the employee's employment. Further, Labor Code
4 section 246(l) provides that an employer shall calculate paid sick leave by using one of two
5 calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same
6 manner as the regular rate of pay for the workweek in which the employee uses paid sick time,
7 whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick
8 time for nonexempt employees shall be calculated by dividing the employee's total wages, not
9 including overtime premium pay, by the employee's total hours worked in the full pay periods
10 of the prior 90 days of employment."

11 153. During the relevant time period, Defendants did not pay Plaintiffs and class
12 members the correct sick leave rates of pay. In addition to an hourly wage, Defendants paid
13 Plaintiffs and class members shift differential pay, incentive pay, nondiscretionary bonuses,
14 and/or other forms of remuneration. However, in violation of the California Labor Code,
15 Defendants failed to incorporate all remunerations, including shift differential pay, incentive
16 pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes
17 of calculating the sick leave rate. Therefore, during times when Plaintiffs and class members
18 took sick leave and received these other forms of pay, Defendants failed to pay all sick leave
19 benefits by paying a lower sick leave rate than required. Specifically, Defendants paid Plaintiffs
20 and class members sick leave based on their hourly rate of pay instead of their regular rate of
21 pay.

22 154. Defendants' failure to properly calculate the sick leave rates of pay based on all
23 remuneration paid has resulted in an underpayment of sick leave benefits to Plaintiffs and class
24 members on a company-wide basis in violation of Labor Code 246(l).

25 155. At all relevant times herein, California Labor Code section 6401 provides that
26 employers must furnish and use safety devices and safeguards, and adopt and use practices,
27 means, methods, operations, and processes which are reasonably adequate to render the
28 employment and place of employment safe and healthy. California Labor Code Section 6401

1 further provides that an employer must do everything reasonably necessary to protect the life,
2 safety and health of its employees.

3 156. Defendants, on a company-wide basis, failed to provide Plaintiffs and class
4 members with personal protective equipment, such as protective eyewear and masks, to keep
5 them safe in the workplace. Despite the fact that Defendants required employees to wear certain
6 protective equipment, including protective eyewear and masks, Defendants failed to provide
7 such reasonably necessary equipment to Plaintiffs and class members to keep them safe. Thus,
8 Defendants' failure to provide Plaintiffs and class members with safety devices and safeguards
9 violates Labor Code sections 6401 and 6403.

10 157. As a result of the violations of California law herein described, Defendants
11 unlawfully gained an unfair advantage over other businesses. Plaintiffs and class members have
12 suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

13 158. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
14 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
15 Defendants during a period that commences four years prior to the filing of this complaint; a
16 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
17 class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure
18 section 1021.5 and other applicable laws; and an award of costs.

19 **TWELFTH CAUSE OF ACTION**

20 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

21 **Unfair Business Practices**

22 **(Against all Defendants)**

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

25 160. Defendants are "persons" as defined by California Business & Professions Code
26 sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
27 associations.

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1 161. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and
2 harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in
3 fact and has lost money as a result of Defendants' unfair business practices. Plaintiff seeks to
4 enforce important rights affecting the public interest within the meaning of Code of Civil
5 Procedure section 1021.5.

6 162. Defendants' activities, namely Defendants' company-wide practice and/or policy
7 of not paying Plaintiffs and class members meal and rest period premiums due to them under
8 Labor Code section 226.7, deprived Plaintiffs and class members of the compensation guarantee
9 and enhanced enforcement implemented by section 226.7. The statutory remedy provided by
10 section 226.7 is a "dual-purpose" remedy intended primarily to compensate employees, and
11 secondarily to shape employer conduct." *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th
12 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiffs and
13 class members as part of their employment with Defendants, and thus Defendants' practice
14 and/or policy of denying these statutory benefits constitutes an unfair business practice in
15 violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

16 163. A violation of California Business & Professions Code sections 17200, *et seq.*
17 may be predicated on any unfair business practice. In the instant case, Defendants' policies and
18 practices have violated the spirit of California's meal and rest period laws and constitute acts
19 against the public policy behind these laws.

20 164. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
21 Plaintiffs and class members are entitled to restitution for the class-wide loss of the statutory
22 benefits implemented by section 226.7 withheld and retained by Defendants during a period that
23 commences four years prior to the filing of this complaint; a permanent injunction requiring
24 Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiffs and class
25 members; an award of attorneys' fees pursuant to California Code of Civil Procedure section
26 1021.5 and other applicable laws; and an award of costs.

27 **REQUEST FOR JURY TRIAL**

28 Plaintiff requests a trial by jury.

1 **PRAYER FOR RELIEF**

2 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against
3 Defendants, jointly and severally, as follows:

4 165. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess
5 of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
6 reserves the right to amend his prayer for relief to seek a different amount.

7 **Class Certification**

8 166. That this case be certified as a class action;

9 167. That Plaintiff be appointed as the representative of the Class and Subclass;

10 168. That counsel for Plaintiff be appointed as class counsel.

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

12 1. That the Court declare, adjudge, and decree that Defendants violated California
13 Labor Code sections 510, 511, and 1198, and the applicable IWC Wage Order by willfully
14 failing to pay all overtime wages due to Plaintiffs and class members;

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

17 3. For pre-judgment interest on any unpaid overtime compensation commencing
18 from the date such amounts were due, or as otherwise provided by law;

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

21 5. For such other and further relief as the Court may deem equitable and
22 appropriate.

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

24 6. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage
26 Order by willfully failing to pay minimum wages to Plaintiffs and class members;

27 7. For general unpaid wages and such general and special damages as may be
28 appropriate;

1 8. For pre-judgment interest on any unpaid compensation from the date such
2 amounts were due, or as otherwise provided by law;

3 9. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
4 California Labor Code section 1194(a);

5 10. For liquidated damages pursuant to California Labor Code section 1194.2; and

6 11. For such other and further relief as the Court may deem equitable and
7 appropriate.

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

9 12. That the Court declare, adjudge, and decree that Defendants violated California
10 Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by
11 willfully failing to provide all meal periods to Plaintiffs and class members;

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

15 14. For all actual, consequential, and incidental losses and damages, according to
16 proof;

17 15. For premiums pursuant to California Labor Code section 226.7(c);

18 16. For pre-judgment interest on any unpaid meal period premiums from the date
19 such amounts were due, or as otherwise provided by law;

20 17. For attorneys' fees pursuant to California Code of Civil Procedure section
21 1021.5, or as otherwise provided by law; and

22 18. For such other and further relief as the Court may deem equitable and
23 appropriate.

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

25 19. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully
27 failing to authorize and permit Plaintiffs and class members to take all rest periods;

28 20. That the Court make an award to the Plaintiffs and class members of one (1) hour

1 of pay at each employee's regular rate of pay for each workday that a rest period was not
2 authorized and permitted;

3 21. For all actual, consequential, and incidental losses and damages, according to
4 proof;

5 22. For premiums pursuant to California Labor Code section 226.7(c);

6 23. For pre-judgment interest on any unpaid rest period premiums from the date such
7 amounts were due, or as otherwise provided by law;

8 24. For attorneys' fees pursuant to California Code of Civil Procedure section
9 1021.5, or as otherwise provided by law; and

10 25. For such other and further relief as the Court may deem equitable and
11 appropriate.

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

13 26. That the Court declare, adjudge and decree that Defendants violated the
14 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
15 Wage Order as to Plaintiffs and Subclass members, and willfully failed to provide accurate
16 itemized wage statements thereto;

17 27. For all actual, consequential, and incidental losses and damages, according to
18 proof;

19 28. For injunctive relief pursuant to California Labor Code section 226(h);

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

21 30. For attorneys' fees and costs pursuant to California Labor Code section
22 226(e)(1); and

23 31. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 **As to the Sixth Cause of Action**

26 32. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
28 meal and rest period premiums, sick leave pay, and/or reporting time pay owed at the time of

1 termination of the employment of Plaintiffs and other terminated class members;

2 33. For all actual, consequential and incidental losses and damages, according to
3 proof;

4 34. For waiting time penalties according to proof pursuant to California Labor Code
5 section 203 for all employees who have left Defendants' employ;

6 35. For pre-judgment interest on any unpaid wages from the date such amounts were
7 due, or as otherwise provided by law;

8 36. For attorneys' fees pursuant to California Code of Civil Procedure section
9 1021.5, or as otherwise provided by law; and

10 37. For such other and further relief as the Court may deem equitable and
11 appropriate.

12 **As to the Seventh Cause of Action**

13 38. That the Court declare, adjudge and decree that Defendants violated California
14 Labor Code section 204 by willfully failing to timely pay Plaintiffs and class members overtime
15 wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time
16 pay during their employment;

17 39. For all actual, consequential and incidental losses and damages, according to
18 proof;

19 40. For statutory penalties according to proof pursuant to California Labor Code
20 section 210;

21 41. For pre-judgment interest on any unpaid wages from the date such amounts were
22 due, or as otherwise provided by law;

23 42. For attorneys' fees pursuant to California Code of Civil Procedure section
24 1021.5, or as otherwise provided by law; and

25 43. For such other and further relief as the Court may deem equitable and
26 appropriate.

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As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010(5)(A) by failing to provide Plaintiffs and class members with reporting time pay;
45. For all actual, consequential and incidental losses and damages, according to proof;
46. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law; and
47. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiffs and class members;
49. For unpaid business-related expenses and such general and special damages as may be appropriate;
50. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;
51. For all actual, consequential, and incidental losses and damages, according to proof;
52. For attorneys’ fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and
53. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

54. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiffs and/or other aggrieved employees: 510, 511, and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1,

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); 246 (by failing to properly calculate sick leave rates of pay); 1198 and the applicable IWC Wage Order (by failing to provide reporting time pay); 2802 (by failing to reimburse business expenses); and 6401 and 6403 (by failing to provide safety devices and safeguards);

55. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 204, 226(a), 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403;

56. 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 Labor Code sections 201, 202, 204, 226(a), 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403;

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

58. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

59. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiffs and class members all meal periods, failing to authorize and permit Plaintiffs and class members to take all rest periods, failing to provide Plaintiffs and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class members, failing timely to pay Plaintiffs and class members all earned wages during employment, failing to

properly calculate Plaintiffs' and class members' sick leave, failing to pay Plaintiffs and class members reporting time pay, failing to reimburse Plaintiffs and class members for business-related expenses, and failing to provide Plaintiffs and class members with safety devices and safeguards, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

60. For restitution of unpaid wages to Plaintiffs and all class members and prejudgment interest from the day such amounts were due and payable;

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

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

63. For such other and further relief as the Court may deem equitable and appropriate.

As to the Twelfth Cause of Action

64. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiffs and class members the statutory benefits guaranteed under section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

65. For restitution of the statutory benefits under section 226.7 unfairly withheld from Plaintiffs and class members and prejudgment interest from the day such amounts were due and payable;

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

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

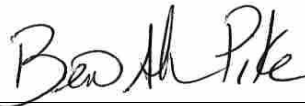
3 68. For pre-judgment and post-judgment interest as provided by law; and

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

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7 Dated: June 16, 2023,

Respectfully submitted,

8 Capstone Law APC

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10 By: 

11 Bevin Allen Pike

12 Daniel Jonathan

13 Trisha K. Monesi

14 Attorneys for Plaintiff Fitzgerald De Roxas
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EXHIBIT “1”

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

November 3, 2021

VIA ONLINE SUBMISSION

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

Subject: *Fritzgerald De Roxas v. Baxalta US Inc.*

Dear PAGA Administrator:

This office represents Fritzgerald De Roxas in connection with his claims under the California Labor Code. Mr. De Roxas was an employee of BAXALTA US INC. ("BAXALTA").

The employer may be contacted directly at the address below:

BAXALTA US INC.
1200 LAKESIDE DRIVE
BANNOCKBURN IL 60015

Mr. De Roxas 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"). Mr. De Roxas seeks relief on behalf of himself, the State of California, and other persons who are or were employed by BAXALTA as a non-exempt, hourly paid employee in California 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.

BAXALTA employed Mr. De Roxas as an hourly paid, non-exempt Manufacturing Technician from approximately December 2005 to August 2021. During his employment, Mr. De Roxas typically worked eight (8) to twelve (12) hours per day and three (3) to four (4) days per week. By the end of his employment, Mr. De Roxas was compensated approximately \$19.79 per hour. His job duties included, without limitation, handling biological materials, loading blood plasma into tanks, and processing blood plasma.

BAXALTA committed one or more of the following Labor Code violations against Mr. De Roxas, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

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

BAXALTA US INC. is a Delaware corporation and a leading global biotechnology company focused on serving patients with rare diseases and other highly specialized conditions. Upon information and belief, BAXALTA maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Bannockburn, Illinois, for all non-exempt, hourly paid employees working for BAXALTA in California, including Mr. De Roxas and other aggrieved employees. At all relevant times, BAXALTA issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. De Roxas and other aggrieved employees, regardless of their location or position.

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

Violation of California Labor Code §§ 510, 511, 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.

California Labor Code section 511 and the applicable IWC Wage Order allow employers, with the employees’ approval, to offer an alternative workweek schedule that authorizes employees to work no more than ten (10) hours per day and forty (40) hours per week without receiving overtime compensation. An alternative workweek schedule must pay the employees overtime at one and one-half times their regular hourly rate for work in excess of ten (10) hours per day or forty (40) hours

¹ These facts, theories, and claims are based on Mr. De Roxas’s experience and counsel’s review of those records currently available relating to Mr. De Roxas’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, Mr. De Roxas reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

per week. Overtime must be paid at twice the employees' regular hourly rate for work in excess of twelve (12) hours a day. Labor Code 511 and the applicable IWC Wager order further provide that an employer may not implement an alternative workweek schedule unless at least two-thirds of the affected employees approve the schedule through a secret ballot election, and the results must be reported to the California Division of Labor Standards Enforcement within 30 days after the results are final.

BAXALTA willfully failed to pay all overtime wages owed to Mr. De Roxas and other aggrieved employees. During the relevant time period, Mr. De Roxas and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) 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, during the relevant time period, BAXALTA had a company-wide policy and/or practice of discouraging and impeding Mr. De Roxas 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. This policy of limiting overtime, coupled with BAXALTA's practices of understaffing and assigning heavy workloads and productivity expectations, led Mr. De Roxas and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, during weekend shifts, BAXALTA scheduled a 30-minute gap between day and night shifts, but required Mr. De Roxas and other aggrieved employees to arrive to work early on an alternating basis, to monitor product between the shifts.

BAXALTA's company-wide practices and policies to discourage and limit overtime accrual also led Mr. De Roxas and other aggrieved employees to perform work-related duties after they clocked out at their scheduled shift end-times. For example, after he clocked out for his shift, Mr. De Roxas's supervisor sometimes required Mr. De Roxas to continue working and correct or complete paperwork. Moreover, Mr. De Roxas and other aggrieved employees were required to complete online trainings, such as ISO trainings, but BAXALTA did not have enough on-site computers available to employees. As a result, Mr. De Roxas and other aggrieved employees were required to complete some of these trainings at home. BAXALTA failed to track the time Mr. De Roxas and other aggrieved employees spent completing the mandatory trainings, and Mr. De Roxas and other aggrieved employees received no compensation for this time. Further, when Mr. De Roxas and other aggrieved employees were assigned to work at BAXALTA's other facilities for special projects, they were not compensated for their travel time. Moreover, other aggrieved employees were required to respond to their personal cellular phones on their days off to discuss work-related matters with BAXALTA's management. Thus, BAXALTA failed to track the time spent working before and after scheduled shifts, and Mr. De Roxas and other aggrieved employees received no compensation for this time.

Second, during the relevant period, BAXALTA implemented, on a company-wide basis, an employer-imposed requirement that Mr. De Roxas and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to his shift, Mr. De Roxas was sometimes required to spend several minutes per instance waiting and then undergoing the mandatory temperature check and/or health screening, before being permitted to clock in for his shift. Even though BAXALTA required these health screenings, BAXALTA did not provide Mr. De Roxas and other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Third, during the relevant period, BAXALTA had, and continues to have, a company-wide policy and/or practice of improperly rounding employees' clock-in and clock-out duration times in its timekeeping system to the nearest half (0.5) of an hour. BAXALTA's rounding policy resulted in the failure to compensate Mr. De Roxas and other aggrieved employees fully for all hours worked, causing Mr. De Roxas and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. BAXALTA's policy of rounding is unfair and has, over time, resulted in the underpayment of wages to Mr. De Roxas and other aggrieved employees. To the extent BAXALTA's rounding policy has taken away time worked that was eligible for overtime, Mr. De Roxas and other aggrieved employees were denied overtime pay for all hours worked.

Fourth, as stated, BAXALTA had, and continues to have, a company-wide policy of understaffing, such that there were too few employees on duty to handle the heavy workload, meet productivity expectations, and provide uninterrupted meal period coverage. As a result, Mr. De Roxas and other aggrieved employees were not provided adequate meal period coverage to allow them to be relieved of their duties for compliant meal periods. In conjunction with understaffing its facilities, BAXALTA had a company-wide practice or policy of failing to adhere to a schedule for meal periods, which exacerbated the lack of meal period coverage. Consequently, Mr. De Roxas and other aggrieved employees were required to work through and/or had their unpaid meal periods interrupted in order to complete their assigned workloads.

Additionally, because BAXALTA frowned upon employees accruing meal period penalties, BAXALTA's management pressured Mr. De Roxas and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had actually received a compliant meal period, in order to strictly limit meal penalties that BAXALTA would otherwise owe. Thus, BAXALTA did not all record hours worked during meal periods and other aggrieved employees performed work during meal periods for which they were not paid.

Fifth, BAXALTA maintained a company-wide on-premises meal period policy, which mandated that Mr. De Roxas and other aggrieved employees remain on BAXALTA's premises during their unpaid meal periods. Because Mr. De Roxas and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, BAXALTA effectively maintained control over Mr. De Roxas and other aggrieved employees during their unpaid meal periods.

Sixth, BAXALTA had, and continues to have, a company-wide policy and/or practice of failing to pay proper overtime wages when it required Mr. De Roxas and other aggrieved employees to work outside of their regularly scheduled alternative workweek schedule and failed to pay all applicable overtime and/or double-time compensation owed for such hours of work. In addition, to the extent BAXALTA implemented an alternative workweek schedule, as to Mr. De Roxas and other aggrieved employees, BAXALTA failed to comply with all requirements for implementing an alternative work week schedule, including, but not limited to, holding proper workweek elections for the employees working alternative workweeks. Accordingly, BAXALTA owes Mr. De Roxas and other aggrieved employees unpaid overtime wages.

BAXALTA knew or should have known that as a result of these company-wide practices and/or policies, Mr. De Roxas and other aggrieved employees were performing their assigned duties off-the-clock and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. De Roxas and other aggrieved employees worked shifts of eight (8)

hours or more a day and/or shifts of ten (10) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. De Roxas and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, BAXALTA did not pay Mr. De Roxas and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, BAXALTA paid Mr. De Roxas and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, BAXALTA failed to incorporate all compensation, including shift differential pay, 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 Mr. De Roxas and other aggrieved employees worked overtime and received these other forms of pay, BAXALTA failed to pay all overtime wages by paying a lower overtime rate than required.

Specifically, BAXALTA paid Mr. De Roxas and other aggrieved employees shift differential pay, incentive pay, and/or nondiscretionary bonuses which were listed on Mr. De Roxas's and other aggrieved employees' wage statements as "Shift08", "Shift10", "Recognition", "S T I P Bonus", and "Service Award", among others. During pay periods that Mr. De Roxas and other aggrieved employees were paid overtime wages, BAXALTA did not incorporate the shift differential pay, incentive pay, and/or nondiscretionary bonuses into Mr. De Roxas's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, BAXALTA paid Mr. De Roxas and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. BAXALTA's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. De Roxas and other aggrieved employees on a company-wide basis.

BAXALTA'S failure to pay Mr. De Roxas and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510, 511, and 1198. Mr. De Roxas 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 IWC Wage Order No. 1-2001 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, § 11010(2)(G) (defining "Hours Worked").

As set forth above, due to BAXALTA's company-wide practices of restricting overtime accrual and understaffing while simultaneously assigning heavy workloads and deadlines, BAXALTA systematically failed to pay Mr. De Roxas and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. As stated, BAXALTA required Mr. De Roxas and other aggrieved employees to perform work off-the-clock,

including monitoring product, completing or correcting paperwork, taking mandatory online training, submitting to off-the-clock mandatory COVID-19 screenings and/or temperature checks, traveling to different facilities, and/or responding to phone calls from BAXALTA's management. Also, as stated above, BAXALTA had a company-wide policy and/or practice of rounding Mr. De Roxas's and other aggrieved employees' hourly clock-in and clock-out duration times in its timekeeping system to the nearest half hour, resulting in the failure to compensate them for all hours worked.

Further, as also stated above, due to BAXALTA's uniform practices of understaffing while assigning heavy workloads and productivity expectations, failing to adhere to a schedule for meal periods, and requiring employees to stay on the work premises during unpaid meal periods, Mr. De Roxas and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and forced to forego meal periods and/or had their meal periods cut short and/or interrupted by work. Moreover, as stated, in order to prevent employees from accruing meal period penalties, BAXALTA's management pressured employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods to reflect compliant meal periods, but required them to continue working. Thus, BAXALTA systematically failed to pay Mr. De Roxas and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, BAXALTA did not pay at least minimum wages for all hours worked by Mr. De Roxas and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, BAXALTA 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, BAXALTA regularly failed to pay at least minimum wages to Mr. De Roxas 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. Mr. De Roxas 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, during the relevant time period, as stated, BAXALTA had, and continues to have, a company-wide policy and/or practice of understaffing its locations while assigning heavy workloads and productivity expectations, which created a lack of adequate meal period coverage and prevented Mr. De Roxas and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. In conjunction with understaffing its locations, BAXALTA had a company-wide practice or policy of failing to adhere to a schedule for meal periods, which exacerbated the lack of meal period coverage. As a result of BAXALTA's policies and/or practices, Mr. De Roxas 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.

Second, as stated, because BAXALTA frowned upon employees accruing meal period penalties, BAXALTA's management pressured Mr. De Roxas 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 BAXALTA would otherwise owe. For example, at BAXALTA's management's direction, Mr. De Roxas would log that his meal period was taken within the first five (5) hours of his shift, even when he was only able to take his meal periods after his seventh hour of work.

Third, as set forth above, BAXALTA maintained and implemented a company-wide on-premises meal period policy, which mandated that Mr. De Roxas and other aggrieved employees remain on the work premises during their meal periods. Because Mr. De Roxas and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, BAXALTA effectively maintained control over Mr. De Roxas and other aggrieved employees during meal periods.

Fourth, BAXALTA did not provide Mr. De Roxas and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During his employment, Mr. De Roxas worked shifts in excess of ten (10) or more hours per day every shift, but was never provided a second 30-minute meal period. Mr. De Roxas 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.

At all times herein mentioned, BAXALTA knew or should have known that, as a result of these policies, Mr. De Roxas and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. BAXALTA further knew or should have known that BAXALTA did not pay Mr. De Roxas and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, or missed.

As set forth above, BAXALTA have a company-wide policy and/or practice of rounding employee clock-in and clock-out duration times in its timekeeping system, which prevented Mr. De Roxas and other aggrieved employees from receiving all meal period premiums when they took late and/or shortened meal periods. As stated, BAXALTA's rounding policy rounded employees' clock-in and clock-out times in its timekeeping system to the nearest half (0.5) of an hour. To the extent that BAXALTA's timekeeping system reported that Mr. De Roxas 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, Mr. De Roxas and other aggrieved employees were entitled to a meal period penalty. Thus, Mr. De Roxas and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Moreover, BAXALTA 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, Mr. De Roxas and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that BAXALTA did pay Mr. De Roxas and other aggrieved employees premium pay for missed, late, and interrupted meal periods, BAXALTA did not pay Mr. De Roxas and other aggrieved employees at the correct rate of pay for premiums because BAXALTA systematically failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a result, BAXALTA failed to provide Mr. De Roxas and other aggrieved employees compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

Accordingly, BAXALTA failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. De Roxas 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, BAXALTA regularly failed to authorize and permit Mr. De Roxas and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, BAXALTA's company-wide practices, including understaffing and implementing heavy workloads and productivity expectations, prevented Mr. De Roxas and other aggrieved employees from being able to take rest periods. BAXALTA also failed to schedule rest periods and/or adhere to a schedule for rest periods, which, coupled with BAXALTA's failure to provide adequate rest period coverage, further led to Mr. De Roxas and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, BAXALTA maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. De Roxas and other aggrieved employees remain on the premises during their rest periods. Because Mr. De Roxas and other aggrieved employees were restricted from

leaving BAXALTA's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as purchasing food at a nearby store. Thus, BAXALTA effectively maintained control over Mr. De Roxas and other aggrieved employees during rest periods.

As a result of BAXALTA's practices and policies, Mr. De Roxas and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. De Roxas had to forego rest periods altogether, due to BAXALTA's policy of assigning heavy workloads and failing to provide sufficient rest period coverage.

BAXALTA has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. De Roxas and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that BAXALTA did pay Mr. De Roxas and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, BAXALTA did not pay Mr. De Roxas and other aggrieved employees at the correct rate of pay for premiums because BAXALTA failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a result, BAXALTA denied Mr. De Roxas and other aggrieved employees rest periods and failed to pay them rest period premiums due, in violation of Labor Code sections 226.7 and 516, and the applicable IWC Wage Order.

Accordingly, BAXALTA failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. De Roxas 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. BAXALTA has not provided Mr. De Roxas 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, BAXALTA has knowingly and intentionally provided Mr. De Roxas and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, BAXALTA issued uniform wage statements to Mr. De Roxas 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, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours

worked at each hourly rate. Specifically, BAXALTA violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, because BAXALTA did not record the time Mr. De Roxas and other aggrieved employees spent working off-the-clock, deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), and improperly rounded Mr. De Roxas's and other aggrieved employees' total hours worked, BAXALTA did not list the correct amount of gross wages and net wages earned by Mr. De Roxas and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, BAXALTA failed to accurately list the total number of hours worked by Mr. De Roxas 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 BAXALTA did not calculate Mr. De Roxas's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, BAXALTA did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, BAXALTA also failed to list the correct amount of net wages in violation of section 226(a)(5). BAXALTA also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest premiums, and/or paid sick leave, in violation of section 226(a)(9).

Third, BAXALTA failed to correctly list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in compliance with section 226(a)(9). For example, BAXALTA issued wage statements to Mr. De Roxas that list the pay rate and total amount for shift differential pay earned, but not the number of hours that the pay corresponds to. Furthermore, BAXALTA issued wage statements to Mr. De Roxas and other aggrieved employees that failed to list the pay rates and corresponding hours worked at all, and instead list "Details not Displayed."

The wage statement deficiencies also include, among other things, 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 inclusive dates of the period for which aggrieved employees were paid; 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 name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

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), BAXALTA willfully failed to maintain accurate payroll records for Mr. De Roxas 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 improperly rounding Mr. De Roxas'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, BAXALTA failed, on a company-wide basis, to keep accurate records of work and meal period start and stop times for Mr. De Roxas and other aggrieved employees, in violation of section 1198. Also, as stated, BAXALTA engaged in a company-wide practice and/or policy of falsifying Mr. De Roxas’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 Mr. De Roxas and other aggrieved employees. Furthermore, in light of BAXALTA’s failure to provide Mr. De Roxas and other aggrieved employees with second 30-minute meal periods to which they were entitled, BAXALTA kept no records of meal start and end times for second meal periods.

Because BAXALTA failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. De Roxas 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, Mr. De Roxas 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.

Mr. De Roxas 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, BAXALTA willfully failed to pay Mr. De Roxas and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay within the time periods specified by California Labor Code section 204.

Mr. De Roxas 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.

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

Mr. De Roxas 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 § 246 – Unpaid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, BAXALTA did not pay Mr. De Roxas and other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, BAXALTA paid Mr. De Roxas and other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, BAXALTA failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when Mr. De Roxas and other aggrieved employees took sick leave and received these other forms of pay, BAXALTA failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, BAXALTA paid Mr. De Roxas and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

BAXALTA's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Mr. De Roxas and other aggrieved employees on a company-wide basis in violation of Labor Code 246(l). Mr. De Roxas and other

aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11010 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11010(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, BAXALTA violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010(5), because BAXALTA failed to pay Mr. De Roxas and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regular schedule.

BAXALTA had a company-wide practice of sending Mr. De Roxas and other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Mr. De Roxas and other aggrieved employees for half of their scheduled shift. For example, Mr. De Roxas would report to work, but would be sent home immediately or before working half of his scheduled shift by BAXALTA’s management because he was not needed. Although Mr. De Roxas and other aggrieved employees would report to work based on the schedule that BAXALTA provided to them, BAXALTA would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Mr. De Roxas and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010(5).

Mr. De Roxas 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 § 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. 1-2001, 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.”

First, during the relevant time period, Mr. De Roxas 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 BAXALTA failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. De Roxas was required to use his personal cellular phone to converse with his supervisors, leads, and co-workers about work-related matters via calls and/or text messages. Mr. De Roxas also used his personal cellular phone to complete the mandatory online trainings that he was unable to complete at work due to BAXALTA’s lack of sufficient number of computers for employee use. Although BAXALTA required Mr. De Roxas and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, BAXALTA failed to reimburse them for these costs.

Second, during the relevant time period, BAXALTA had a company-wide policy of requiring Mr. De Roxas and other aggrieved employees to utilize their own personal vehicles or obtain alternate transportation to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, Mr. De Roxas was required to drive an additional 15-20 miles to BAXALTA’s facility in Van Nuys, California to cover additional shifts, but BAXALTA did not compensate him for his travel expenses or mileage.

Third, during the relevant time period, BAXALTA, on a company-wide basis, required Mr. De Roxas and other aggrieved employees to wear safety devices and safeguards, such as protective eyewear and special safety shoes such as steel-toed boots, to keep them safe in the workplace. For example, Mr. De Roxas and other aggrieved employees worked in refrigerated facilities and were required to purchase safety goggles and handwarmers in order to carry out their work-related duties. As another example, due to COVID-19, Mr. De Roxas was purchased face masks to wear at work, because BAXALTA required face masks to be worn on their premises, but did not provide them to employees. Although BAXALTA required Mr. De Roxas and other aggrieved employees to purchase their own supplies and/or equipment for use on the job, BAXALTA did not fully reimburse them for these expenses.

BAXALTA could have provided Mr. De Roxas and other aggrieved employees with the actual tools for use on the job, such company mobile devices, company vehicles, and protective equipment to be used for fulfilling work-related tasks. Or, BAXALTA could have reimbursed employees for their mobile device usage, mileage, travel, and protective equipment expenses. Instead, BAXALTA passed these operating costs off onto Mr. De Roxas and other aggrieved employees. At all relevant times, Mr. De Roxas did not earn at least two (2) times the minimum wage.

Thus, BAXALTA 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. Mr. De Roxas 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).

Violation of California Labor Code §§ 6401 and 6403 – Failure to Provide Safety Devices and Safeguards

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

During the relevant period, as stated, BAXALTA, on a company-wide basis, failed to provide Mr. De Roxas and other aggrieved employees with personal protective equipment, such as protective eyewear and masks, to keep them safe in the workplace. Despite the fact that BAXALTA required employees to wear certain protective equipment, including protective eyewear and masks, BAXALTA failed to provide such reasonably necessary equipment to Mr. De Roxas and other aggrieved employees to keep them safe. Thus, BAXALTA's failure to provide Mr. De Roxas and other aggrieved employees with safety devices and safeguards violates Labor Code sections 6401 and 6403.

BAXALTA's failure to provide Mr. De Roxas and other aggrieved employees with safety devices and safeguards for the workplace violates Labor Code sections 6401 and 6403. Mr. De Roxas and other aggrieved employees are entitled to recover 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." BAXALTA, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. De Roxas's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. De Roxas seeks the remedies set forth in Labor Code section 558 for himself, 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, Mr. De Roxas, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against BAXALTA for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403.

Therefore, on behalf of all aggrieved employees, Mr. De Roxas seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

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

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

Best Regards,



Anthony Castillo

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PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000, Los Angeles, California 90067. My electronic address is Xochitl.Tapia@capstonelawyers.com.

On **July 13, 2023**, I served the document(s) described as: **THIRD AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☐ to interested parties as follows [or] ☒ as stated on the attached service list:

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☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. As well as CaseAnywhere, per the Order dated June 24, 2022. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **July 13, 2023**, at Los Angeles, California.

Xochitl Tapia
Type or Print Name

Signature

