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County of Alameda
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

Derek Simmons, on behalf of himself and
all other aggrieved employees,

Plaintiff,

vs.

Robert Half International, Inc.; Eden
Housing, Inc.; Tenderloin Housing Clinic,
Inc.; and Does 1 through 20, inclusive,

Defendants.

Case No. **22CV007918**

REPRESENTATIVE ACTION COMPLAINT
FOR:

VIOLATION OF THE CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS GENERAL
ACT OF 2004 (CAL. LABOR CODE § 2698, *ET*
SEQ.)

DEMAND FOR A JURY TRIAL

1 Plaintiff Derek Simmons, individually and on behalf of other aggrieved employees,
2 hereby alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Derek Simmons (“Plaintiff”) brings this representative action against
5 defendants Robert Half International, Inc., Eden Housing, Inc., Tenderloin Housing Clinic, Inc.,
6 and Does 1 through 20, inclusive (collectively, “Defendants”), on behalf of himself individually
7 and all other aggrieved employees employed by Defendants throughout California defined as all
8 external employees employed by Defendant Robert Half International, Inc. in the State of
9 California from one year before the date of Plaintiff’s PAGA notice, plus any applicable tolling,
10 to the date of trial.

11 2. Defendant Robert Half International, Inc. is a recruiting and staffing firm doing
12 business in California. Defendant Robert Half International, Inc. employs external employees at
13 various jobsites in California for its clients.

14 3. Defendant Eden Housing, Inc., is a property management and housing
15 development company doing business in California and incorporated in California. Defendant
16 Eden Housing, Inc. is a client of Defendant Robert Half International, Inc. and jointly employs a
17 portion of the total aggrieved employees.

18 4. Defendant Tenderloin Housing Clinic, Inc. is a housing organization that provides
19 housing and supportive services in the San Francisco area and is incorporated in California.
20 Defendant Tenderloin Housing Clinic, Inc. is a client of Defendant Robert Half International,
21 Inc. and jointly employs a portion of the total aggrieved employees.

22 5. Through this action, Plaintiff alleges that Defendants have engaged in a
23 systematic pattern of wage and hour violations under the California Labor Code (“Labor Code”).

24 6. Plaintiff is informed and believes, and thereon alleges, during the relevant time
25 period, Defendants had a consistent policy of violating state wage and hour laws by failing to
26 reimburse all necessary business expenses incurred by Plaintiff and other aggrieved employees
27 in direct consequence of the discharge of their duties.

28 7. Plaintiff brings this representative action seeking monetary relief against

1 Defendants on behalf of himself and other aggrieved employees to recover, among other things,
2 penalties, attorney's fees, costs and expenses pursuant to the Private Attorneys General Act of
3 2004, Labor Code §§ 2698, *et seq.* ("PAGA").

4 **JURISDICTION AND VENUE**

5 8. The monetary relief sought by Plaintiff exceeds the minimal jurisdictional limits
6 of the Superior Court and will be established according to proof at trial.

7 9. The Superior Court has jurisdiction over this action pursuant to the California
8 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes,
9 except those given by statutes to other courts. The statutes under which this action is brought do
10 not specify any other basis for jurisdiction.

11 10. The Superior Court has jurisdiction over all Defendants because, upon
12 information and belief, they are citizens of California, have sufficient minimum contacts in
13 California, or otherwise intentionally avail themselves of the California market so as to render
14 the exercise of jurisdiction over them by the California courts consistent with traditional notions
15 of fair play and substantial justice.

16 11. Venue is proper in the Superior Court because, upon information and belief,
17 Defendants reside, transact business, or have offices in this county, and the acts and omissions
18 alleged herein took place in this county.

19 **THE PARTIES**

20 12. Plaintiff is a citizen of California and worked for Defendants in California during
21 the relevant time period as alleged herein.

22 13. Plaintiff is informed and believes, and thereon alleges, that Defendants are
23 corporations doing business throughout the State of California, and at all times hereinafter
24 mentioned, employers as defined in and subject to the California Labor Code and Industrial
25 Welfare Commission ("IWC") Wage Orders, whose employees are and were engaged throughout
26 this county and the State of California.

27 14. Plaintiff is unaware of the true names or capacities of the defendants sued herein
28 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this

1 Complaint and serve such fictitiously named defendants once their names and capacities become
2 known.

3 15. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
4 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
5 all relevant times.

6 16. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
7 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
8 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
9 are legally attributable to the other defendant as to the portion of aggrieved employees employed
10 or jointly employed by each defendant. Furthermore, defendants in all respects acted as the
11 employers and/or joint employers of Plaintiff and other aggrieved employees.

12 17. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
13 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
14 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
15 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
16 official policy of Defendants.

17 18. At all relevant times, Defendants, and each of them, acted within the scope of such
18 agency or employment, or ratified each and every act or omission complained of herein. At all
19 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each
20 and all the other Defendants in proximately causing the damages herein alleged.

21 19. Plaintiff is informed and believes, and thereon alleges, that each of said
22 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
23 omissions, occurrences, and transactions alleged herein.

24 **GENERAL ALLEGATIONS**

25 20. At all relevant times mentioned herein, Defendants employed Plaintiff and other
26 persons as non-exempt employees.

27 21. Defendants employed Plaintiff during the relevant time period.

28 22. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned

1 herein, Defendants were advised by skilled lawyers, employees, and other professionals who
2 were knowledgeable about California's wage and hour laws, employment and personnel
3 practices, and the requirements of California law.

4 23. Through this action, Plaintiff alleges that Defendants have engaged in a
5 systematic pattern of wage and hour violations under the California Labor Code and IWC Wage
6 Orders.

7 24. Plaintiff is informed and believes, and thereon alleges, that Defendants were
8 required to indemnify and reimburse Plaintiff other aggrieved employees for all expenditures or
9 losses caused by the employer's want of ordinary care and/or that incurred in direct consequence
10 of the discharge of their duties but failed to indemnify and reimburse Plaintiff and other aggrieved
11 employees for all necessary business expenses. For example, Defendants failed to reimburse
12 Plaintiff and other aggrieved employees for use of their personal cellular device and home
13 internet for work related purposes, such as, but not limited to, using their cellular phone,
14 computers, and home internet to use the mobile application, "Robert Half: Job Search & More,"
15 in order to clock in and out of work, keep track of their meal and rest breaks, and to submit their
16 time reports—without paying for a reasonable percentage of their cellular phone bills, home
17 internet bills, equipment, or service fees.

18 25. Plaintiff and other aggrieved employees were required to login to Defendants'
19 mobile application as part of their employment with Defendants through either their personal
20 cellular phones or computers and were provided no alternative means. Notably, some functions
21 of the mobile application were inaccessible using a cellular phone and were only accessible by
22 logging into the application by using a computer, forcing Plaintiff and other aggrieved employees
23 to incur additional costs. For instance, among other things, Plaintiff and other aggrieved
24 employees could only request use of their paid sick leave or paid time off by logging into a
25 personal computer, because that function was inaccessible through use of a cellular phone.

26 26. Thus, in violation of the Labor Code, Plaintiff and other aggrieved employees did
27 not receive reimbursements for all necessary business expenses.

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1 **FIRST CAUSE OF ACTION**

2 **ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. ("PAGA")**

3 27. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
4 though fully set forth herein.

5 28. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
6 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
7 ("LWDA") or any of its departments, divisions, commissions, boards, agencies or employees for
8 violation of the code may, as an alternative, be recovered through a civil action brought by an
9 aggrieved employee on behalf of himself and other current or former employees pursuant to the
10 procedures specified in Labor Code § 2699.3.

11 29. For all provisions of the Labor Code except those for which a civil penalty is
12 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
13 dollars (\$100.00) for each aggrieved employee per pay period for the initial violations and two
14 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
15 period in which Defendants violated these provisions of the Labor Code.

16 30. Defendants' conduct with respect to Plaintiff and other aggrieved employees
17 violates California Labor Code sections including, but not limited to, violation of Labor Code §§
18 2800 and 2802 for failure to reimburse Plaintiff and other aggrieved employees for all reasonable
19 and necessary business expenses as herein alleged.

20 31. Plaintiff is an "aggrieved employee" because he was employed by the alleged
21 violator and had one or more of the alleged violations committed against him, and therefore is
22 properly suited to represent the interests of all other aggrieved employees.

23 32. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
24 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all
25 other aggrieved employees under PAGA.

26 33. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
27 recover civil penalties for violations of the Labor Code sections cited above.

28 34. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred

1 herein.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff, on behalf of himself and all other aggrieved employees, prays
4 for judgment against Defendants as follows:

- 5 1. For civil penalties against Defendants on behalf of all aggrieved employees.
6 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
7 including pursuant to California Labor Code §§ 2699(g) and California Code of Civil Procedure
8 § 1021.5; and
9 3. For such other relief as the Court deems just and proper.

10 Dated: March 3, 2022

LEBE LAW, APLC

11
12 By: _____



Jonathan M. Lebe
Zachary T. Gershman
Nicolas W. Tomas

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14 Attorneys for Plaintiff Derek Simmons, on behalf of
15 himself and all other aggrieved employees

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby demands a jury trial with respect to all issues triable of right by jury.

18 Dated: March 3, 2022

LEBE LAW, APLC

19
20 By: _____



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