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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

TONI A. GOODEN and GRACE
WEISSMULLER as individuals and on behalf
of all others similarly situated and aggrieved
employees,

Plaintiffs,

v.

ASTRIX TECHNOLOGY, LLC, a Delaware
limited liability company; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 21STCV45436

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION;
10. CIVIL PENALTIES UNDER THE LABOR CODE PRIVATE ATTORNEYS' GENERAL ACT OF 2004 FOR VIOLATIONS OF LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1 and 2699.

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

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similarly situated and other aggrieved employees
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COMES NOW Plaintiffs, TONI A. GOODEN (“Plaintiff GOODEN”) and GRACE WEISSMULLER (“Plaintiff WEISSMULLER”) (collectively “Plaintiffs”), on behalf of Plaintiffs and all others similarly situated, and allege as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against ASTRIX TECHNOLOGY, LLC, and any of its respective subsidiaries or affiliated companies within the State of California (“Astrix” or “Defendant”) on behalf of Plaintiffs and all other current and former non-exempt California employees employed by or formerly employed by Defendant (collectively, “Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendant, and any of its respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*, Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiffs

3. Plaintiff GOODEN is a resident of the State of California. At all relevant times herein, Plaintiff GOODEN is informed and believes, and based thereon alleges, that Defendants employed Plaintiff GOODEN as a non-exempt employee, with duties that included, but were not limited to, supervision of building of materials to help care for disabled patients. Plaintiff GOODEN is informed and believes, and based thereon alleges, that Plaintiff GOODEN worked for Defendants from approximately May of 2021 through approximately October of 2021.

1 4. Plaintiff WEISSMULLER is a resident of the State of California. At all relevant
2 times herein, Plaintiff WEISSMULLER is informed and believes, and based thereon alleges, that
3 Defendants employed Plaintiff WEISSMULLER as a non-exempt employee, with duties that
4 included, but were not limited to, receiving samples and scanning them into computer databases,
5 putting the samples in storage if scans are correct, giving samples to the supervisor if the scans
6 were incorrect, and taking the samples to the processing lab once the bin of samples was full.
7 Plaintiff WEISSMULLER is informed and believes, and based thereon alleges, that Plaintiff
8 WEISSMULLER worked for Defendants from approximately January 2022 through
9 approximately August of 2022.

10 **B. Defendants**

11 5. Plaintiffs are informed and believe and based thereon allege that Defendant is, and
12 at all times relevant hereto was, a corporation organized and existing under and by virtue of the
13 laws of the State of Delaware and doing business in the County of Los Angeles, State of California.

14 6. At all relevant times, Defendant was the “employer” of Plaintiffs within the meaning
15 of all applicable state laws and statutes.

16 7. The true names and capacities, whether individual, corporate, associate, or
17 otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to
18 Plaintiffs, who therefore sue defendants by such fictitious names under Code of Civil Procedure
19 section 474. Plaintiffs are informed and believe, and based thereon allege, that each of the
20 defendants designated herein as DOE is legally responsible in some manner for the unlawful acts
21 referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true
22 names and capacities of the defendants designated hereinafter as DOES when such identities
23 become known. Plaintiffs are informed and believe, and based thereon allege, that each defendant
24 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a
25 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant
26 are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is
27 made to “Defendants,” it shall include Astrix and any of their parent, subsidiary, or affiliated
28 companies within the State of California, as well as DOES 1 through 100 identified herein.

8. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs who sue said defendants by such fictitious names. Plaintiffs are informed and believe, and based on that information and belief allege, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiffs as alleged in this Complaint. Plaintiffs will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

9. Astrix and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

10. Plaintiffs further allege that Defendants, including the unknown defendants identified as DOES, directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiffs and the other Class Members so as to make each of said Defendants employers and employers liable under the statutory provisions set forth herein.

JOINT LIABILITY ALLEGATIONS

11. Plaintiffs are informed and believe, and based thereon allege, that all the times mentioned herein, each of the Defendants was the agent, principal, employee, employer, representative, joint venture or co-conspirator of each of the other defendants, either actually or ostensibly, and in doing the things alleged herein acted within the course and scope of such agency, employment, joint venture, and conspiracy.

12. All of the acts and conduct described herein of each and every corporate defendant was duly authorized, ordered, and directed by the respective and collective defendant corporate employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant 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 13. As a result of the aforementioned facts, Plaintiffs are informed and believe, and
4 based thereon allege, that Defendants, and each of them, are joint employers.

5 **JURISDICTION**

6 14. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
7 of Civil Procedure section 410.10.

8 15. Venue is proper in Los Angeles County, California pursuant to Code of Civil
9 Procedure sections 392, et seq. because, among other things, Los Angeles County is where the
10 causes of action complained of herein arose; the county in which the employment relationship
11 began; the county in which the employment contract, or part of it, between Plaintiffs and
12 Defendants was actually performed; and the county in which Defendants, or some of them, reside.
13 Moreover, the unlawful acts alleged herein have a direct effect on Plaintiffs and Class Members in
14 Los Angeles County, and because Defendants employ numerous Class Members in Los Angeles
15 County.

16 16. Each of the Plaintiffs is an “aggrieved employee” under PAGA, as Plaintiffs were
17 employed by Defendants during the applicable statutory period and suffered one or more of the
18 Labor Code violations set forth herein. Accordingly, Plaintiffs seek to recover civil penalties, as
19 the term “civil penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under
20 PAGA plus reasonable attorneys’ fees and costs, for Plaintiffs and all other aggrieved current and
21 former employees of Defendants during the PAGA Civil Penalty Period.

22 17. Specifically, Plaintiffs seek to recover PAGA civil penalties through a
23 representative action permitted by PAGA and the California Supreme Court in, among other
24 authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class
25 certification of the PAGA allegations described herein is not required.

26 18. During the period beginning one (1) year preceding the provision of notice to the
27 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
28 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,

1 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
2 1197.1, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

3 19. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
4 such as Plaintiffs, on behalf of Plaintiffs and all other aggrieved current and former employees
5 within the statutory period, to bring a civil action to recover civil penalties pursuant to the
6 procedures specified in Labor Code section 2699.3.

7 20. On December 9, 2021, Plaintiff GOODEN provided written notice pursuant to
8 Labor Code section 2699.3 online and by certified mail, with return receipt requested, of
9 Defendants' violation of various, including the herein-described, provisions of the Labor Code, to
10 the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of
11 them.

12 21. On July 27, 2023, Plaintiff WEISSMULLER provided notice by electronic
13 submission to the LWDA and by certified mail to Defendants regarding the specific provisions of
14 the Labor Code alleged to have been violated, including the facts and theories to support the alleged
15 violations, pursuant to Labor Code section 2699.3.

16 22. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
17 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
18 calendar days of the December 9, 2021, postmarked date of the herein-described notice sent by
19 Plaintiff GOODEN to the LWDA and Defendants, or the July 27, 2023, postmarked date of the
20 herein-described notice sent by Plaintiff WEISSMULLER to the LWDA and Defendants.

21 **FACTUAL BACKGROUND**

22 23. At all relevant times mentioned herein, Defendants had and have a policy or practice
23 of failing to pay overtime wages to Plaintiffs, Class Members, and other Aggrieved Employees in
24 the State of California in violation of California state wage and hour laws as a result of, without
25 limitation, Plaintiffs, Class Members, and other Aggrieved Employees working over eight (8) hours
26 per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without
27 paying them proper overtime wages, as a result of, without limitation, failing to accurately track
28 and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work

1 off the clock, including, without limitation, by requiring employees: to remain on-call, to suffer
2 under Defendants' control to complete pre-shift tasks before clocking in and post-shift tasks after
3 clocking out, to go through security and temperature checks before clocking in, to clock out for
4 meal periods and continue working, to don and doff uniforms and/or safety equipment off the clock,
5 to attend company meetings off the clock, to make phone calls or drive off the clock; failing to
6 include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal
7 allowances, and other forms of remuneration into the regular rate of pay for the pay periods where
8 overtime was worked and the additional compensation was earned for the purpose of calculating
9 the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
10 manipulation of time entries to show less hours than actually worked, and for paying straight pay
11 instead of overtime pay, to the detriment of Plaintiffs, Class Members, and other Aggrieved
12 Employees.

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

25 25. For at least four (4) years prior to the filing of this action and continuing to the
26 present, Defendants have, at times, failed to provide Plaintiffs, Class Members, and other
27 Aggrieved Employees, or some of them, full, timely thirty (30) minute uninterrupted meal period
28 for days on which they worked more than five (5) hours in a work day and a second thirty (30)

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

8 26. For at least four (4) years prior to the filing of this action and continuing to the
9 present, Defendants have, at times, failed to authorize and permit Plaintiffs, Class Members, and
10 other Aggrieved Employees, or some of them, to take rest periods of at least ten (10) minutes per
11 four (4) hours worked or major fraction thereof, or compensation in lieu thereof, including, without
12 limitation, by failing to provide rest periods all together; requiring that they be bundled together
13 and/or with meal periods; interrupting them; requiring that employees carry cellular telephones or
14 walkie-talkies during rest periods not providing them in a timely fashion; and not permitting
15 employees to leave the premises; and/or otherwise requiring on-duty/on-call rest periods, as
16 required by California wage and hour laws.

17 27. For at least three (3) years prior to the filing of this action and continuing to the
18 present, Defendants have, at times, failed to pay Plaintiffs, Class Members, and other Aggrieved
19 Employees, or some of them, the full amount of their wages owed to them upon termination and/or
20 resignation as required by Labor Code sections 201 and 202, including for, without limitation,
21 failing to pay overtime wages, minimum wages, premium wages. Defendants, at times, waited over
22 three weeks to pay employees their final checks after termination.

23 28. For at least one (1) year prior to the filing of this action and continuing to the present,
24 Defendants have, at times, failed to furnish Plaintiffs, Class Members, and other Aggrieved
25 Employees, or some of them, with itemized wage statements that accurately reflect gross wages
26 earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay
27 period and the corresponding number of hours worked at each hourly rate; the name and address
28 of the legal entity that is the employer who employed Plaintiffs, Class Members, and other

1 Aggrieved Employees; and other such information as required by Labor Code section 226,
2 subdivision (a). Defendants failed to include its name on employees' paystubs entirely and included
3 an incorrect and misleading name on employees' checks. As a result, thereof, Defendants have
4 further failed to furnish employees with an accurate calculation of gross and gross wages earned,
5 as well as gross and net wages paid.

6 29. At all relevant times mentioned herein, Defendants had and have a policy or practice
7 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
8 Plaintiffs, Class Members and other Aggrieved Employees with documents signed to obtain or hold
9 employment under Labor Code section 432, personnel records under Labor Code section 1198.5,
10 and time records under Labor Code section 1174, making it difficult for Plaintiffs, Class Members
11 and other Aggrieved Employees to calculate their unpaid wages and/or premium payments, to the
12 detriment of Plaintiffs, Class Members, and other Aggrieved Employees.

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

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

25 32. At all relevant times mentioned herein, Defendants have had a policy or practice of
26 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
27 Protection Act of 2011) by, among other things, failing to provide Plaintiffs, Class Members, and
28 other Aggrieved Employees with the rates of pay and overtime rates of pay applicable to their

1 employment; allowances claimed as part of the minimum wage; the regular payday designated by
2 Defendants; the name, address, and telephone number of the workers' compensation insurance
3 carrier; information regarding paid sick leave; and other pertinent information required to be
4 disclosed by Defendants under Labor Code section 2810.5.

5 33. At all relevant times mentioned herein, Defendants failed to provide Plaintiffs, Class
6 Members, and other Aggrieved Employees with the amount of paid sick leave required to be
7 provided pursuant to California law (including, without limitation Labor Code section 246, *et seq.*),
8 and also did not permit its use upon request as contemplated under California laws, to the detriment
9 of Plaintiffs, Class Members, and other Aggrieved Employees.

10 34. At all relevant times mentioned herein, Defendants have had a policy or practice of
11 failing to pay Plaintiffs, Class Members, and other Aggrieved Employees their wages in accordance
12 with Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th
13 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
14 during which the labor was performed, and labor performed between the 16th and the last day,
15 inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following
16 month."

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

26 36. Defendants had and have a policy or practice of preventing Plaintiffs and/or other
27 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
28 to their managers or outside to private attorneys or government officials, among others, in violation

1 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
2 1102.5. In addition, Plaintiffs are informed and believe that Defendants' herein-described policies
3 and/or practices prevent Plaintiffs and/or other Aggrieved Employees from disclosing information
4 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
5 of Labor Code section 232 and 232.5

6 37. Defendants had and have a policy or practice of preventing Plaintiffs and/or other
7 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
8 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
9 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
10 subdivision (k). Plaintiffs are informed and believe that this lawful conduct includes the exercise
11 of Plaintiffs' and/or other Aggrieved Employee's constitutional rights of freedom of speech and
12 economic liberty.

13 38. Plaintiffs, on Plaintiffs' own behalf and on behalf of Class Members, bring this
14 action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 226, 226.7,
15 404, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8,
16 section 11040, seeking overtime wages, minimum wages, payment of premium wages for missed
17 meal and rest periods, waiting time penalties, wage statement penalties, failure to indemnify work-
18 related expenses, failure to pay interest on deposits made, other such provisions of California law,
19 and reasonable attorneys' fees and costs.

20 39. Plaintiffs, on Plaintiffs' own behalf and on behalf of Class Members, pursuant to
21 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
22 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
23 appropriate and effective means to prevent further violations, as well as all monies owed but
24 withheld and retained by Defendants to which Plaintiffs and Class Members are entitled, as well as
25 restitution of amounts owed.

26 40. Plaintiffs, in Plaintiffs' representative capacities, seek civil penalties under Labor
27 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which
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1 violate the California Labor Code as described above, including on behalf of Plaintiffs and other
2 Aggrieved Employees pursuant to PAGA.

3 **CLASS ACTION ALLEGATIONS**

4 41. Plaintiffs bring this action on behalf of Plaintiffs and Class Members as a class
5 action pursuant to Code of Civil Procedure section 382. Plaintiffs seek to represent a class of all
6 current and former non-exempt employees of Defendants within the State of California at any time
7 commencing four (4) years preceding the filing of Plaintiff GOODEN's initial complaint up until
8 the time that notice of the class action is provided to the class.

9 42. Plaintiffs reserve the right under California Rule of Court rule 3.765, subdivision
10 (b) to amend or modify the class description with greater specificity, further divide the defined
11 class into subclasses, and to further specify or limit the issues for which certification is sought.

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

15 **A. Numerosity**

16 44. The potential Class Members as defined are so numerous that joinder of all the
17 members of the class is impracticable. While the precise number of Class Members has not been
18 determined yet, Plaintiffs are informed and believe that there are over nine hundred (900) Class
19 Members employed by Defendants within the State of California during the proposed class period.

20 45. Accounting for employee turnover during the relevant periods necessarily increases
21 this number. Plaintiffs allege Defendants' employment records would provide information as to
22 the number and location of all Class Members. Joinder of all members of the proposed class is not
23 practicable.

24 **B. Commonality**

25 46. There are questions of law and fact common to Class Members. These common
26 questions include, but are not limited to:

- 27 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all
28 minutes worked at a proper overtime rate of pay?

- 1 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
2 for all other time worked at the employee's regular rate of pay and a rate of pay that
3 is greater than the applicable minimum wage?
- 4 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting
5 Class Members to take compliant meal periods?
- 6 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
7 with additional wages for missed or interrupted meal periods?
- 8 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting
9 Class Members to take compliant rest periods?
- 10 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
11 with additional wages for missed rest periods?
- 12 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
13 Members upon termination or resignation all wages earned?
- 14 H. Are Defendants liable to Class Members for waiting time penalties under Labor
15 Code section 203?
- 16 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
17 Class Members with accurate wage statements?
- 18 J. Did Defendants fail to pay Class Members in a timely fashion as required under
19 Labor Code section 204?
- 20 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
21 losses incurred in direct consequence of the discharge of their duties or by obedience
22 to the directions of Defendants as required under Labor Code section 2802?
- 23 L. Did Defendants violate the Unfair Competition Law, Business and Professions
24 Code section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 25 M. Are Class Members entitled to restitution of wages under Business and Professions
26 Code section 17203?
- 27 N. Are Class Members entitled to costs and attorneys' fees?
- 28 O. Are Class Members entitled to interest?

1 **C. Typicality**

2 47. The claims of Plaintiffs herein alleged are typical of those claims which could be
3 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
4 by each Class Member in separate actions. Plaintiffs and Class Members sustained injuries and
5 damages arising out of and caused by Defendants' common course of conduct in violation of laws
6 and regulations that have the force and effect of law and statutes as alleged herein.

7 **D. Adequacy of Representation**

8 48. Plaintiffs will fairly and adequately represent and protect the interest of Class
9 Members. Counsel who represents Plaintiffs are competent and experienced in litigating wage and
10 hour class actions.

11 **E. Superiority of Class Action**

12 49. A class action is superior to other available means for the fair and efficient
13 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
14 questions of law and fact common to Class Members predominate over any questions affecting
15 only individual Class Members. Class Members, as further described therein, have been damaged
16 and are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in
17 the violation of the Labor Code at times, as set out herein.

18 50. Class action treatment will allow Class Members to litigate their claims in a manner
19 that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware
20 of any difficulties that are likely to be encountered in the management of this action that would
21 preclude its maintenance as a class action.

22 **F. Public Policy Considerations**

23 51. Certification of this lawsuit as a class action will advance public policy objectives.
24 Employers of this great state violate employment and labor laws every day. Current employees are
25 often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions
26 provide the class members who are not named in the complaint anonymity that allows for the
27 vindication of their rights.

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PAGA ALLEGATIONS

52. At all times herein set forth, PAGA was applicable to Plaintiffs' employment by Defendants.

53. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

54. Pursuant to PAGA, a civil action under PAGA may be brought by an "Aggrieved Employee, who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

55. Plaintiffs were employed by Defendants and the alleged violations were committed against them during their time of employment and they are, therefore, Aggrieved Employees. Plaintiffs and the other employees are Aggrieved Employees as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

56. Pursuant to California Labor Code sections 2699.3 and 2699.5, Aggrieved Employees, including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements have been met:

- a. The Aggrieved Employee shall give written notice by online submission (hereinafter "Employee's Notice") to the LWDA and by U.S. Certified Mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- b. The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the Aggrieved Employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee's Notice. Upon receipt of the LWDA Notice, or if the

1 LWDA Notice is not provided within sixty-five (65) calendar days of the
2 postmark date of the Employee's Notice, the Aggrieved Employee may
3 commence a civil action pursuant to California Labor Code section 2699 to
4 recover civil penalties in addition to any other penalties to which the Aggrieved
5 Employee may be entitled.

6 57. On December 9, 2021, Plaintiff GOODEN provided written notice pursuant to
7 Labor Code section 2699.3 online and by certified mail, with return receipt requested, of
8 Defendants' violation of various, including the herein-described, provisions of the Labor Code, to
9 the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of
10 them.

11 58. On July 27, 2023, Plaintiff WEISSMULLER provided notice by electronic
12 submission to the LWDA and by certified mail to Defendants regarding the specific provisions of
13 the Labor Code alleged to have been violated, including the facts and theories to support the alleged
14 violations, pursuant to Labor Code section 2699.3.

15 59. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
16 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
17 calendar days of the December 9, 2021, postmarked date of the herein-described notice sent by
18 Plaintiff GOODEN to the LWDA and Defendants, or the July 27, 2023, postmarked date of the
19 herein-described notice sent by Plaintiff WEISSMULLER to the LWDA and Defendants.

20 60. Therefore, Plaintiffs have satisfied the administrative prerequisites under California
21 Labor Code section 2699.3(a) to recover civil penalties against Defendants for violations of
22 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 558, 1174(d), 1194,
23 1197, 1197.1, 1198, 2800 and 2802.

24 **FIRST CAUSE OF ACTION**

25 **(Failure to Pay Overtime Wages – Against All Defendants)**

26 61. Plaintiffs reallege and incorporate by reference all of the allegations contained in
27 the preceding paragraphs as though fully set forth hereat.

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1 62. At all relevant times, Plaintiffs and Class Members were employees or former
2 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as
3 applicable Wage Orders.

4 63. At all times relevant to this Complaint, Labor Code section 510 was in effect and
5 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
6 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
7 at the rate of no less than one and one-half times the regular rate of pay for an employee.”

8 64. At all times relevant to this Complaint, Labor Code section 510 further provided
9 that “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than
10 twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on
11 any seventh day of a workweek shall be compensated at the rate of no less than twice the regular
12 rate of pay.”

13 65. Four (4) years prior to the filing of the Complaint in this Action through the present,
14 Plaintiffs and Class Members, at times, worked for Defendants during shifts that consisted of more
15 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
16 consecutive workdays in a workweek, without being paid overtime wages for all minutes worked
17 as a result of, including but not limited to, Defendants failing to accurately track and/or pay for all
18 minutes actually worked at the proper overtime rate of pay to the detriment of Plaintiffs and Class
19 Members.

20 66. Accordingly, by requiring Plaintiffs and Class Members to, at times, work greater
21 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight
22 workdays without properly compensating overtime wages at the proper overtime rate of pay,
23 Defendants, on occasion, willfully violated the provisions of the Labor Code, among others,
24 sections 510, 1194, and applicable IWC Wage Orders, and California law.

25 67. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have
26 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
27 plus interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194
28 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

1 **SECOND CAUSE OF ACTION**

2 **(Failure to Pay Minimum Wages – Against All Defendants)**

3 68. Plaintiffs reallege and incorporate by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 69. At all relevant times, Plaintiffs and Class Members were employees or former
6 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

7 70. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiffs and
8 Class Members were entitled to receive minimum wages for all minutes worked or otherwise under
9 Defendants' control.

10 71. For four (4) years prior to the filing of the Complaint in this Action through the
11 present, Defendants failed, at times, to accurately track and/or pay for all minutes actually worked
12 at their regular rate of pay that is above the minimum wage to the detriment of Plaintiffs and Class
13 Members.

14 72. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
15 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
16 for all minutes worked or otherwise due.

17 73. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
18 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled
19 to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
20 damages, reasonable attorneys' fees and costs of suit.

21 **THIRD CAUSE OF ACTION**

22 **(Failure to Provide Meal Periods – Against All Defendants)**

23 74. Plaintiffs reallege and incorporate by reference all of the allegations contained in
24 the preceding paragraphs as though fully set forth hereat.

25 75. At all relevant times, Plaintiffs and Class Members were employees or former
26 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

27 76. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
28 employ an employee for a work period of more than five (5) hours without a timely meal break of

1 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.
2 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours
3 per day without providing the employee with a second timely meal period of not less than thirty
4 (30) minutes in which the employee is relieved of all of his or her duties.

5 77. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
6 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
7 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate
8 of compensation for each workday that the meal period is not provided.

9 78. For four (4) years prior to the filing of the Complaint in this Action through the
10 present, Plaintiffs and Class Members were, at times, not provided complete, timely 30-minute,
11 duty-free uninterrupted meal periods every five hours of work without waiving the right to take
12 them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of
13 pay at the Class Member's regular rate of compensation on the occasions that Class Members were
14 not provided compliant meal periods.

15 79. By their failure to provide Plaintiffs and Class Members compliant meal periods as
16 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
17 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully
18 violated the provisions of Labor Code section 512 and applicable Wage Orders.

19 80. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
20 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
21 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

22 81. Plaintiffs and Class Members are entitled to recover the full amount of their unpaid
23 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
24 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
25 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

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1 **FOURTH CAUSE OF ACTION**

2 **(Failure to Provide Rest Periods – Against All Defendants)**

3 82. Plaintiffs reallege and incorporate by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 83. At all relevant times, Plaintiffs and Class Members were employees or former
6 employees of Defendants covered by applicable Wage Orders.

7 84. California law and applicable Wage Orders require that employers “authorize and
8 permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour
9 work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-
10 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who
11 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes
12 of paid rest period, and employees who work shifts of more than ten (10) hours must be provided
13 thirty (30) minutes of paid rest period.

14 85. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
15 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
16 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s
17 regular rate of compensation for each work day that the rest period is not provided.

18 86. For four (4) years prior to the filing of the Complaint in this Action through the
19 present, Plaintiffs and Class Members were, at times, not authorized or permitted to take complete,
20 timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major
21 fraction thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay
22 at the Class Member’s regular rate of compensation on the occasions that Class Members were not
23 authorized or permitted to take compliant rest periods.

24 87. By their failure, at times, to authorize and permit Plaintiffs and Class Members to
25 take rest periods contemplated by California law, and one (1) additional hour of pay at the
26 employee’s regular rate of compensation for such unprovided rest periods, as alleged above,
27 Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage
28 Orders.

1 88. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
2 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
3 owed for rest periods that they were not authorized or permitted to take.

4 89. Plaintiffs and Class Members are entitled to recover the full amount of their unpaid
5 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
6 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
7 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

8 **FIFTH CAUSE OF ACTION**

9 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

10 90. Plaintiffs realleges and incorporates by reference all of the allegations contained in
11 the preceding paragraphs as though fully set forth hereat.

12 91. At all relevant times, Plaintiffs and Class Members were employees or former
13 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
14 Wage Orders.

15 92. Pursuant to Labor Code sections 201 and 202, Plaintiffs and Class Members were
16 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
17 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
18 discharge immediately upon termination. Class Members who resigned were entitled to payment
19 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
20 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
21 unpaid at the time of resignation.

22 93. Plaintiffs are informed and believe, and based thereon allege, that in the three (3)
23 years before the filing of the Complaint in this Action through the present, Defendants, due to the
24 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiffs and Class
25 Members all wages earned prior to resignation or termination in accordance with Labor Code
26 sections 201 or 202.

27 94. Plaintiffs are informed and believe Defendants' failure, at times, to pay Plaintiffs
28 and Class Members all wages earned prior to termination or resignation in accordance with Labor

1 Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by
2 Plaintiffs and Class Members at the time of termination in accordance with Labor Code sections
3 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of
4 Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to
5 termination or resignation.

6 95. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
7 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
8 resignation, until paid, up to a maximum of thirty (30) days.

9 96. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
10 suffered damages in an amount subject to proof, to the extent they were not paid for all wages
11 earned prior to termination or resignation.

12 97. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
13 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
14 waiting time penalties, interest, and their costs of suit, as well.

15 **SIXTH CAUSE OF ACTION**

16 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

17 98. Plaintiffs reallege and incorporate by reference all of the allegations contained in
18 the preceding paragraphs as though fully set forth hereat.

19 99. At all relevant times, Plaintiffs and Class Members were employees or former
20 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

21 100. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and Class Members
22 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate
23 itemized statement that accurately reflects, among other things, gross wages earned; total hours
24 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
25 corresponding number of hours worked at each hourly rate; and the name and address of the legal
26 entity that is the employer, among other things.

27 101. Plaintiffs are informed and believe, and based thereon allege, that in the one (1) year
28 before the filing of the Complaint in this Action through the present, Defendants failed to comply

1 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in
2 their failure, at times, to furnish Plaintiffs and Class Members with accurate itemized statements
3 that accurately reflect, among other things, gross wages earned; total hours worked; net wages
4 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
5 hours worked at each hourly rate; and the name and address of the legal entity that is the employer,
6 among other things.

7 102. Defendants' failure to, at times, provide Plaintiffs and Class Members with accurate
8 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
9 Plaintiffs and the other Class Members with accurate wage statements, but, at times, willfully
10 provided wage statements that Defendants knew were not accurate.

11 103. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
12 suffered injury. The absence of accurate information on Class Members' wage statements at times
13 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
14 mathematical computations to determine the amount of wages owed; causes difficulty and expense
15 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
16 about wages and amounts deducted from wages to state and federal governmental agencies, among
17 other things.

18 104. Pursuant to Labor Code section 226, subdivision (e), Plaintiffs and Class Members
19 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
20 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
21 pay period, not to exceed an aggregate \$4,000.00 per employee.

22 105. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
23 Procedure section 1032, Civil Code section 3287, Plaintiffs and Class Members are entitled to
24 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
25 attorneys' fees, and costs of suit.

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1 **SEVENTH CAUSE OF ACTION**

2 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

3 106. Plaintiffs reallege each and every allegation set forth in the preceding paragraphs
4 and incorporate each by reference as though fully set forth hereat.

5 107. At all relevant times, Plaintiffs and Class Members were employees or former
6 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

7 108. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
8 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month
9 during which the labor was performed, and labor performed between the 16th and the last day,
10 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
11 month.”

12 109. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
13 independent and apart from, any other penalty provided in this article, every person who fails to
14 pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5,
15 and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred
16 dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or
17 any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
18 employee, plus 25 percent of the amount unlawfully withheld.”

19 110. Plaintiffs are informed and believe, and based thereon allege, that in the one (1) year
20 before the filing of the Complaint in this Action through the present, Defendants employed policies
21 and practices that resulted in, at times, not paying Plaintiffs and Class Members in accordance with
22 Labor Code section 204.

23 111. Pursuant to Labor Code section 210, Plaintiffs and Class Members are entitled to
24 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
25 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
26 for each subsequent violation in connection with each payment that was made in violation of Labor
27 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

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1 112. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
2 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recovery of
3 penalties, interest, and their costs of suit, as well.

4 **EIGHTH CAUSE OF ACTION**

5 **(Violation of Labor Code § 2802 – Against All Defendants)**

6 113. Plaintiffs reallege and incorporate by reference all of the allegations contained in
7 the preceding paragraphs as though fully set forth hereat.

8 114. At all relevant times, Plaintiffs and Class Members were employees or former
9 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

10 115. Labor Code section 2802, subdivision (a) provides that “an employer shall
11 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
12 in direct consequence of the discharge of his or her duties . . .”

13 116. For three (3) years prior to the filing of the Complaint in this Action through the
14 present, Defendants required Plaintiffs and Class Members, or some of them, to incur, at times,
15 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
16 obedience to the directions of Defendants that included, without limitation: using cellular phones
17 for work-related purposes.

18 117. During that time period, Plaintiffs are informed and believe, and based thereon
19 allege that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiffs
20 and Class Members for those losses and/or expenditures.

21 118. As a result of Defendants’ unlawful conduct, Plaintiffs and Class Members have
22 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
23 herein-described losses and/or expenditures.

24 119. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
25 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
26 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and
27 costs of suit.

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1 **NINTH CAUSE OF ACTION**

2 **(Unfair Competition – Against All Defendants)**

3 120. Plaintiffs reallege and incorporate by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 121. Plaintiffs are informed and believe, and based thereon allege, that the unlawful
6 conduct of Defendants alleged herein constitutes unfair competition within the meaning of
7 Business and Professions Code section 17200. Due to their unlawful business practices in violation
8 of the Labor Code, Defendants have gained a competitive advantage over other comparable
9 companies doing business in the State of California that comply with their obligations to
10 compensate employees in accordance with the Labor Code.

11 122. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and Class
12 Members have suffered injury in fact and lost money or property.

13 123. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
14 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
15 Code and requiring the establishment of appropriate and effective means to prevent further
16 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
17 including interest thereon, in which they had a property interest and which Defendants nevertheless
18 failed to pay them and instead withheld and retained for themselves. Restitution of the money
19 owed to Plaintiffs and Class Members is necessary to prevent Defendants from becoming unjustly
20 enriched by their failure to comply with the Labor Code.

21 124. Plaintiffs and Class Members are entitled to costs of suit under Code of Civil
22 Procedure section 1032 and interest under Civil Code section 3287.

23 **TENTH CAUSE OF ACTION**

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

25 125. Plaintiffs re-allege each and every allegation set forth in the preceding paragraphs
26 and incorporates each by reference as though fully set forth hereat.

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1 entity securing the employer's services if the employer is a farm labor contractor; and other such
2 information as required by Labor Code section 226, subdivision (a).

3 130. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
4 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
5 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
6 for each violation in a subsequent citation, for which the employer fails to provide the employee a
7 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226."

8 131. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
9 this section are in addition to any other penalty provided by law."

10 132. Plaintiffs are informed and believe, and based thereon allege, that Defendants had
11 and have a policy or practice of failing to furnish non-exempt employees, including, without
12 limitation, Plaintiffs, with itemized wage statements that accurately reflect gross wages earned;
13 total hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
14 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
15 name of the employer and/or the name and address of the legal entity securing the employer's
16 services if the employer is a farm labor contractor; and other such information as required by Labor
17 Code section 226, subdivision (a).

18 133. Pursuant to Labor Code section 226.3, Plaintiffs and other Aggrieved Employees
19 are entitled to recover civil penalties for Defendants' violation of Labor Code section 226,
20 subdivision (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per
21 pay period for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee
22 per pay period for each subsequent violation.

23 Violation of Labor Code § 558

24 134. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
25 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
26 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
27 penalty as follows:

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1 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for
2 each pay period for which the employee was underpaid in addition to an amount
3 sufficient to recover underpaid wages;

4 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
5 employee for each pay period for which the employee was underpaid in addition to
6 an amount sufficient to recover underpaid wages;

7 (3) Wages recovered pursuant to this section shall be paid to the affected employee.

8 135. Plaintiffs are informed and believe, and based thereon allege, that Defendants, and
9 each of them, violated, or caused to be violated, the Labor Code sections described herein,
10 including causing Plaintiffs and other Aggrieved Employees not to: be paid with the rates of pay
11 and overtime rates of pay applicable to their employment, allowances claimed as part of the
12 minimum wage, the regular payday designated by Employer, the name of the employer, including
13 any “doing business as” names used, the name, address and telephone number of the workers’
14 compensation insurance carrier, information regarding paid sick leave, and other pertinent
15 information.

16 136. As a direct and proximate result of the herein-described Labor Code violations,
17 pursuant to Labor Code section 558, Plaintiffs and other Aggrieved Employees are entitled to
18 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty
19 dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred
20 dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

21 Violation of Labor Code § 1174.5

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

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

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

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

19 141. Plaintiffs are informed and believe, and based thereon allege, that Defendants have
20 willfully failed keep adequate or accurate time records including wage statements and similar
21 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
22 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time
23 records under Labor Code section 1174.

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

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Violation of Labor Code § 1197.1

143. 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:

- (1) 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.
- (2) 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.
- (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

144. Plaintiffs are informed and believe, and based thereon allege, that Defendants caused Plaintiffs and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without limitation, routinely failing to pay Plaintiffs or other Aggrieved Employees’ to pay minimum wages for all hours worked, entitling Plaintiffs and other Aggrieved Employees to actual and liquidated damages.

145. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1197.1, Plaintiffs 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.

Civil Penalties Under Labor Code § 2699

146. 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.

147. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor Code except those for which a civil penalty is specifically provided, the established civil penalty for a violation of those provisions is as follows: if, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

148. Plaintiffs are informed and believe and based thereon allege 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 name of the employer, including any “doing business as” names used, 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, failing to provide Plaintiffs and other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to California and local laws.

1 149. Moreover, Plaintiffs and other Aggrieved Employees within the State of California
2 whom they seek to represent are entitled to an award of reasonable attorneys' fees and costs in
3 connection with their herein-described claims for civil penalties

4 **DEMAND FOR JURY TRIAL**

5 150. Plaintiffs hereby request a trial by jury.

6 **PRAYER**

7 **WHEREFORE**, on behalf of Plaintiffs, Class Members, and Aggrieved Employees,
8 Plaintiffs pray for judgment against Defendants as follows:

- 9 A. An order certifying this case as a Class Action;
- 10 B. An Order appointing Plaintiffs as Class representatives and appointing
11 Plaintiffs' counsel as class counsel;
- 12 C. Damages for all wages earned and owed, including minimum overtime
13 wages under Labor Code sections 510, 1194, 1197 and 1199 and 227.3;
- 14 D. Liquidated damages pursuant to Labor Code sections and 1194.2;
- 15 E. Damages for unpaid premium wages from missed meal and rest periods
16 under, among other Labor Code sections, 512, and 226.7;
- 17 F. Penalties for inaccurate wage statements under Labor Code sections 226,
18 subdivision (e);
- 19 G. Waiting time penalties under Labor Code sections 203;
- 20 H. Damages under Labor Code sections 2802;
- 21 I. Damages under Labor Code section 404;
- 22 J. Preliminary and permanent injunctions prohibiting Defendants from
23 further violating the California Labor Code and requiring the establishment
24 of appropriate and effective means to prevent future violations;
- 25 K. Restitution of wages and benefits due which were acquired by means of
26 any unfair business practice, according to proof;
- 27 L. Prejudgment and post-judgment interest at the maximum rate allowed by
28 law;

- 1 M. For attorneys' fees in prosecuting this action;
- 2 N. An award of civil penalties pursuant to Labor Code sections 210, 226.3,
- 3 558,1174.5, 1197.1, 2699, and 2802, and all other applicable sections listed
- 4 *infra*;
- 5 O. An award of reasonable attorneys' fees and costs pursuant to Labor Code
- 6 sections 210, 226.3, 558, 1174.5, 1197.1, 2699, 2802, and all other
- 7 applicable sections listed *infra*;
- 8 P. Pre-judgment and post-judgment interest;
- 9 Q. For costs of suit incurred herein; and
- 10 R. Such other and further relief as the Court deems just and proper.

11 Dated: July 15, 2025

BIBIYAN LAW GROUP, P.C.

12

13 BY: /s/ Brandon M. Chang

14 BRANDON M. CHANG

15 Attorney for Plaintiff, TONI A. GOODEN, on behalf of

16 herself and all others similarly situated and aggrieved

17 employees

18 Dated: July 15, 2025

BLACKSTONE LAW, APC

19

20 BY: /s/ Alexandra Rose

21 ALEXANDRA ROSE

22 Attorney for Plaintiff, GRACE WEISSMULLER, on

23 behalf of others similarly situated and on behalf of

24 other aggrieved employees.