

BIBIYAN LAW GROUP, P.C.
David D. Bibiyani (SBN 287811)
david@tomorrowlaw.com
Malalai Anbari (SBN 304482)
diego@tomorrowlaw.com
Sara Keane (SBN 336010)
skeane@tomorrowlaw.com
8484 Wilshire Boulevard, Suite 500
Beverly Hills, California 90211
Tel: (310) 438-5555; Fax: (310) 300-1705

Assigned for all purposes to
Judge L. Brooks Anderholt
including trial

Attorneys for Plaintiff, JOSE MURAKAMY, as an
aggrieved employee, and on behalf of all other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF IMPERIAL

JOSE MURAKAMY, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiff,

v.

NATURE FRESH FARMS, LLC, an Arizona
limited liability company; JERRY JOSEPH
RAVA, an individual; and DOES 1 through
100, inclusive,

Defendants.

CASE NO.: ECU002261

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

COMES NOW plaintiff JOSE MURAKAMY ("Plaintiff"), as aggrieved employees, and on
behalf of all other aggrieved employees under the Labor Code Private Attorneys' General Act of
2004, and alleges as follows:

1 **JURISDICTION AND VENUE**

2 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
3 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against NATURE FRESH
4 FARMS, LLC, an Arizona limited liability company, and any of its respective subsidiaries or
5 affiliated companies within the State of California ("NATURE FRESH"), and JERRY JOSEPH
6 RAVA, an individual, ("RAVA," and together with "NATURE FRESH" and DOES 1 through 100,
7 as further defined below, "Defendants"), as a proxy of the Labor and Workforce Development
8 Agency of the State of California ("LWDA"), on behalf of Plaintiff and all other current and former
9 non-exempt employees of Defendants working within the Civil Penalty Period, as further defined
10 herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5,
11 Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section
12 246, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and freedom of
13 speech on behalf of all employees of Defendants working within the Civil Penalty Period
14 (collectively, "Aggrieved Employees").

15 2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
16 of Civil Procedure section 410.10.

17 3. Venue is proper in Imperial County, California pursuant to Code of Civil Procedure
18 sections 392, *et seq.* because, among other things, Imperial County is where the causes of action
19 complained of herein arose; the county in which the employment relationship began; the county in
20 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
21 due to be performed; the county in which the employment contract, or part of it, between Plaintiff
22 and Defendants was actually performed. Moreover, the unlawful acts alleged herein have a direct
23 effect on Plaintiff and Class Members in Imperial County, and because Defendants employ
24 numerous Class Members in Imperial County.

25 4. Plaintiff is an "aggrieved employee" under PAGA, as Plaintiff was employed by
26 Defendants during the applicable statutory period and suffered one or more of the Labor Code
27 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term "civil
28 penalty" is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code

1 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA") plus
2 reasonable attorneys' fees and costs, for Plaintiff and all other aggrieved current and former
3 employees of Defendants during the Civil Penalty Period.

4 5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
5 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
6 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
7 PAGA allegations described herein is not required.

8 6. During the period beginning one (1) year preceding the provision of notice to the
9 LWDA regarding the herein-described Labor Code violations (the "Civil Penalty Period"),
10 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
11 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
12 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

13 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
14 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
15 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
16 specified in Labor Code section 2699.3.

17 8. On or around December 14, 2021, Plaintiff provided written notice pursuant to Labor
18 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
19 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
20 as well as by certified mail, with return receipt requested to Defendants, and each of them.

21 9. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
22 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
23 calendar days of the December 14, 2021 postmarked date of the herein-described notice sent by
24 Plaintiff to the LWDA and Defendants.

25 **PAGA REPRESENTATIVE ALLEGATIONS**

26 10. At all relevant times mentioned herein, Defendants had and have a policy or practice
27 of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of
28 California in violation of California state wage and hour laws as a result of, without limitation,

1 Plaintiff and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours per
2 week, and/or seven (7) straight workdays in a workweek without paying them proper overtime
3 wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually
4 worked; engaging, suffering, or permitting employees to work off the clock, including, without
5 limitation, by requiring employees: to remain on-call, to suffer under Defendants' control to
6 complete pre-shift tasks before clocking in and post-shift tasks after clocking out (including
7 answering calls from dispatch and others), to clock out for meal periods and continue working, to
8 don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the
9 clock, to make phone calls or drive off the clock; failing to include all forms of remuneration,
10 including non-discretionary bonuses, incentive pay, meal allowances, and other forms of
11 remuneration into the regular rate of pay for the pay periods where overtime was worked and the
12 additional compensation was earned for the purpose of calculating the overtime rate of pay;
13 detrimental rounding of employee time entries, editing and/or manipulation of time entries to show
14 less hours than actually worked, and for paying straight pay instead of overtime pay, to the detriment
15 of Plaintiff and other Aggrieved Employees.

16 11. At all relevant times mentioned herein, Defendants had and have a practice or policy
17 of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours
18 worked or otherwise under Defendants' control as a result of, without limitation, failing to
19 accurately track and/or pay for all minutes actually worked; by requiring employees: to remain on-
20 call; to suffer under Defendants' control to complete pre-shift tasks before clocking in and post-shift
21 tasks after clocking out (including answering calls from dispatch and others), to clock out for meal
22 periods and continue working, to don and doff uniforms and/or safety equipment off the clock, to
23 attend company meetings off the clock, to make phone calls or drive off the clock; detrimental
24 rounding of employee time entries, editing and/or manipulation of time entries to show less hours
25 than actually worked; failing to pay reporting time pay; paid time off and vacation time owed; and
26 failing to pay split shift premiums, to the detriment of Plaintiff and other Aggrieved Employees.

27 12. At all relevant times mentioned herein, Defendants had and have a policy or practice
28 of failing to provide Plaintiff and other Aggrieved Employees a thirty (30) minute uninterrupted,

1 timely, and complete meal period for days on which the employee worked in excess of five (5) and
2 ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal
3 periods or compensation in lieu thereof including, without limitation, by interrupting meal periods;
4 not providing timely meal periods; failing to provide first and second meal periods; providing short
5 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
6 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
7 periods; and/or auto-deducting meal periods that could not be auto-deducted by law or during which
8 employees worked, as required by California wage and hour laws

9 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
10 of failing to provide Plaintiff and other Aggrieved Employees paid, uninterrupted, timely, and
11 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions
12 thereof, or compensation in lieu thereof, including, without limitation, by failing to provide rest
13 periods all together; requiring that they be bundled together and/or with meal periods; interrupting
14 them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not
15 providing them in a timely fashion; and not permitting employees to leave the premises; and/or
16 otherwise requiring on-duty/on-call rest periods, as required by California wage and hour laws.

17 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
18 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
19 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
20 wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable
21 hourly rates in effect during the pay period and the corresponding number of hours worked at each
22 hourly rate by the employee; the legal name of the employer and/or the name and address of the legal
23 entity securing the employer's services if the employer is a farm labor contractor; and other such
24 information as required by Labor Code section 226, subdivision (a).

25 15. At all relevant times mentioned herein, Defendants had and have a policy or practice
26 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
27 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment
28 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records

under Labor Code section 1174, making it difficult for Plaintiff and other Aggrieved Employees to calculate their unpaid wages and/or premium payments, to the detriment of Plaintiff and other Aggrieved Employees.

16. At all relevant times mentioned herein, Defendants had and have a policy or practice of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor Code sections 201, 202, and 203.

17. At all relevant times herein, Defendants had and have a policy or practice of failing to pay Plaintiff and Aggrieved Employees their paid time off and vacation time owed upon separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3 and applicable Wage Orders.

18. At all relevant times mentioned herein, Defendants have had a policy or practice of failing and refusing, and continue to fail and refuse, to reimburse employees, including, without limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits, separately laundering mandatory uniforms, for the purchase of tools and safety equipment (including work boots to handle oil), for the purchase and maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge of their duties, or of their obedience to the directions of Defendants, as required by Labor Code 2802.

19. At all relevant times mentioned herein, Defendants have had a policy or practice of failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay applicable to their employment; allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the name, address, and telephone number of the workers' compensation insurance carrier; information regarding paid sick leave; and other pertinent information required to be disclosed by Defendants under Labor Code section 2810.5.

1 20. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
2 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
3 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
4 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
5 all other Aggrieved Employees.

6 21. At all relevant times mentioned herein, Defendants have had a policy or practice of
7 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
8 Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of
9 any calendar month shall be paid for between the 16th and 26th day of the month during which the
10 labor was performed, and labor performed between the 16th and the last day, inclusive of any
11 calendar month, shall be paid for between the 1st and 10th day of the following month.”

12 22. At all relevant times mentioned herein, Defendants had and have a policy or practice
13 of preventing Plaintiff and/or Aggrieved Employees from using or disclosing the skills, knowledge
14 and experience they obtained at Defendants for purposes of competing with Defendants, including,
15 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
16 a prospective employer, and from disclosing who else works at Defendants and under what
17 circumstances that they might be receptive to an offer from a rival employer. Plaintiff is informed
18 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
19 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
20 Code sections 232, 232.5, and 1197.5, subdivision (k).

21 23. Defendants had and have a policy or practice of preventing Plaintiff and/or other
22 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
23 to their managers or outside to private attorneys or government officials, among others, in violation
24 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
25 1102.5. In addition, Plaintiff is informed and believes that Defendants’ herein-described policies
26 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
27 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
28 of Labor Code section 232 and 232.5.

1 24. Defendants had and have a policy or practice of preventing Plaintiff and/or other
2 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
3 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
4 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
5 subdivision (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of
6 Plaintiff's and/or other Aggrieved Employee's constitutional rights of freedom of speech and
7 economic liberty.

8 25. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
9 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
10 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
11 Employees pursuant to PAGA.

12 **PARTIES**

13 **A. Plaintiff**

14 26. Plaintiff MURAKAMY is a resident of the state of California. At all relevant times
15 herein, Plaintiff MURAKAMY is informed and believes, and based thereon alleges that Defendants
16 employed Plaintiff MURAKAMY as a non-exempt employee, with duties that included, but were
17 not limited to, operating machinery and welding. Plaintiff MURAKAMY is informed and believes,
18 and based thereon alleges that Plaintiff MURAKAMY worked for Defendants from approximately
19 October of 2008 through approximately February of 2021.

20 **B. Defendants**

21 27. Plaintiff is informed and believes and based thereon alleges that defendant NATURE
22 FRESH is, and at all times relevant hereto was, a limited liability company organized and existing
23 under and by virtue of the laws of the State of Arizona and doing business in the County of Imperial,
24 State of California.

25 28. Plaintiff is informed and believes and based thereon alleges that defendant MR.
26 RAVA is, and at all times relevant hereto was, an individual residing in California, as well as a
27 Manager for NATURE FRESH, and DOES 1 through 100, as further defined below. Plaintiff is
28 further informed and believes and based thereon alleges that MR. RAVA violated, or caused to be

1 violated, the above-referenced and below-referenced Labor Code provisions in violation of Labor
2 Code section 558.1.

3 29. The true names and capacities, whether individual, corporate, associate, or otherwise,
4 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
5 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
6 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
7 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
8 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
9 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
10 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
11 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
12 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
13 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
14 include NATURE FRESH, and any of their parent, subsidiary, or affiliated companies within the
15 State of California, RAVA, as well as DOES 1 through 100 identified herein.

16 **JOINT LIABILITY ALLEGATIONS**

17 30. Plaintiff is informed and believes, and based thereon alleges, that at all times
18 mentioned herein, each of the defendants was the agent, principal, employee, employer,
19 representative, joint venture or co-conspirator of each of the other defendants, either actually or
20 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
21 employment, joint venture, and conspiracy.

22 31. All of the acts and conduct described herein of each and every corporate defendant
23 was duly authorized, ordered, and directed by the respective and collective defendant corporate
24 employers, and the officers and management-level employees of said corporate employers. In
25 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
26 their said employees, agents, and representatives, and each of them; and upon completion of the
27 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
28 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,

1 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
2 aforementioned corporate employees, agents and representatives.

3 32. Plaintiff is informed and believes, and based thereon alleges, that despite the
4 formation of the purported corporate existence of NATURE FRESH, and DOES 1 through 50,
5 inclusive (the "Alter Ego Defendants"), they, and each of them, are one and the same with RAVA
6 and DOES 51 through 100 ("Individual Defendants"), and each of them, due to, but not limited to,
7 the following reasons:

8 a. The Alter Ego Defendants are completely dominated and controlled by the
9 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
10 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego
11 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
12 inequitable purpose;

13 b. The Individual Defendants derive actual and significant monetary benefits by
14 and through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego Defendants as
15 the funding source for the Individual Defendants' own personal expenditures;

16 c. Plaintiff is informed and believes, and thereon alleges, that the Individual
17 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
18 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
19 accomplishing some other wrongful or inequitable purpose;

20 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs
21 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
22 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
23 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
24 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
25 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
26 herein were, the alter egos of the Individual Defendants;

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28 ///

1 e. The recognition of the separate existence of the Individual Defendants from
2 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
3 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
4 and other statutory violations. The corporate existence of these defendants should thus be
5 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
6 and injustice to Plaintiff herein;

7 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
8 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
9 disregarded.

10 33. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that Defendants, and each of them, are joint employers.

12 **FIRST CAUSE OF ACTION**

13 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

14 34. Plaintiff realleges and incorporates by reference all of the allegations contained in
15 the preceding paragraphs as though fully set forth hereat.

16 **Civil Penalties Under Labor Code § 210**

17 35. At all relevant times herein, Labor Code section 204, requires and required that:
18 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
19 between the 16th and 26th day of the month during which the labor was performed, and labor
20 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
21 between the 1st and 10th day of the following month.”

22 36. At all relevant times herein, Labor Code section 210, subdivision (a) states and
23 stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in
24 this article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
25 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
26 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
27 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
28 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

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Violation of Labor Code § 558

45. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars

1 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
2 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

3 Violation of Labor Code § 1174.5

4 46. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
5 every person employing labor in California to “[a]llow any member of the commission or the
6 employees of the Division of Labor Standards Enforcement free access to the place of business or
7 employment of the person to secure any information or make any investigation that they are
8 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
9 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
10 or papers of the person.”

11 47. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
12 every person employing labor in California to “[k]eep a record showing the names and addresses of
13 all employees employed and the ages of all minors.”

14 48. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
15 every person employing labor in California to “[k]eep, at a central location in the state or at the
16 plants or establishments at which employees are employed, payroll records showing the hours
17 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
18 piece rate paid to, employees employed at the respective plants or establishments. These records
19 shall be kept in accordance with rules established for this purpose by the commission, but in any
20 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
21 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
22 earned.”

23 49. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
24 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
25 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
26 member of the commission or employees of the division to inspect records pursuant to subdivision
27 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

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51. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five hundred dollars (\$500) per violation per Aggrieved Employee.

52. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:

A. For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

B. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

C. Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

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54. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent violation.

55. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

57. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described herein, including, without limitation, for the failure to: pay the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the

1 name of the employer, including any "doing business as" names used, the name, address and
2 telephone number of the workers' compensation insurance carrier, information regarding paid sick
3 leave, and other pertinent information required to be disclosed by Employer under Labor Code
4 section 2810.5, failing to provide Employee and other aggrieved employees with the amount of paid
5 sick leave required to be provided pursuant to California and local laws.

6 58. Moreover, Plaintiff and other Aggrieved Employees within the State of California
7 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
8 connection with their herein-described claims for civil penalties.

9 **REQUEST FOR JURY TRIAL**

10 59. Plaintiff hereby requests a trial by jury.

11 **PRAYER**

12 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
13 judgment against Defendants as follows:

- 14 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
15 1174.5, 1197.1, and 2699;
16 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
17 210, 226.3, 558, 1174.5, 1197.1, and 2699;
18 C. Pre-judgment and post-judgment interest;
19 D. For costs of suit incurred herein; and
20 E. Such other and further relief as the Court deems just and proper.

21 Dated: February 16, 2022

BIBIYAN LAW GROUP, P.C.

22
23 BY: 

24 MALALAI ANBARI

25 DAVID D. BIBIYAN

26 Attorneys for Plaintiff JOSE MURAKAMY,
27 as an aggrieved employee, and on behalf of all
28 other aggrieved employees under the Labor
Code Private Attorneys' General Act of 2004,