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Attorneys for Plaintiffs Jose Rivera, Chad Turina, and Jorge Lopez
on behalf of themselves and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

JOSE RIVERA, CHAD TURINA, and JORGE
LOPEZ, individually, and on behalf of other
members of the general public similarly situated
and aggrieved employees pursuant to the
Private Attorneys General Act ("PAGA"),

Plaintiffs,

vs.

ACCO BRANDS CORPORATION, a
Delaware corporation; ACCO BRANDS USA,
LLC, a Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: CIVDS 2020490

CLASS ACTION

Assigned for All Purposes to:
Honorable David Cohn
Department S-26

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages Under Labor Code §§ 1194, 1197, and 1197.1;
2. Failure to Pay Wages and Overtime Under Labor Code §§ 510, 1194, and 1198;
3. Rest-Break Liability Under Labor Code § 226.7;
4. Meal-Break Liability Under Labor Code §§ 226.7 512(a);
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 203;
7. Failure to Reimburse Expenses § 2802;
8. Violation of Labor Code §§ 2698, *et seq.* (Private Attorneys General Act of 2004); and
9. Violation of Business & Professions Code §§ 17200 *et seq.*

DEMAND FOR JURY TRIAL

Original Complaint Filed: September 28, 2020
First Amended: August 11, 2021
Trial Date: None Set

1 Plaintiffs Jose Rivera, Chad Turina, and Jorge Lopez (hereinafter “Plaintiffs,” “Plaintiff
2 Rivera,” “Plaintiff Turina,” and “Plaintiff Lopez”), on behalf of themselves, other members of the
3 general public similarly situated, and aggrieved employees pursuant to the Private Attorneys
4 General Act (“PAGA”) (collectively, “Employees” or “Class Members”; individually,
5 “Employee”) complain of Defendants, and each of them, as follows:

6 **INTRODUCTION**

7 1. Plaintiffs bring this action on behalf of themselves and all current and former non-
8 exempt California employees of Defendant ACCO BRANDS USA, LLC, a Delaware limited
9 liability company, and DOES 1 through 100 (all defendants being collectively referred to herein as
10 “Defendants”) who were employed by Defendants at any time since September 28, 2016.
11 Plaintiffs allege that Defendants, and each of them, violated various provisions of the California
12 Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and California Business
13 & Professions Code, and seeks redress for these violations.

14 2. Upon information and belief, the same violations Plaintiffs endured at Defendants’
15 San Bernardino, California location was also experienced by all non-exempt hourly employees
16 working for Defendants throughout California. Plaintiffs were employed by Defendants and (i)
17 shared similar job duties and responsibilities; (ii) were subjected to the same policies and
18 practices; and (iii) endured similar violations at the hands of Defendants as the other Class
19 Members who served in similar and related positions throughout California.

20 **THE PARTIES**

21 **A. The Plaintiffs**

22 3. Plaintiff Jose Rivera (“Mr. Rivera”) has resided in San Bernardino County, and,
23 during the time period relevant to this Complaint, was employed by Defendants as a non-exempt
24 hourly employee within the State of California. Plaintiff Rivera was working out of Defendants’
25 facility in Ontario, California during his employment.

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1 4. Plaintiff Chad Turina (“Mr. Turina”) has resided in Alameda County, and, during
2 the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly
3 employee within the State of California. Plaintiff Turina was working out of Defendants’ facility
4 in Dublin, California during his employment.

5 5. Plaintiff Jorge Lopez (“Mr. Lopez”) has resided in San Bernardino County, and,
6 during the time period relevant to this Complaint, was employed by Defendants as a non-exempt
7 hourly employee within the State of California. Plaintiff Jorge was working out of Defendants’
8 facility in Ontario, California during his employment.

9 **B. The Defendants**

10 6. Defendant ACCO BRANDS USA, LLC (“ACCO”) is a Delaware limited liability
11 company and lists its principal office in Lake Zurich, Illinois. Upon information and belief, ACCO
12 has been listed as the employer on the wage statements, and other employment related
13 documentation issued to Plaintiffs, and upon information and belief, the other Class Members,
14 during the relevant time period.

15 7. The true names and capacities, whether individual, corporate, associate, or
16 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
17 unknown to Plaintiffs, who, therefore, sue these Defendants by such fictitious names under Code
18 of Civil Procedure section 474. Plaintiffs are informed and believe, and thereon allege, that
19 Defendants designated herein as Does 1 through 50, inclusive, and each of them, are legally
20 responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of
21 court to amend this Complaint to reflect the true names and capacities of the Defendants
22 designated herein as Does 1 through 50 when their identities become known.

23 8. Plaintiffs are informed and believe, and thereon allege, that each Defendant acted in all
24 respects pertinent to this action as the agent of the other Defendants, that Defendants
25 carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and
26 that the acts of each Defendant are legally attributable to the other Defendants.
27 Furthermore, Defendants acted in all respects as the employers or joint employers of
28 Employees. Defendants, and each of them, exercised control over the wages, hours or

1 working conditions of Employees, issued policies governing their employment, or
2 suffered or permitted Employees to work, or engaged, thereby creating a common law
3 employment relationship, with Employees. Therefore, Defendants, and each of them,
4 employed or jointly employed Employees.

5 9. Whenever and wherever reference is made in this Complaint to any act by a defendant
6 or defendants, such allegations and references shall also be deemed to mean the acts and
7 failures to act of each defendant acting individually, jointly, and severally.

8 10. Whenever and wherever reference is made to individuals who are not named as a
9 Defendant in this Complaint but were agents, servants, employees and/or supervisors of
10 Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope
11 of their employment.

12 **JURISDICTION AND VENUE**

13 11. This Court has jurisdiction over this Action pursuant to California Code of Civil
14 Procedure section 410.10 and Business & Professions Code section 17203. This Action is brought
15 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
16 Code of Civil Procedure section 382. Venue as to Defendants is also proper in this judicial district
17 pursuant to California Code of Civil Procedure sections 395, *et seq.* Upon information and belief,
18 the obligations and liabilities giving rise to this lawsuit occurred at least in part in San Bernardino.
19 Defendants maintain and operate company facilities in San Bernardino and employs Plaintiffs and
20 other Class Members throughout California.

21 **FACTUAL BACKGROUND**

22 12. The Employees who comprise the Class, including Plaintiffs, are non-exempt
23 employees pursuant to the applicable Wage Order(s) of the IWC. Defendants hire hourly
24 employees who work in non-exempt positions at the direction of Defendants in the State of
25 California. Plaintiffs and Class Members were either not paid by Defendants for all hours worked
26 or were not paid at the appropriate minimum, regular and overtime rates. Plaintiffs also contend
27 that Defendants failed to pay Plaintiffs and Class Members all wages due and owing to their
28 detriment.

1 13. As discussed in detail below, Defendants' employment practices resulted in: (i)
2 Class Members performing off-the-clock pre-shift and post-shift work without compensation; (ii)
3 rounding down of hours worked by a quarter of an hour; (iii) the under-recording of all hours
4 worked, resulting in failure to pay overtime wages; (iv) failure to furnish accurate wage
5 statements; (v) failure to provide timely, uninterrupted meal periods and rest breaks; (vi) failure to
6 reimburse all necessary business expenditures; and (vii) failure to timely pay Class Members upon
7 separation. Defendants' conduct thus violated various provisions of the California Labor Code and
8 applicable Wage Orders

9 14. Plaintiffs and Class Members performed their jobs but were not paid the minimum
10 wages, overtime wages, and double time wages, to which they were entitled to because of
11 Defendants' systematic policies and practices of rounding and failing to properly compensate
12 Class Members for all hours worked. More specifically, Plaintiffs and Class Members would clock
13 in upon arriving to Defendants' facilities using Defendants' time keeping. These time entries were
14 to the minute, but Defendants had an intentional system in place which in turn rounded these hours
15 to a quarter of an hour, regardless of time entered by Class Members. This rounding occurred for
16 all time punches during a shift.

17 15. Upon information and belief, Defendants had the ability to record hours worked to
18 the exact minute but instead chose to round the hours worked to the nearest quarter of an hour in
19 order to secure a discount upon Plaintiffs and Class Members. Defendants' willful actions resulted
20 in the systematic underpayment of wages to Class Members, including underpayment of overtime
21 and double time pay to Class Members over a period of time.

22 16. Defendants' unlawful conduct was driven, upon information and belief, by the
23 decision to pay Class Members based on their scheduled shift times rather than the hours they
24 actually worked. This uniformly applied policy of requiring off-the-clock work in conjunction
25 with timekeeping records that reflected shift schedules rather than actual hours worked, operated
26 as an unlawful rounding policy because it was not neutral and resulted, over time, to the
27 substantial detriment of Class Members by systematically under-compensating them.
28

1 17. To the extent that Defendants paid overtime to Plaintiffs and Class Members, it
2 began doing so well after eight (8) hours into a work shift day and/or forty (40) hours a week, as
3 Defendants' corresponding time records and paystubs show. Therefore, from at least four (4) years
4 prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy
5 or practice of failing to pay Employees for all hours worked, and failing to pay minimum wages,
6 overtime wages, and double time wages for all time worked as required by California Law and in
7 violation of the Labor Code section 1197, IWC Wage Order MW-2014, and paragraphs 2(K),
8 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Defendants' willful actions resulted in
9 the systematic underpayment of wages to Class Members, including underpayment of overtime
10 and double time pay to Class Members over a period of time.

11 18. The aforementioned rounding also resulted in wide-spread and substantial off-the-
12 clock work by under-recording actual hours worked as this rounding resulted in Plaintiffs and
13 Class Members performing work related functions before their scheduled shifts began and after
14 their shifts ended, all while under Defendants' control and without adequate compensation.

15 19. By implementing policies, practices, procedures, and protocols which required
16 Plaintiffs and Class Members to submit and/or agree to rounded time keeping entries, Defendants'
17 willful actions resulted in the systematic underpayment of wages to Class Members.

18 20. Defendants' policy of rounding the time keeping entries also resulted in under-
19 reporting hours worked in a manner that would impact when Class Members were to receive off-
20 duty meal and rest periods, resulting in meal and rest periods that were either provided late, were
21 impermissibly shortened, or were interrupted by work demands. This often resulted in meal and
22 rest breaks being taken generally later than required by law.

23 21. Defendants did not have a policy or practice which provided or recorded all the
24 legally required unpaid, off-duty meal periods. Due to Defendants rounding policy, Plaintiffs and
25 Class Members were required to perform work as ordered by Defendants for more than five (5)
26 hours during a shift but were often required to do so without receiving a lawful and timely meal
27 break. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing to the
28 present, meal period violations thus occurred in one or more of the following manners:

- a. Class Members were not provided full thirty-minute duty free meal periods for work days in excess of five (5) hours and were not compensated one (1) hour's wages in lieu thereof, all in violation of, among others, Labor Code sections 226.7, 512, and the applicable Industrial Welfare Commission Wage Order(s);
- b. Class Members were not provided second full thirty-minute duty free meal periods for work days in excess of ten (10) hours;
- c. Class Members were required to work through at least part of their daily meal period(s);
- d. Class Members were not provided with "premium pay," *i.e.*, one hour of wages at each Employee's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided.
- e. Meal periods were not recorded;
- f. Meal periods were provided after five hours of continuous work during a shift;
- g. Class Members were restricted in their ability to take a full duty free thirty-minute meal period; and

22. Plaintiffs and Class Members were regularly required by Defendants to work through or during their rest breaks and were not provided with one hour's wages in lieu thereof. Rest period violations, therefore, arose in one or more of the following manners:

- a. Class Members were required to work without being provided a minimum ten (10) minute rest period for every four (4) hours, or major fraction thereof, worked and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;
- b. Class Members, due to the busy work environment, were restricted in their ability to take timely off-duty rest breaks which in turn were often provided at the end of a shift instead of every four (4) hours worked, or major fraction thereof; and.
- c. Class Members were unable to leave the premises during rest breaks.

1 23. Defendants also consistently failed to issue accurate itemized wage statements as
2 required by Labor Code section 226(a) due to Defendants' systematic rounding policy. Defendants
3 rounding policy led to confusion amongst Class Members about how many hours they actually
4 worked and at which rates per pay period. Upon information and belief, the wage statement also
5 did not list the total hours worked.

6 24. In addition, Defendants failed to pay Class Members sick leave pursuant to Labor
7 Code section 246(l). Specifically, Labor Code section 246(l) requires that paid sick leave be paid:
8 (i) at a non-exempt employee's regular rate of pay for the workweek in which the employee uses
9 paid sick time; or (ii) at a rate calculated by dividing the employee's total wages, not including
10 overtime premium pay, by the employee's total hours worked in the full pay periods of the prior
11 90 days of employment. Instead of paying Class Members sick leave pursuant to Labor Code
12 section 246(l), Defendants paid sick leave at Class Members' hourly rates.

13 25. Also, Labor Code section 551 states "[e]very person employed in any occupation of
14 labor is entitled to one day's rest therefrom in seven." Labor Code section 552 adds, "[n]o
15 employer of labor shall cause his employees to work more than six days in seven." Despite this,
16 Defendants frequently required Class Members to work seven (7) days in a row or more without
17 one (1) day's rest.

18 26. From at least four (4) years prior to filing this lawsuit and continuing to the present,
19 Defendants have also had a consistent policy of failing to pay all wages owed to Class Members at
20 the time of their termination of within seventy-two (72) hours of their resignation, as required by
21 California wage-and-hour laws.

22 27. Defendants' management also did not reimburse Plaintiffs and Class Members for
23 all necessarily incurred expenses in performance of their job duties. Plaintiffs incurred personal
24 cellular phone expenses in the performance of their job duties that were uncompensated for.

25 28. In light of the foregoing, Plaintiffs bring this action on behalf of themselves and on
26 behalf of all similarly situated Employees, pursuant to, *inter alia*, Labor Code sections 201, 202,
27 203, 204, 218.6, 221, 226, 226.7, 246, 510, 512, 551, 552, 558, 1174, 1185, 1194, 1194.2, 1197,
28 2802, and California Code of Regulations, Title 8, section 11000 *et seq.*

29. Furthermore, pursuant to Business and Professions Code sections 17200-17208, Plaintiffs and their fellow Employees seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

30. Plaintiffs bring this class action on behalf of themselves and all others similarly situated pursuant to Code of Civil Procedure section 382. Plaintiffs seek to represent a Class (or “the Class” or “Class Members”) defined as follows: “all current and former non-exempt California employees of Defendants who were employed by Defendants at any time since September 28, 2016.”

31. Further, Plaintiffs seek to represent the following Subclasses composed of and defined as follows:

- a. Subclass 1. Minimum Wages Subclass. All Class Members who were not compensated for all hours worked for Defendants at the applicable minimum wage.
- b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight (8) in a day and/or forty (40) in a week.
- c. Subclass 3. Meal Period Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one (1) hour of pay at the Employee's regular rate of pay in lieu thereof.
- d. Subclass 4. Rest Break Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four (4) hours worked, or major fraction thereof, and failing to pay one (1) hour of pay at the Employee's regular rate of pay in lieu thereof.

- 1 e. Subclass 5. Wage Statement Subclass. All Class Members who, within the
2 applicable limitations period, were not provided with accurate itemized wage
3 statements.
- 4 f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class
5 Members who were subject to Defendants' policy and/or practice of
6 automatically deducting 30-minutes worth of wages from Employees for
7 alleged meal periods they were denied and/or by understating the hours worked
8 by Employees.
- 9 g. Subclass 7. Termination Pay Subclass. All Class Members who, within the
10 applicable limitations period, either voluntarily or involuntarily separated from
11 their employment and were subject to Defendants' policy and/or practice of
12 failing to timely pay wages upon termination.
- 13 h. Subclass 8. Expense Reimbursement Subclass. All Class Members who
14 incurred necessary and reasonable expenses in connection with performing their
15 job duties for Defendants and who were subject to a policy and/or practice
16 under which such expenses were not reimbursed.
- 17 i. Subclass 9. Sick Pay. All Class Members who were denied the repayment of
18 unused sick pay at their regular rate of pay.
- 19 j. Subclass 10. UCL Subclass. All Class Members who are owed restitution
20 because of Defendants' business acts and practices, to the extent such acts and
21 practices are found to be unlawful, deceptive, and/or unfair.

22 32. Plaintiffs reserve the right under California Rule of Court 3.765 to amend or
23 modify the class description with greater particularity or further division into subclasses or
24 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
25 against Defendants, the Class Period should be adjusted accordingly.

26 33. Defendants, as a matter of company policy, practice and procedure, and in violation
27 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
28 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged

1 in a practice whereby Defendants failed to correctly calculate compensation for the time worked
2 by Plaintiffs and Class Members, even though Defendants enjoyed the benefit of this work,
3 required employees to perform this work and permitted or suffered to permit this work.
4 Defendants have uniformly denied these Class Members wages to which they are and were
5 entitled in order to unfairly cheat the competition and unlawfully profit.

6 34. This action has been brought and may properly be maintained as a class action
7 under the provisions of Code of Civil Procedure section 382 because there is a well-defined
8 community of interest in litigation and the proposed Class is easily ascertainable.

9 **A. Numerosity**

10 35. The potential members of the Class as defined are so numerous that joinder of all
11 the members of the Class is impracticable. While the precise number of Class Members has not
12 been determined at this time, Plaintiffs are informed and believes that Defendants employ or,
13 during the time period relevant to this lawsuit, employed numerous Employees who satisfy the
14 Class definition within the State of California.

15 36. Accounting for employee turnover during the relevant time period increases this
16 number substantially. Plaintiffs allege Defendants' employment records will provide information
17 as to the number and location of all Class Members.

18 **B. Commonality**

19 37. There are questions of law and fact common to the Class that predominate over any
20 questions affecting only individual Class Members. These common questions of law and fact
21 include the following:

- 22 a. Whether Defendants failed to pay Employees minimum wages;
- 23 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 24 c. Whether Defendants failed to pay Employees overtime based on proper
25 calculation of the regular rate of pay;
- 26 d. Whether Defendants failed to pay Employees overtime as required under
27 Labor Code section 510;
- 28

- 1 e. Whether Defendants violated Labor Code section 226.7 and 512, and the
2 applicable IWC Wage Orders, by failing to provide Employees with
3 requisite meal periods or premium pay in lieu thereof;
- 4 f. Whether Defendants violated Labor Code section 226.7, and the applicable
5 IWC Wage Orders, by failing to authorize and permit Employees to take
6 requisite rest breaks or provide premium pay in lieu thereof;
- 7 g. Whether Defendants violated Labor Code section 226(a) by providing
8 Employees with inaccurate wage statements;
- 9 h. Whether Defendants violated Labor Code section 221 by unlawfully
10 deducting from wages;
- 11 i. Whether Defendants violated Labor Code section 204 by failing to timely
12 pay wages;
- 13 j. Whether Defendant violated Labor Code section 246(l) by failing to pay
14 sick time at a Class Members regular rate of pay;
- 15 k. Whether Defendants violated Labor Code sections 201, 202, and 203 by
16 failing to pay wages and compensation due and owing at the time of
17 termination of employment;
- 18 l. Whether Defendants violated Labor Code section 2802 by failing to
19 reimburse necessary business-related expenses;
- 20 m. Whether Defendants violated Labor Code sections 226 and 1174 and the
21 IWC Wage Orders by failing to maintain accurate records of Class
22 Members' earned wages and work periods;
- 23 n. Whether Defendants violated Labor Code section 1194 by failing to
24 compensate all Employees during the relevant time period for all hours
25 worked, whether regular or overtime;
- 26 o. Whether Defendants violated Business and Professions Code sections
27 17200, *et seq.*;
- 28

p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code sections 17200, *et seq.*; and

q. Whether Defendants' conduct was willful.

C. Typicality

38. The claims of the named Plaintiffs are typical of those of the other Employees. The Employee Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

39. Plaintiffs will fairly and adequately represent and protect the interests of the Employees. Counsel who represents the Employees are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

40. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions of law and fact common to all Employees predominate over any questions affecting only individual Employees. Each Employee has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to properly compensate Employees.

41. As to the issues raised in this case, a class action is superior to all other methods for the fair and efficient adjudication of this controversy, as joinder of all Class Members is impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class Members. Further, as the economic or other loss suffered by vast numbers of Class Members may be relatively small, the expense and burden of individual actions makes it difficult for the Class Members to individually redress the wrongs they have suffered. Moreover, if disgorgement is ordered, a class action is the only mechanism that will permit the employment of a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in managing this case as a class action, and proceeding on a class-wide basis will permit Employees to vindicate

1 their rights for violations they endured which they would otherwise be foreclosed from receiving
2 in a multiplicity of individual lawsuits that would be cost prohibitive to them.

3 42. Class action treatment will allow those persons similarly situated to litigate their
4 claims in the manner that is most efficient and economical for the parties and the judicial system.
5 Plaintiffs are unaware of any difficulties in managing this case that should preclude class
6 treatment. Plaintiffs contemplate the eventual issuance of notice to the proposed Class Members
7 that would set forth the subject and nature of the instant action. The Defendants' own business
8 records can be utilized for assistance in the preparation and issuance of the contemplated notices.
9 To the extent that any further notice is required additional media and/or mailings can be used.

10 43. Defendants, as prospective and actual employers of the Employees, had a special
11 fiduciary duty to disclose to prospective Class Members the true facts surrounding Defendants'
12 pay practices, policies and working conditions imposed upon the similarly situated Employees as
13 well as the effect of any alleged arbitration agreements that may have been forced upon them. In
14 addition, Defendants knew they possessed special knowledge about pay practices and policies,
15 most notably intentionally refusing to pay for all hours actually worked which should have been
16 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
17 and policies and practices on the Employees and Class as a whole.

18 44. Plaintiffs and the Employees in the Class did not discover the fact that they were
19 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
20 ever any discussion about Plaintiffs' and the Class's waiver of their Constitutional rights of trial
21 by jury, right to collectively organize and oppose unlawful pay practices under California and
22 federal law as well as obtain injunctive relief preventing such practices from continuing. As a
23 result, the applicable statutes of limitation were tolled until such time as Plaintiffs and Class
24 Members discovered their claims.'

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES**

3 **UNDER LABOR CODE §§ 1194, 1197, AND 1197.1**

4 **(Against All Defendants)**

5 45. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
6 full herein.

7 46. Defendants failed to pay Employees in the Class minimum wages for all hours worked
8 and provided them with inaccurate wage statements that prevented Plaintiffs and the
9 Class from learning of these unlawful pay practices.

10 47. Due to Defendants rounding policy, Plaintiffs and the Class Members were
11 required to work pre-shift and post-shift hours off-the-clock without being paid minimum wages,
12 regular wages, and applicable overtime at their required rates. Due to the inaccuracies from when
13 Plaintiffs and the Class Members actually clocked in, when compared to the rounded times for
14 which was recorded, resulted in “off-the-clock” work which was not properly compensated for.

15 48. By implementing policies, practices, procedures, and protocols which required
16 Plaintiffs and Class Members to submit and/or agree to rounded time keeping entries Defendants’
17 willful actions resulted in the systematic underpayment of wages to Class Members.

18 49. Thus, Employees would work hours and not receive wages, including, as alleged
19 above, in connection with off-the-clock work due to rounding of timekeeping entries to reflect less
20 time worked than was actually worked. This systematic rounding policy resulted in off-the-clock
21 work and underpayment of all wages owed to employees over a period of time, while benefiting
22 Defendants.

23 50. Defendants’ uniform pattern of unlawful wage and hour practices manifested,
24 without limitation, applicable to the Class as a whole, because of implementing a uniform policy
25 and practice that denied accurate compensation to Plaintiffs and the other members of the Class as
26 to minimum wage pay.

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1 51. In California, employees must be paid at least the then applicable state minimum wage
2 for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to
3 California Labor Code section 204, other applicable laws and regulations, and public
4 policy, an employer must timely pay its employees for all hours worked. Defendants
5 failed to do so.

6 52. California Labor Code section 1197, entitled “Pay of Less Than Minimum Wage”
7 states: “The minimum wage for employees fixed by the commission is the minimum
8 wage to be paid to employees, and the payment of a less wage than the minimum so
9 fixed is unlawful.”

10 53. The applicable minimum wages fixed by the commission for work during the
11 relevant period is found in the Wage Orders. The minimum wage provisions of California Labor
12 Code are enforceable by private civil action pursuant to Labor Code section 1194(a) which states:
13 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
14 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
15 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
16 compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

17 54. As described in California Labor Code sections 1185 and 1194.2, any action for wages
18 incorporates the applicable Wage Order of the California Industrial Welfare
19 Commission. Also, California Labor Code sections 1194, 1197, 1197.1 and those
20 Industrial Welfare Commission Wage Orders entitle non-exempt employees to an
21 amount equal to or greater than the minimum wage for all hours worked. All hours must
22 be paid at least at the statutory or agreed upon rate, and no part of this rate may be used
23 as a credit against a minimum wage obligation.

24 55. In committing these violations of the California Labor Code, Defendants
25 inaccurately recorded or incorrectly calculated the time worked, and consequently underpaid the
26 actual time worked by Plaintiffs and other members of the Class. Defendants acted in an illegal
27 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
28 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and

1 regulations. As a result of these violations, Defendants also failed to timely pay all wages earned
2 in accordance with California Labor Code section 1194.

3 56. California Labor Code section 1194.2 also provides for the following remedies: “In any
4 action under Section 1194 . . . to recover wages because of the payment of a wage less
5 than the minimum wages fixed by an order of the commission, an employee shall be
6 entitled to recover liquidated damages in an amount equal to the wages unlawfully
7 unpaid and interest thereon.”

8 57. In addition to restitution for all unpaid wages, pursuant to California Labor Code section
9 1197.1, Plaintiffs and Class Members are entitled to recover a penalty of \$100.00 for the
10 initial failure to timely pay each employee minimum wages, and \$250.00 for each
11 subsequent failure to pay each employee minimum wages.

12 58. Pursuant to California Labor Code section 1194.2, Plaintiffs and Class Members
13 are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid
14 and interest thereon.

15 59. Defendants have the ability to pay minimum wages for all time worked and have
16 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
17 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

18 60. Wherefore, Plaintiffs and the Employee Class Members are entitled to recover the
19 unpaid minimum wages, liquidated damages in an amount equal to the minimum wages
20 unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit
21 pursuant to California Labor Code section 1194(a). Plaintiffs and the other members of
22 the Class further request recovery of all unpaid wages, according to proof, interest,
23 statutory costs, as well as the assessment of any statutory penalties against Defendants,
24 in a sum as provided by the California Labor Code and/or other applicable statutes. To
25 the extent minimum wage compensation is determined to be owed to the Class Members
26 who have terminated their employment, Defendants’ conduct also violates Labor Code
27 sections 201 and/or 202, and, therefore, these individuals are also be entitled to waiting
28 time penalties under California Labor Code section 203, which penalties are sought

herein on behalf of these Class Members. Defendants' failure to timely pay all wages owed also violated Labor Code section 204 and resulted in violations of Labor Code section 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiffs and other Class Members are entitled to seek and recover statutory costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME

UNDER LABOR CODE §§ 510, 1194, AND 1198

(Against All Defendants)

61. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

62. California Labor Code sections 1194 and 1198 provides that employees in California shall not be employed more than eight (8) hours in any work day, and/or more than forty (40) hours in any workweek, or work a seventh (7th) day in a work week unless they receive additional compensation beyond their regular wages in amounts specified by law.

63. California Labor Code section 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a claim with the Department of Labor Standards and Enforcement.

64. By their conduct, as set forth herein, Defendants violated California Labor Code section 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of

1 eight (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of
2 not paying Employees wages for all hours worked, including by unlawfully rounding down,
3 under-reporting actual hours worked, and not paying proper overtime and double rates, as detailed
4 above.

5 65. More specifically, Defendants, and each of them, have intentionally and improperly
6 required Plaintiffs and the Class Members to accept rounded, changed, adjusted and/or modified
7 hours worked, or otherwise caused them to work off the clock to avoid paying Plaintiffs and the
8 Class Members all earned and owed straight time and overtime wages and other benefits, in
9 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
10 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Therefore,
11 Employees were not properly compensated, nor were they paid overtime rates for hours worked in
12 excess of eight (8) hours in a given day, and/or forty hours in a given week. Based on information
13 and belief, Defendants did not make available to Employees a reasonable protocol for correcting
14 time records when Employees worked overtime hours or to fix incorrect time entries that were
15 rounded by Defendants, to the Employee's detriment.

16 66. Due to Defendants rounding policy, Plaintiffs and the Class Members were
17 required to work pre-shift and post-shift hours off the clock without being paid minimum wages,
18 regular wages, and applicable overtime at their required rates. Due to the inaccuracies from when
19 Plaintiffs and the Class Members actually clocked in, when compared to the rounded times for
20 which was recorded, resulted in "off the clock" work which was not properly compensated for.

21 67. Defendants' failure to pay Plaintiffs and the Class Members the unpaid balance of
22 regular wages owed and overtime compensation, as required by California law, violates the
23 provisions of Labor Code sections 510 and 1198, and is therefore unlawful.

24 68. Additionally, Labor Code section 558(a) provides "any employer or other person
25 acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or
26 any provisions regulating hours and days of work in any order of the IWC shall be subject to a
27 civil penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for
28 each pay period for which the employee was underpaid in addition to an amount sufficient to

1 recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was underpaid in addition to an
3 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
4 be paid to the affected employee.” Labor Code section 558(c) states, “the civil penalties provided
5 for in this section are in addition to any other civil or criminal penalty provided by law.”
6 Defendants have violated provisions of the Labor Code regulating hours and days of work as well
7 as the IWC Wage Orders. Accordingly, Plaintiffs and the Class Members seek the remedies set
8 forth in Labor Code section 558.

9 69. Defendants’ failure to pay compensation in a timely fashion also constituted a
10 violation of California Labor Code section 204, which requires that all wages shall be paid
11 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
12 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
13 and overtime compensation earned by Employees. Each such failure to make a timely payment of
14 compensation to Employees constitutes a separate violation of California Labor Code section 204.

15 70. Employees have been damaged by these violations of California Labor Code
16 sections 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

17 71. Consequently, pursuant to California Labor Code, including Labor Code sections
18 204, 510, and 1194 (and the relevant orders of the Industrial Welfare Commission), Defendants
19 are liable to Employees for the full amount of all their unpaid wages and overtime compensation,
20 with interest, plus their reasonable attorneys’ fees and costs, as well as the assessment of any
21 statutory penalties against Defendants, and each of them, and any additional sums as provided by
22 the Labor Code and/or other statutes.

23 72. Further, Plaintiffs and the Class Members are entitled to seek and recover
24 reasonable attorneys’ fees and costs pursuant to Labor Code sections 210 and 1194.

25 **THIRD CAUSE OF ACTION**

26 **REST BREAK LIABILITY UNDER LABOR CODE § 226.7**

27 **(Against All Defendants)**

1 73. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
2 full herein.

3 74. Labor Code section 226.7 and paragraph 12 of the applicable IWC Wage Orders
4 provide that employers must authorize and permit all employees to take rest periods at the rate of
5 ten (10) minutes net rest time per four (4) work hours, or major fraction thereof.

6 75. Employees consistently worked consecutive shifts of at least eight (8) hours and
7 were generally required to work shifts of greater than eight (8) hours total, thus requiring
8 Defendants to authorize and permit them to take rest periods. Pursuant to the Labor Code and the
9 applicable IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten (10)
10 minutes for each consecutive four (4) hour or longer shift. Defendants failed to provide Employees
11 with timely rest breaks of not less than ten (10) minutes for each consecutive four (4) hours of
12 work, or major fraction thereof. Furthermore, upon information and belief, on the occasions when
13 Employees worked more than ten (10) hours in a given shift, they did so without receiving a third
14 uninterrupted ten (10) minute rest break as required by law.

15 76. Labor Code section 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
16 Orders require that if an employer fails to authorize and permit an employee rest period in
17 accordance with this section, the employer shall pay the employee one (1) hour of pay at the
18 employee's regular rate of compensation for each workday that the rest period is not provided.

19 77. Defendants, and each of them, have therefore intentionally and improperly denied
20 rest periods to Plaintiffs and the Class Members in violation of Labor Code sections 226.7 and 512
21 and paragraph 12 of the applicable IWC Wage Orders.

22 78. Defendants failed to authorize and permit Plaintiffs and the Class Members to take
23 rest periods, as required by the Labor Code and paragraph 12 of the applicable IWC Wage Orders.
24 Moreover, Defendants did not compensate Employees with an additional hour of pay at each
25 Employee's effective hourly rate for each day that Defendants failed to provide them with
26 adequate rest breaks, as required under Labor Code section 226.7.

27 79. Therefore, pursuant to Labor Code section 226.7 and paragraph 12 of the applicable
28 IWC Wage Orders, Employees are entitled to damages in an amount equal to one (1) hour of

1 wages at their effective hourly rates of pay for each day worked without the required rest breaks, a
2 sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants,
3 and each of them, in a sum as provided by the Labor Code and/or other statutes.

4 **FOURTH CAUSE OF ACTION**

5 **MEAL BREAK LIABILITY**

6 **UNDER LABOR CODE §§ 226.7 AND 512(a)**

7 **(Against All Defendants)**

8 80. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
9 full herein

10 81. Employees regularly worked shifts greater than five (5) hours and in some
11 instances, greater than ten (10) hours. Pursuant to Labor Code section 512 an employer may not
12 employ someone for a shift of more than five (5) hours without providing him or her with a meal
13 period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without
14 providing him or her with a second meal period of not less than thirty (30) minutes.

15 82. Defendants failed to provide Employees with meal periods as required under the
16 Labor Code. Employees received short meal periods, were regularly required to work during their
17 meal periods, as discussed above, or were provided with them after working beyond the fifth hour
18 of their shifts, if Defendant provided them at all. Furthermore, upon information and belief, on the
19 occasions when Employees worked more than ten (10) hours in a given shift, they did so without
20 receiving a second uninterrupted, timely and duty-free thirty (30) minute meal period, as required
21 by law.

22 83. Defendants' policy of rounding and placing the current demands of the job over
23 Plaintiffs and Class Members' lawful meal breaks, resulted in meal breaks that were taken late,
24 shortened due to work demands, or not taken at all. As a result, Defendants' failure to provide
25 Plaintiffs and Class Members with all their legally required off-duty, unpaid meal periods is and
26 will be evidenced by Defendants' business records, or lack thereof.

27 ///

28 ///

1 84. Upon information and belief, on the occasions when Class Members worked more
2 than ten (10) hours in a shift, Defendants also failed to provide them with a second, uninterrupted,
3 timely and duty-free meal period as will be evidenced by Defendants' business records, or lack
4 thereof.

5 85. Defendants thus failed to provide Plaintiffs and Class Members with meal periods
6 as required by the Labor Code, including by not providing them with the opportunity to take meal
7 breaks, by providing them late or for less than thirty (30) minutes, or by requiring them to perform
8 work during breaks.

9 86. Moreover, Defendants failed to compensate Employees for each meal period not
10 provided or inadequately provided, as required under Labor Code section 226.7 and paragraph 11
11 of the applicable IWC Wage Orders, which provides that, if an employer fails to provide an
12 employee a meal period in accordance with this section, the employer shall pay the employee one
13 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
14 period is not provided. To the extent Defendants did make any such payments to Plaintiffs and
15 Class Members, they failed to do so for the vast majority of the violations. Defendants failed to
16 compensate Employees for each meal period not provided or inadequately provided, as required
17 under Labor Code section 226.7.

18 87. Therefore, pursuant to Labor Code section 226.7, Employees are entitled to
19 damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each
20 meal period not provided or deficiently provided, a sum to be proven at trial, as well as the
21 assessment of any statutory penalties against the Defendants, and each of them, in a sum as
22 provided by the Labor Code and other statutes.

23 **FIFTH CAUSE OF ACTION**

24 **VIOLATION OF LABOR CODE § 226(a)**

25 **(Against All Defendants)**

26 88. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
27 full herein.
28

1 89. California Labor Code section 226(a) requires an employer to furnish each of his or
2 her employees with an accurate, itemized statement in writing showing the gross and net earnings,
3 total hours worked, and the corresponding number of hours worked at each hourly rate; these
4 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
5 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
6 statements may be given to the employee separately from the payment of wages; in either case the
7 employer must give the employee these statements twice a month or each time wages are paid.

8 90. Defendants failed to provide Employees with accurate itemized wage statements in
9 writing, as required by the Labor Code. Specifically, the wage statements given to Employees by
10 Defendants failed to accurately account for wages, overtime due do to Defendants systematic
11 rounding policy and/or altering time keeping entries, and premium pay for deficient meal periods
12 and rest breaks, and automatically deducted wages for alleged meal periods and under recording
13 and/or altering timekeeping entries to the detriment of Class Members, all of which Defendants
14 knew or reasonably should have known were owed to Employees, as alleged hereinabove.

15 91. Throughout the liability period, Defendants intentionally failed to furnish to
16 Plaintiffs and Class Members, upon each payment of wages, itemized statements accurately
17 showing: (a) gross wages earned, (b) total hours worked by the employee, (c) the number of piece-
18 rate units earned and any applicable piece rate paid on a piece-rate basis, (d) all deductions, (e) net
19 wages earned, (f) the inclusive dates of the period for which the employee is paid, (g) the name of
20 the employee and only the last four digits of his or her social security number or an employee
21 identification number other than a social security number, (h) the name and address of the legal
22 entity that is the employer and (i) all applicable hourly rates in effect during the pay period and the
23 corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
24 Code section 226, amongst other requirements. Defendants knowingly and intentionally failed to
25 provide Plaintiffs and Class Members with such timely and accurate wage and hour statements.

26 92. Plaintiffs and Class Members suffered injury as a result of Defendants' knowing
27 and intentional failure to provide them with the wage and hour statements as required by law and
28 are presumed to have suffered injury and be entitled to penalties under Labor Code section 226(e),

1 as the Defendants have failed to provide wage statements with accurate and complete information
2 as required by any one or more of items Labor Code section 226 (a)(1) to (9), inclusive, and the
3 Plaintiffs and Class Members cannot promptly and easily determine from the wage statement
4 alone one or more of the following: (i) The amount of the gross wages or net wages paid to the
5 employee during the pay period or any of the other information required to be provided on the
6 itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii)
7 Which deductions the employer made from gross wages to determine the net wages paid to the
8 employee during the pay period, (iii) The name and address of the employer and, (iv) The name of
9 the employee and only the last four digits of his or her social security number or an employee
10 identification number other than a social security number. For purposes of Labor Code section
11 226(e) “promptly and easily determine” means a reasonable person [i.e. an objective standard]
12 would be able to readily ascertain the information without reference to other documents or
13 information.

14 93. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
15 section 226(a), Employees suffered injuries, including among other things confusion over whether
16 they received all wages owed them, the difficulty and expense involved in reconstructing pay
17 records, and forcing them to make mathematical computations to analyze whether the wages paid
18 in fact compensated them correctly for all hours worked.

19 94. Pursuant to Labor Code sections 226(a) and 226(e), Employees are entitled to
20 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
21 violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
22 exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an
23 award of costs and reasonable attorneys’ fees.

24 95. Labor Code section 226.3 further provides that “[a]ny employer who violates
25 subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty
26 dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000)
27 per employee for each violation in a subsequent citation, for which the employer fails to provide
28 the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section

226.” To the extent that Labor Code sections 226.3 applies, Plaintiffs also seek such penalties on behalf of themselves and the other Class Members.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 203

(Against All Defendants)

96. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

97. Numerous Employees, including Plaintiffs, are no longer employed by Defendants; they either quit Defendants’ employ or were fired there from.

98. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

99. The wages withheld from these Employees by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

100. Defendants failed to pay Plaintiffs and the Class Members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by failing to pay for all hours worked or requiring off the clock work or by unlawful rounding and/or altering of time entries to the detriment of Employees as further detailed in this Complaint. Defendants’ failure to pay said wages within the required time was willful within the meaning of Labor Code section 203.

101. Defendants’ failure to pay wages, as alleged above, was willful in that Defendants knew wages to be due but failed to pay them; this violation entitles these Employees to penalties under Labor Code section 203, which provides that an employee’s wages shall continue until paid for up to thirty (30) days from the date they were due.

SEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES, LABOR CODE § 2802

(Against All Defendants)

102. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

103. Plaintiffs and Class Members are informed and believe and based thereon allege that throughout the period applicable, Defendants compelled Plaintiffs and Class Members to pay out-of-pocket for necessary work-related expenses they incurred in the form of personal cellular phone usage, a requirement for employment with Defendants.

104. Plaintiffs and Class Members were not reimbursed for these lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code section 2802(a) and the applicable IWC Wage Orders, paragraph 9.

105. Therefore, Plaintiffs and Class Members are entitled to reimbursement for any and all necessary work-related expenses, as provided for in Labor Code section 2802(b), incurred during the direct discharge of their duties while employed by Defendants, as well as accrued interest on those expenses that were not reimbursed from the date Plaintiffs and Class Members incurred those expenses.

106. Further, Plaintiffs and Class Members are entitled to costs and attorney's fees pursuant to Labor Code section 2802(c).

EIGHT CAUSE OF ACTION
(VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”))
(Against All Defendants)

107. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

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

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111

1 109. On December 28, 2021, Plaintiff Lopez timely provided written notice to the
2 LWDA and Defendants of the specific provisions of the Labor Code he contends were violated
3 and the theories supporting his contentions. Plaintiff Lopez believes that on or about March 3,
4 2022, the sixty-five (65) days' notice period will expire, and the LWDA will not take any action to
5 investigate or prosecute this matter. Therefore, Plaintiff Lopez will have exhausted the statutory
6 time period to bring this action. Attached hereto as **Exhibit 1** and incorporated by reference is a
7 copy of the December 28, 2021 written notice to the LWDA.

8 110. Plaintiff Lopez and the other non-exempt employees are "aggrieved employees" as
9 defined by Labor Code section 2699(c) in that they are all current and former nonexempt
10 California employees of Defendant who were employed by Defendant between September 28,
11 2019, and the date of approval of this settlement, and one or more of the alleged violations was
12 committed against them.

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

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

18 112. As a pattern and practice, Defendants failed to compensate Plaintiff Lopez and
19 other aggrieved current and former employees for all hours worked, resulting in a failure to pay all
20 minimum wages and overtime wages, where applicable.

21 **Failure to Provide Meal Periods and Rest Breaks**

22 113. Based on the mandates of Labor Code sections 226.7 and 512, Defendants were
23 required to authorize and permit their non-exempt employees to take a 10-minute rest break for
24 every four (4) hours worked or major fraction thereof and were further required to provide their
25 non-exempt employees with a 30-minute meal period for every five (5) hours worked.

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

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

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

4 116. As a pattern and practice, Defendants failed to pay Plaintiff Lopez and other
5 aggrieved current and former employees all wages due and owing them within the required time
6 period.

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

8 117. At all times relevant herein, Defendants were required to pay their employees all
9 wages owed in a timely fashion at the end of employment pursuant to Labor Code sections 201 to
10 204.

11 118. As a result of Defendants' Labor Code violations alleged above, Defendants failed
12 to pay Plaintiff Lopez and the other aggrieved former employees their final wages pursuant to
13 Labor Code sections 201 to 204 and accordingly owe waiting time penalties pursuant to Labor
14 Code section 203.

15 **Failure to Provide Complete and Accurate Wage Statements**

16 119. At all times relevant herein, Defendants were required to keep *accurate* records
17 regarding their employees pursuant to the mandate of Labor Code sections 226 and 1174(d).

18 120. As a result of Defendants' various Labor Code violations, Defendants failed to
19 keep accurate records regarding Plaintiff Lopez and other aggrieved current and former
20 employees. For example, Defendants failed in their affirmative obligation to keep accurate records
21 regarding Plaintiff Lopez's and other aggrieved current and former employees' gross wages
22 earned, total hours worked, all deductions, net wages earned, and all applicable hourly rates and
23 the number of hours worked at each hourly rate. Defendants also failed to provide Plaintiff Lopez
24 and other aggrieved current and former employees complete and accurate wage statements in
25 violation of Labor Code section 226(a). The deficiencies include, but are not limited to, the failure
26 to include the total number of hours worked by Plaintiff Lopez and other aggrieved employees.

27 ///

28 ///

1 **Failure to Reimburse Business Expenses**

2 121. At all times relevant herein, Defendants were required to reimburse their employees
3 for any and all necessary expenditures or losses incurred by the employees in direct consequences
4 of the discharge or his or her duties pursuant to the mandate of Labor Code sections 2800 and
5 2802.

6 122. As a pattern and practice, Defendants failed to pay Plaintiff Lopez and other
7 aggrieved current and former employees all business expenses incurred and owing them within the
8 required time period.

9 **Failure to Properly Calculate and Pay Sick Leave**

10 123. At all times relevant herein, Defendants were required, pursuant to Labor Code
11 section 246(l), to provide employees with paid sick leave of not less than one hour per every 30
12 hours worked and pay paid sick leave at a non-exempt employee's regular rate of pay for the
13 workweek in which the employee uses paid sick time or a rate calculated by dividing the
14 employee's total wages, not including overtime premium pay, by the employee's total hours
15 worked in the full pay periods of the prior 90 days of employment.

16 124. As a pattern and practice, Defendants failed to pay sick leave that complied with
17 Labor Code section 246(l) to Plaintiff Lopez and other aggrieved current and former employees.

18 **Failure to Provide One Day's Rest in Seven**

19 125. Labor Code sections 551 and 552 respectively state, "Every person employed in
20 any occupation of labor is entitled to one day's rest therefrom in seven" and "No employer of
21 labor shall cause his employees to work more than six days in seven."

22 126. As a pattern and practice, Defendants intentionally and willfully scheduled Plaintiff
23 Lopez and other aggrieved employees to work seven (7) consecutive days without providing them
24 with one (1) day's rest.

25 **Penalties**

26 127. Pursuant to Labor Code section 2699, Plaintiff Lopez, individually, and on behalf
27 of other current and former aggrieved employees, requests and is entitled to recover from
28 Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant,

1 including but not limited to:

- 2 a. Penalties under Labor Code section 2699 in the amount of a hundred dollars
3 (\$100) for each aggrieved employee per pay period for the initial violation, and
4 two hundred dollars (\$200) for each aggrieved employee per pay period for
5 each subsequent violation;
- 6 b. Penalties under California Code of Regulations Title 8 section 11040 in the
7 amount of fifty dollars (\$50) for each aggrieved employee per pay period for
8 the initial violation, and one hundred dollars (\$100) for each aggrieved
9 employee per pay period for each subsequent violation;
- 10 c. Penalties under Labor Code section 210 in addition to, and entirely independent
11 and apart from, any other penalty provided in the Labor Code in the amount of
12 a hundred dollars (\$100) for each aggrieved employee per pay period for the
13 initial violation, and two hundred dollars (\$200) for each aggrieved employee
14 per pay period for each subsequent violation;
- 15 d. Penalties under Labor Code section 1197.1 in the amount of a hundred dollars
16 (\$100) for each aggrieved employee per pay period for the initial violation, and
17 two hundred fifty dollars (\$250) for each aggrieved employee per pay period
18 for each subsequent violation;
- 19 e. Any and all additional penalties as provided by the Labor Code and/or other
20 statutes; and
- 21 f. Attorneys' fees and costs pursuant to Labor Code sections 210, 1194, and 2699,
22 and any other applicable statute.

23
24 **NINTH CAUSE OF ACTION**

25 **VIOLATION OF BUSINESS & PROFESSIONS CODE §§ 17200 *ET SEQ.***

26 **(Against All Defendants)**

27 128. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
28 full herein.

1 129. Plaintiffs, on behalf of themselves, Class Members, and the general public, brings
2 this claim pursuant to Business & Professions Code sections 17200, *et seq.* The conduct of
3 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
4 harmful to Employees and the general public. Plaintiffs seek to enforce important rights affecting
5 the public interest within the meaning of Code of Civil Procedure section 1021.5.

6 130. Plaintiffs are “persons” within the meaning of Business & Professions Code
7 section 17204, have suffered injury, and, therefore, have standing to bring this cause of action for
8 injunctive relief, restitution, and other appropriate equitable relief.

9 131. Business & Professions Code sections 17200, *et seq.*, prohibits unlawful and unfair
10 business practices. By the conduct alleged herein, Defendants’ practices were deceptive and
11 fraudulent in that Defendants’ policy and practice failed to adequately compensate Plaintiffs and
12 Class Members for all hours worked, due to systematic business practices as alleged herein that
13 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
14 Commission requirements in violation of California Business and Professions Code sections
15 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to
16 California Business & Professions Code section 17203, including restitution of wages wrongfully
17 withheld.

18 132. Wage-and-hour laws express fundamental public policies. Paying employees their
19 wages and overtimes, etc., are fundamental public policies of California. Labor Code section
20 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards,
21 to ensure that employees are not required or permitted to work under substandard and unlawful
22 conditions, and to protect law-abiding employers and their employees from competitors who lower
23 costs to themselves by failing to comply with minimum labor standards.

24 133. Defendants have violated statutes and public policies. Through the conduct alleged
25 in this Complaint, Defendants have acted contrary to these public policies, have violated specific
26 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
27 violation of Business & Professions Code sections 17200, *et seq.*; which conduct has deprived
28

1 Plaintiffs, and all persons similarly situated, and all interested persons, of the rights, benefits, and
2 privileges guaranteed to all employees under the law.

3 134. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in
4 violation of the Business & Professions Code sections 17200, *et seq.*

5 135. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
6 overtime, etc., either knew or in the exercise of reasonable care should have known that their
7 conduct was unlawful; therefore their conduct violates the Business & Professions Code sections
8 17200, *et seq.*

9 136. By the conduct alleged herein, Defendants have engaged and continue to engage in
10 a business practice which violates California and federal law, including but not limited to, the
11 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
12 Code including sections 204, 226, 226.7, 227.3, 512, 1194, 1197, 1198, and 2802 for which this
13 Court should issue declaratory and other equitable relief pursuant to California Business &
14 Professions Code section 17203 as may be necessary to prevent and remedy the conduct held to
15 constitute unfair competition, including restitution of wages wrongfully withheld.

16 137. As a proximate result of the above-mentioned acts of Defendants, Employees have
17 been damaged, in a sum to be proven at trial.

18 138. Unless restrained by this Court Defendants will continue to engage in such
19 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this
20 Court should make such orders or judgments, including the appointment of a receiver,
21 as may be necessary to prevent the use by Defendants or their agents or employees of
22 any unlawful or deceptive practice prohibited by the Business & Professions Code,
23 including but not limited to the disgorgement of such profits as may be necessary to
24 restore Employees to the money Defendants have unlawfully failed to pay.

25 **RELIEF REQUESTED**

26 WHEREFORE, Plaintiffs pray for the following relief:

- 27 1. For an order certifying this action as a class action;
- 28

2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;

5. For penalties pursuant to Labor Code section 226(e) for Employees, as may be proven;

6. For penalties pursuant to Labor Code section 203 for all Employees who quit or were fired in an amount equal to their daily wages times thirty (30) days, as may be proven;

7. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

8. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code section 2802, as may be proven;

9. For restitution for unfair competition pursuant to Business & Professions Code sections 17200, *et seq.*, including disgorgement or profits, as may be proven;

10. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;

11. For all general, special, and incidental damages as may be proven;

12. For an award of pre-judgment and post-judgment interest;

13. For an award providing for the payment of the costs of this suit;

14. For an award of attorneys' fees; and

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1 15. For such other and further relief as this Court may deem proper and just.

2
3 DATED: June 3, 2022

JUSTICE LAW CORPORATION

4
5 By 

6 Douglas Han
7 Shunt Tatavos-Gharajeh
8 Jason Rothman
9 Haig Hogdanian
10 Attorneys for Plaintiffs

11 **DEMAND FOR JURY TRIAL**

12 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

13
14
15 DATED: June 3, 2022

JUSTICE LAW CORPORATION

16
17 By 

18 Douglas Han
19 Shunt Tatavos-Gharajeh
20 Jason Rothman
21 Haig Hogdanian
22 Attorneys for Plaintiffs Jose Rivera, Chad
23 Turina, and Jorge Lopez on behalf of
24 themselves and all others similarly
25 situated

EXHIBIT 1

December 28, 2021

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: ACCO BRANDS CORPORATION and ACCO BRANDS USA LLC

Dear Representative:

We have been retained to represent Jorge Lopez against ACCO Brands Corporation and ACCO Brands USA LLC (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "ACCO").

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

ACCO Brands Corporation is a Delaware corporation located at Four Corporate Drive, Lake Zurich, Illinois 60047. ACCO Brands USA LLC is a Delaware limited liability company located at Four Corporate Drive, Lake Zurich, Illinois 60047.

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¹ Mr. Lopez does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Lopez will amend this notice when the true names and capacities are known. Mr. Lopez is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Lopez and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

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ACCO employed Mr. Lopez as an hourly-paid non-exempt Logistics Clerk within one year of the date of this letter (until in or around March of 2021²) in the State of California. ACCO directly controlled the wages, hours and/or working conditions of Mr. Lopez and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

The "aggrieved employees" that Mr. Lopez may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through a staffing agency) of ACCO within the State of California.

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

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Lopez has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at ACCO, regardless of their classification, job title, location, or whether they were hired directly or through a staffing agency.

ACCO has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

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² Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Therefore, the one (1) year statute of limitations for Mr. Lopez's PAGA cause of action is tolled.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double-time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Lopez and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. ACCO failed to compensate Mr. Lopez and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, donning and doffing uniforms, waiting in line to clock-in, undergoing security procedures and during meal breaks. ACCO also failed to include non-discretionary bonuses and incentives in aggrieved employees' regular rate of pay for purposes of overtime compensation. Therefore, Mr. Lopez and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, ACCO failed to pay Mr. Lopez and other aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, ACCO routinely required Mr. Lopez and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with ACCO's policies and expectations, and meet production quotas. ACCO also failed to provide adequate coverage to Mr. Lopez and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Moreover, ACCO also failed to authorize and permit Mr. Lopez and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, ACCO failed to compensate Mr. Lopez and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Mr. Lopez and other aggrieved employees' regular rate of pay.

California Labor Code section 551 states "[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven." Section 552 further states "[n]o employer of labor shall cause his employees to work more than six days in seven." ACCO required aggrieved employees to work seven days in a row or more without one day's rest.

California Labor Code section 432.5 states "[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law." ACCO required aggrieved employees to execute arbitration agreements as a condition of employment despite knowing that such agreements are prohibited under Labor Code section 432.6.

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California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, ACCO failed to pay Mr. Lopez and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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

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California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, ACCO did not provide Mr. Lopez and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from ACCO were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Lopez and other aggrieved employees, (2) total hours worked by Mr. Lopez and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Lopez and other aggrieved employees (4) all deductions for Mr. Lopez and other aggrieved employees, (5) net wages earned by Mr. Lopez and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Lopez and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. Lopez and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any 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 in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Lopez and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

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

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California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, ACCO did not provide Mr. Lopez and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, donning and doffing uniforms, waiting in line to clock-in, undergoing security procedures and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Mr. Lopez and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by ACCO, including for purchasing tools and equipment they were required to use and wear while working and using their personal cellular phones for work purposes.

We believe that Mr. Lopez and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

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

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

Mr. Lopez will seek these penalties on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of ACCO within one year of the date of this letter, as allowed by law.

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

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a long horizontal flourish extending to the right.

Douglas Han, Esq.

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

ACCO Brands Corporation and ACCO Brands USA LLC

c/o CSC - Lawyers Incorporating Service

2710 Gateway Oaks Drive, Suite 150N

Sacramento, California 95833

Agent for Service of Process for ACCO Brands Corporation and ACCO Brands USA LLC

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is mluna@justicelawcorp.com

On September 30, 2022, I served the foregoing document described as

SECOND AMENDED CLASS ACTION COMPLAINT FOR:

for the following case: **Rivera v. Acco Brands Corporation**
LWDA/Court Case No.: **LWDA Case No.: CM-859965-21**
Court Case No.: CIVDS2020490
San Bernardino County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

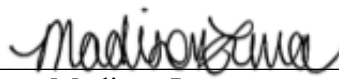
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on September 30, 2022, at Pasadena, California.



Madison Luna