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Per local Rule, This case is assigned to
Judge Weil, Edward G, for all purposes.

Attorneys for Plaintiff

SUMMONS ISSUED

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

C22-01425

Case No. _____

MARK BRUNO KOVACIC, on behalf
of the State of California, as a private
attorney general,

Plaintiff,

vs.

THE ALARIS GROUP, INC., a
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Civil Penalties Pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s).

1 Plaintiff Mark Bruno Kovacic ("PLAINTIFF"), on behalf of the people of the State of
2 California and as an "aggrieved employee" acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* ("PAGA") only, alleges on
4 information and belief, except for his own acts and knowledge which are based on personal
5 knowledge, the following:

6 INTRODUCTION

7 1. PLAINTIFF brings this action against Defendant The Alaris Group, Inc.
8 (referred to as "DEFENDANT") seeking only to recover PAGA civil penalties for himself, and
9 on behalf of all current and former aggrieved employees that worked for DEFENDANT.
10 PLAINTIFF does not seek to recover anything other than penalties as permitted by
11 California Labor Code § 2699. To the extent that statutory violations are mentioned for wage
12 violations, PLAINTIFF does not seek underlying general and/or special damages for those
13 violations, but simply the civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit an individual to bring an action on
15 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
16 nature of this action.

17 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
18 DEFENDANT's violations under PAGA and solely for the relief as permitted by PAGA – that
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
20 complaint should be construed as attempting to obtain any relief that would not be available in
21 a PAGA-only action.

22 THE PARTIES

24 4. Defendant The Alaris Group, Inc. ("ALARIS" or "DEFENDANT") is a
25 corporation that conducts regular and substantial business in the State of California. ALARIS
26 provides case management services. The Company offers medical and vocational case
27 management, consultancy, and other services.

28 5. To successfully compete against the other comprehensive medical management

1 service providers, ALARIS substantially reduced its labor costs by placing the labor burden on
2 a smaller number of employees that ALARIS classified as exempt from overtime wages. The
3 goal of overtime laws includes expanding employment throughout the workforce by putting
4 financial pressure on the employer and nurturing a stout job market, as well as the important
5 public policy goal of protecting employees in a relatively weak bargaining position against the
6 unfair scheme of uncompensated overtime work. An employer's obligation to pay its employees
7 wages is more than a matter of private concern between the parties. That obligation is founded
8 on a compelling public policy judgment that employees are entitled to work a livable number
9 of hours at a livable wage. In addition, statutes and regulations that compel employers to pay
10 overtime relate to fundamental issues of social welfare worthy of protection. The requirement
11 to pay overtime wages extends beyond the benefits individual workers receive because overtime
12 wages discourage employers from concentrating work in a few overburdened hands and
13 encourage employers to instead hire additional employees. Especially in today's economic
14 climate, the importance of spreading available work to reduce unemployment cannot be
15 overestimated.

16 6. As part of their business, ALARIS employs a fleet of Case Managers. The
17 employees employed in positions at ALARIS with the titles of "Field Nurse Case Manager,"
18 "Telephonic Nurse Case Manager," "Medical Case Manager," and "Utilization Case Manager"
19 all perform the same primary job duty which is to perform day-to-day routine clerical work in
20 the management of medical conditions of injured workers and/or chronically ill patients and
21 are collectively referred to herein as the "Case Managers" or "CM".

22 7. PLAINTIFF has been employed by ALARIS in California as a Case Manager
23 since February of 2020 to present. From February of 2020 to May of 2020 Plaintiff was
24 classified as a non-exempt employee paid on an hourly basis. From May of 2020 to present day,
25 PLAINTIFF has been classified as a salaried employee exempt from overtime pay and the
26 legally required meal and rest breaks.

27 8. As part of their business, ALARIS employs a fleet of "Case Managers."
28 PLAINTIFF, as a CM, is engaged in the core, day-to-day business activities of ALARIS. The

1 CMs engage in the finite set of non-exempt clerical tasks of reviewing client's pre-injury and/or
2 pre-illness position, making appointments with client's physician or therapist, listening to and
3 reviewing the physician's or therapist's diagnosis, obtaining prescriptions, communicating both
4 in-person and by telephone with employers, medical providers, attorneys, insurance carriers and
5 claims adjusters, applying all special instructions required by individual insurance carriers and
6 referral sources, following all pre-established and required case management plans, preparing
7 reports and other required paperwork to document all casework activities, meeting weekly
8 billing requirements, operating office machines, accessing filing cabinets, and attending staff
9 meetings, workshops and/or training programs all in strict compliance with established specific
10 procedures and protocols which governed and controlled every aspect of the work performed
11 by PLAINTIFF and other Case Managers. These standardized procedures mirror the realities
12 of the workplace evidencing a uniformity of the highly skilled clerical work performed by
13 PLAINTIFF and other Case Managers and negate any exercise of independent judgment and
14 discretion as to any matter of significance and negate any role in the participation of formulating
15 ALARIS' business policies.

16 9. PLAINTIFF and other Case Managers' job duties include monitoring a recovery
17 plan controlled by a physician and a claims adjuster and do not have the power to alter that
18 course of treatment. Any advice PLAINTIFF and other Case Managers provide is on an
19 individual level, far from questions affecting management or general operations of the business.
20 Rather, PLAINTIFF and other Case Managers use their RN training to coordinate care, act as
21 intermediary between patients, adjustors, and doctors and operated in a framework in which
22 these employees do not exercise ultimate decision-making power.

23 10. To perform their finite set of tasks, the CMs do not engage in a supervisory role
24 given the constraints placed upon them by company policy. CMs do not determine what work
25 is to be done by other employees or in what time frame. Furthermore, the CMs also do not have
26 a distinct role in training other employees or determining what training they are to receive.
27 Lastly, PLAINTIFF and other CMs do not have the authority to hire, fire, or promote
28 employees, determine their pay rates or benefits, or give raises as they are unable to make

1 employment-related, personnel decisions. Consequently, PLAINTIFF and the other CMs do
2 not have the authority to decide whether or not an employee should be disciplined for an
3 infraction. Disciplinary decisions are made by the human resources department or dictated by
4 company policies. Overall, PLAINTIFF's and other CMs' recommendations are given little,
5 if any, weight on all the above issues. As a result, PLAINTIFF and the other CMs are engaged
6 in a type of work that requires no exercise of independent judgment or discretion as to any
7 matter of significance.

8 11. PLAINTIFF, and such persons that may be added from time to time who satisfy
9 the requirements and exhaust the administrative procedures under the Private Attorney General
10 Act, brings this Representative Action on behalf of the State of California with respect to
11 himself and all persons who are or previously were employed by DEFENDANT in California
12 as Case Managers and were classified as exempt from overtime wages ("AGGRIEVED
13 EMPLOYEES") during the time period of January 14, 2021 until a date as determined by the
14 Court (the "PAGA PERIOD").

15 12. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
16 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
17 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
18 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510,
19 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,
20 Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon the
21 foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees within
22 the meaning of Labor Code § 2699, *et seq.*

23 13. The work schedule for PLAINTIFF and the AGGRIEVED EMPLOYEES is set
24 by ALARIS. PLAINTIFF and the AGGRIEVED EMPLOYEES work from time to time in
25 excess of eight (8) hours in a workday and/or more than forty (40) hours in any given
26 workweek.

27 14. PLAINTIFF and the AGGRIEVED EMPLOYEES are not provided with overtime
28 compensation and other benefits required by law as a result of being classified as "exempt" by

1 ALARIS.

2 15. As a matter of company policy, practice, and procedure, ALARIS has unlawfully,
3 unfairly and/or deceptively classified every CM as exempt from overtime pay and other related
4 benefits, fails to pay the required overtime compensation and otherwise fails to comply with all
5 applicable labor laws with respect to these CMs.

6 16. The true names and capacities, whether individual, corporate, subsidiary,
7 partnership, associate or otherwise of Defendants DOES 1 through 50, inclusive, are presently
8 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
9 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
10 the true names and capacities of DOES 1 through 50, inclusive, when they are ascertained.
11 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
12 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
13 responsible in some manner for one or more of the events and happenings that proximately
14 caused the injuries and damages hereinafter alleged.

15 17. The agents, servants and/or employees of the Defendants and each of them acting
16 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
17 agent, servant and/or employee of the Defendants, and personally participated in the conduct
18 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
19 Consequently, the acts of each Defendants are legally attributable to the other Defendants and
20 all Defendants are jointly and severally liable to PLAINTIFF and the AGGRIEVED
21 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
22 agents, servants and/or employees.

23 24 THE CONDUCT

25 18. The finite set of tasks required of the CMs as defined by DEFENDANT are
26 executed by the CMs through the performance of non-exempt labor within a defined manual
27 skill set.

28 19. Although PLAINTIFF and the other CMs spend the vast majority of their time

1 performing these non-exempt tasks, DEFENDANT instituted a blanket classification policy,
2 practice and procedure by which all of these CMs are classified as exempt from overtime
3 compensation. By reason of this exemption practice, policy and procedure applicable to
4 PLAINTIFF and the other CMs who perform these non-exempt tasks, DEFENDANT engaged
5 in a uniform company-wide policy, practice and procedure which fails to properly classify
6 PLAINTIFF and the other CMs and thereby fails to pay them overtime wages for documented
7 overtime worked. The proper classification of these employees is DEFENDANT's burden. As
8 a result of DEFENDANT's intentional disregard of the obligation to meet this burden,
9 DEFENDANT fails to pay all required overtime compensation for work performed by the
10 AGGRIEVED EMPLOYEES and violates the California Labor Code and regulations
11 promulgated thereunder as herein alleged. Further, DEFENDANT underpaid sick pay wages
12 to PLAINTIFF and the AGGRIEVED EMPLOYEES by failing to pay such wages at the regular
13 rate of pay. Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES regularly earn non-
14 discretionary remuneration, including but not limited to, incentives, shift differential pay, and
15 bonuses. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick pay
16 to PLAINTIFF and the AGGRIEVED EMPLOYEES at their base rates of pay. In addition,
17 DEFENDANT failed to provide the legally required off-duty meal and rest breaks to
18 PLAINTIFF and the AGGRIEVED EMPLOYEES as required by the applicable Wage Order
19 and Labor Code. DEFENDANT does not have a policy or practice which provides meal and rest
20 breaks to PLAINTIFF and the AGGRIEVED EMPLOYEES. As a result, DEFENDANT's
21 failure to provide PLAINTIFF and the AGGRIEVED EMPLOYEES with legally required meal
22 and rest breaks is evidenced by DEFENDANT's business records which contains no record of
23 these breaks.

24 20. DEFENDANT, as a matter of law, has the burden of proving that (a) employees
25 are properly classified as exempt and that (b) DEFENDANT otherwise complies with applicable
26 laws.

27 21. During their employment with DEFENDANT, PLAINTIFF and the
28 AGGRIEVED EMPLOYEES, perform non-managerial, non-exempt tasks, but are nevertheless

1 classified by DEFENDANT as exempt from overtime pay and work more than eight (8) hours
2 in a workday and/or more than forty (40) hours in a workweek.

3 22. A crucial requirement to be properly classified as exempt under both the
4 California Professional and Administrative exemptions is the ability to exercise independent
5 discretion and judgment as to matters of significance. PLAINTIFF and the other Case
6 Managers are assigned cases involving injured workers and chronically ill patients and are
7 micro-managed in every aspect of managing their assigned cases. These employees do not
8 exercise discretion in the sense of making important decisions of significance to the employer's
9 business even though they exercise some measure of discretion and judgment as to the manner
10 in which they performed their tasks. PLAINTIFF and other Case Managers perform routine
11 clerical tasks and followed set guidelines that were mandated and authorized by DEFENDANT.

12 23. Given the circumstances of the job functions performed by PLAINTIFF and the
13 AGGRIEVED EMPLOYEES, PLAINTIFF and the other AGGRIEVED EMPLOYEE CMs
14 are hired as registered nurses for Case Manager positions since their nursing experience is
15 useful for reviewing medical data, but they do not provide "traditional" direct medical services
16 to injured workers or chronically ill patients, render an opinion or make any medical diagnosis
17 (which is prohibited by state law). PLAINTIFF and the AGGRIEVED EMPLOYEES do not
18 primarily perform office or non-manual staff functions directly related to policymaking and/or
19 the general operation of the DEFENDANT. The work of PLAINTIFF and the AGGRIEVED
20 EMPLOYEES do not require the use of "traditional" nursing skills, training, experience and/or
21 knowledge. Instead, PLAINTIFF and the AGGRIEVED EMPLOYEES all serve as Case
22 Managers whose primary job duty was and is to perform day-to-day routine clerical work in the
23 management of medical conditions of injured workers and/or chronically ill patients. Courts
24 and State Labor Boards have held that registered nurses, like PLAINTIFF and the
25 AGGRIEVED EMPLOYEES, who were not expected to utilize "traditional" nursing skills and
26 instead rely on company manuals to perform administrative services, or who do not need a
27 nursing degree or license to qualify for employment, do not exercise discretion and independent
28 judgment as to matters of significance, and therefore, are non-exempt employees entitled to

1 overtime compensation.

2 24. PLAINTIFF and the other Case Manager AGGRIEVED EMPLOYEES employed
3 by DEFENDANT are also not engaged in work of a type that was or now is performed at the
4 level of the policy or management of the DEFENDANT. PLAINTIFF and the AGGRIEVED
5 EMPLOYEES employed by DEFENDANT are also not engaged in work requiring knowledge
6 of an advanced type in a field or science or learning customarily acquired by a prolonged course
7 of specialized intellectual instruction and study, but rather their work involves the performance
8 of routine mental, clerical, and/or technical processes. California law provides two alternative
9 avenues to Professional exempt status that PLAINTIFF and other AGGRIEVED EMPLOYEE
10 Case Managers fail to meet. To be exempt from overtime pay and minimum wage requirements
11 under the California exemption for “professional” employees, the employees must either be
12 licensed by the State of California and “primarily engaged” in an enumerated profession, or
13 “primarily engaged in an occupation commonly recognized as a learned or artistic profession.”
14 8 California Code of Regulations § 11010 *et seq.* PLAINTIFF and other Case Managers are not
15 required to be certified by the State of California to perform the finite set of tasks engaged in
16 by Case Managers and/or do not primarily engage in the recognized profession of law,
17 medicine, dentistry, optometry, architecture, engineering, teaching, or accounting. The federal
18 regulations after which the California learned professional exemption was explicitly patterned
19 condition the learned professions exemption upon completion of an advanced course of
20 education. Case Managers do not qualify as exempt learned professionals because an
21 “advanced specialized academic degree” is not a standard prerequisite for entry into the field.
22 To perform the finite set of tasks required of a Case Manager, PLAINTIFF and the
23 AGGRIEVED EMPLOYEES are not required to hold an advanced degree customarily acquired
24 by a prolonged course of specialized intellectual instruction and study, as distinguished from
25 a general four-year baccalaureate degree. Moreover, it is not sufficient that an employee have
26 an advanced degree, but rather the position the employee occupies and the work performed must
27 actually require such a degree. California Industrial Wage Order 4-2001(1)(A)(3)(b)(1). The
28 position of a Case Manager does not actually require an advanced degree. PLAINTIFF and the

1 other Case Managers employed by DEFENDANT are also not engaged in work that is
2 intellectual and varied in character, but rather is routine mental and clerical work that is of such
3 character that the output produced or the result accomplished can be standardized in relation to
4 a given period of time. The work of a Case Manager of DEFENDANT is work wherein
5 PLAINTIFF and the AGGRIEVED EMPLOYEES are engaged in the day-to-day business of
6 DEFENDANT.

7 25. CMs are classified as exempt from California overtime and related laws by
8 DEFENDANT, however, these employees do not have managerial duties or authority. CMs in
9 performing these ongoing day-to-day, non-exempt and non-managerial tasks have no role in
10 supervising employees and have no authority to make employment-related decisions relating
11 to DEFENDANT's employees. Furthermore, the CMs are tightly controlled by company policy
12 and by their supervisors, do not exercise discretion or independent judgment as to matters of
13 significance, and their tasks are not directly related to DEFENDANT's management policies
14 or general business operations.

15 26. PLAINTIFF and all AGGRIEVED EMPLOYEES are uniformly classified and
16 treated by DEFENDANT as exempt at the time of hire and thereafter, DEFENDANT has failed
17 to take the proper steps to determine whether PLAINTIFF, and the AGGRIEVED
18 EMPLOYEES, were properly classified under the applicable Industrial Welfare Commission
19 Wage Order (Wage Order 4-2001) and Cal. Lab. Code §§ 510, *et seq.* as exempt from
20 applicable California labor laws. Since DEFENDANT affirmatively and willfully misclassified
21 PLAINTIFF and the AGGRIEVED EMPLOYEES in compliance with California labor laws,
22 DEFENDANT's practices violated and continue to violate California law. In addition,
23 DEFENDANT acted deceptively by falsely and fraudulently telling PLAINTIFF and each
24 AGGRIEVED EMPLOYEE that they are exempt from overtime pay when DEFENDANT knew
25 or should have known that this statement is false and not based on known facts. In doing so,
26 DEFENDANT cheated the competition by paying the AGGRIEVED EMPLOYEES less than
27 the amount competitors paid who complied with the law and cheated the AGGRIEVED
28 EMPLOYEES by not paying them in accordance with California law.

1 27. DEFENDANT as a matter of corporate policy, practice and procedure,
2 intentionally and knowingly fails to reimburse and indemnify PLAINTIFF and the
3 AGGRIEVED EMPLOYEES for required business expenses incurred by PLAINTIFF and the
4 AGGRIEVED EMPLOYEES in direct consequence of discharging their duties on behalf of
5 DEFENDANT. Under California Labor Code Section 2802, employers are required to
6 indemnify employees for all expenses incurred in the course and scope of their employment.
7 Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee
8 for all necessary expenditures or losses incurred by the employee in direct consequence of the
9 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
10 though unlawful, unless the employee, at the time of obeying the directions, believed them to
11 be unlawful."

12 28. In the course of their employment PLAINTIFF and the AGGRIEVED
13 EMPLOYEES as business expenses, are required by DEFENDANT to use their own personal
14 homes offices to work remotely for DEFENDANT as a result of and in furtherance of their job
15 duties as employees for DEFENDANT but are not reimbursed or indemnified by DEFENDANT
16 for the cost associated with the use of their personal home offices for DEFENDANT's benefit.
17 As a result, in the course of their employment with DEFENDANT, PLAINTIFF and the
18 AGGRIEVED EMPLOYEES incurred unreimbursed business expenses.

19 29. When PLAINTIFF and the AGGRIEVED EMPLOYEES work overtime,
20 DEFENDANT also failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES with
21 a wage statement in writing that accurately sets forth gross wages earned, all applicable hourly
22 rates in effect during the pay period and the corresponding amount of time worked at each
23 hourly rate by the PLAINTIFF and the AGGRIEVED EMPLOYEES. This conduct violated
24 California Labor Code § 226. The pay stub also does not accurately display anywhere
25 PLAINTIFF's and the AGGRIEVED EMPLOYEES' overtime work and applicable rates of
26 overtime pay for the pay period.

27 30. By reason of this uniform conduct applicable to PLAINTIFF and all the
28 AGGRIEVED EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure

1 which fails to correctly classify PLAINTIFF and the AGGRIEVED EMPLOYEE CMs as non-
2 exempt. The proper classification of these employees is DEFENDANT's burden. As a result
3 of DEFENDANT's intentional disregard of the obligation to meet this burden, DEFENDANT
4 fails to properly calculate and/or pay all required overtime compensation for work performed
5 by the AGGRIEVED EMPLOYEES and violated the applicable Wage Order, the California
6 Labor Code and the regulations promulgated thereunder as herein alleged.

7 31. All of the conduct and violations alleged herein occurred during the PAGA
8 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
9 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
10 affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
11 AJDAR 12157 (Certified for Publication 12/19/18).

12 **JURISDICTION AND VENUE**

13 32. This Court has jurisdiction over this action pursuant to Cal. Code of Civ. Proc §
14 410.10.

15 33. Venue is proper in this Court pursuant to California Code of Civil Procedure,
16 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
17 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities
18 in this County and/or conducts substantial business in this County, and (ii) committed the
19 wrongful conduct herein alleged in this County against PLAINTIFF and other AGGRIEVED
20 EMPLOYEES
21

22 **FIRST CAUSE OF ACTION**

23 **For Violation of the Private Attorneys General Act**

24 **[Cal. Lab. Code §§ 2698, *et seq.*]**

25 **(By PLAINTIFF and Against All Defendants)**

26 34. PLAINTIFF realleges and incorporates by this reference, as though fully set
27 forth herein, the prior paragraphs of this Complaint.

28 35. PAGA is a mechanism by which the State of California itself can enforce state

1 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
2 the state's labor law enforcement agencies. An action to recover civil penalties under
3 PAGA is fundamentally a law enforcement action designed to protect the public and not to
4 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
5 but to create a means of "deputizing" citizens as private attorneys general to enforce the
6 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
7 public interest to allow aggrieved employees, acting as private attorneys general to recover
8 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
9 claims cannot be subject to arbitration.

10 36. PLAINTIFF, and such persons that may be added from time to time who
11 satisfy the requirements and exhaust the administrative procedures under the Private
12 Attorney General Act, brings this Representative Action on behalf of the State of California
13 with respect to himself and all persons who are or previously were employed by
14 DEFENDANT in California as Case Managers and were classified as exempt from overtime
15 wages ("AGGRIEVED EMPLOYEES") during the time period of January 14, 2021 until a
16 date as determined by the Court (the "PAGA PERIOD").

17 37. On January 14, 2022, PLAINTIFF gave written notice by electronic mail to the
18 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
19 employer of the specific provisions of this code alleged to have been violated as required by
20 Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to add these allegations
21 to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now
22 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
23 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

24 38. The policies, acts and practices heretofore described were and are an unlawful
25 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
26 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
27 record and provide legally required meal and rest periods, (c) failed to pay overtime wages
28 and sick pay wages, and (d) failed to reimburse employees for required expenses, all in

1 violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204
2 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198,
3 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the
4 applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
5 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
6 Labor Code Private Attorney General Act of 2004 as the representative of the State of
7 California for the illegal conduct perpetrated on PLAINTIFF and the AGGRIEVED
8 EMPLOYEES.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
12 severally, as follows:

13 1. On behalf of the State of California and with respect to all AGGRIEVED
14 EMPLOYEES:

15 A) Recovery of civil penalties as prescribed by the Labor Code Private
16 Attorneys General Act of 2004; and,

17 B) An award of attorneys' fees and cost of suit, as allowable under the
18 law, including, but not limited to, pursuant to Labor Code §2699.

19 Dated: July 12, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
LLP

20
21 By: 
22 Norman B. Blumenthal
23 Nicholas J. De Blouw
24 Attorneys for Plaintiff
25
26
27

28 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor Code §558(a)(3).