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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

EDUARDO AQUINO RODRIGUEZ,
individually, on a representative basis, and on
behalf of all others similarly situated;

Plaintiff,

v.

EAT SWEET FARMS, LLC, a California
Limited Liability Company; JDB PRO, INC.,
a California Corporation; and DOES 1
through 20, inclusive;

Defendants.

Case No.: 22CV00203

**CLASS AND REPRESENTATIVE
COMPLAINT**

CLASS ACTION CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Pay Vested Vacation;
- (6) Failure to Reimburse Bus. Expenses;
- (7) Failure to Timely Pay Final Wages;
- (8) Failure to Provide Accurate Itemized Wage Statements;
- (9) Unfair and Unlawful Competition;

PAGA CLAIMS

- (10) Failure to Pay Minimum Wages;
- (11) Failure to Pay Overtime Wages;
- (12) Failure to Provide Meal Periods;
- (13) Failure to Provide Rest Breaks;
- (14) Failure to Pay Vested Vacation;
- (15) Failure to Reimburse Bus. Expenses;
- (16) Failure to Timely Pay Wages;
- (17) Failure to Timely Pay Final Wages; and
- (18) Failure to Provide Accurate Itemized Wage Statements

1 Plaintiff Eduardo Aquino Rodriguez (“Plaintiff”) on behalf of himself, on a
2 representative basis, and on behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against his former employer(s), Defendants Eat Sweet
5 Farms, LLC (“Eat Sweet”); JDB Pro, Inc. dba Central West Produce (“JDB”); and DOES 1
6 through 20, inclusive, (collectively, “Defendants”) on behalf of all current and former
7 nonexempt employees employed by Defendants in California (the “Class” or “Represented
8 Employees”), for Labor Code violations stemming from Defendants’ failure to pay all wages
9 owed, including minimum, regular, and overtime wages, failure to provide meal periods, failure
10 to provide rest breaks, failure to pay vested vacation, failure to reimburse business expenses,
11 failure to timely pay wages upon separation of employment, and failure to provide accurate
12 itemized wage statements.

13 2. Plaintiff was employed by Defendants from approximately 2014 through
14 December 2021.

15 3. Plaintiff alleges on information and belief that the Represented Employees were
16 subjected to the same policies, working conditions, and corresponding wage and hour violations
17 to which Plaintiff was subjected during employment.

18 4. Plaintiff and the Represented Employees were not provided all minimum, regular,
19 and overtime wages due to Defendants’ failure to accurately record and compensate for all hours
20 worked. Additionally, the Company failed to pay Plaintiff and the Represented Employees all
21 required overtime hours at the proper rate of pay.

22 5. Plaintiff and the Represented Employees were also denied 30-minute off-duty
23 meal periods, as mandated by California law. As a result of Defendants’ policies and practices,
24 the Represented Employees were subjected to meal period violations when they were: (1) unable
25 to take a meal period due to workload, (2) forced to take an on-duty meal period while under the
26 control of the Company, (3) forced to take a shortened meal period, (4) forced to take a meal
27 period after the 5th hour of work, and (5) not provided mandated second and third meal periods.

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1 6. Defendants also failed to provide Plaintiff and the Represented Employees with
2 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
3 mandated by California law. Defendants did not schedule rest breaks and the Represented
4 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
5 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the
6 Represented Employees worked longer shifts, Defendants failed to authorize and/or permit
7 mandated third or fourth rest breaks. Also, although the Company separately recorded and paid
8 for rest breaks, it failed to properly compensate the Aggrieved Employees for all mandated 10-
9 minute rest breaks.

10 7. Also, at all relevant times, Defendants utilized a policy and practice through
11 which Plaintiff and the Represented Employees accrued vacation and/or PTO hours (collectively,
12 “vacation hours”). California law, specifically Labor Code § 227.3, requires Defendants to pay
13 all accrued and unused vacation hours upon separation of employment at the final rate of pay.
14 However, Defendants’ policy and practice violated Labor Code § 227.3.

15 8. Moreover, at all relevant times, Defendants required Plaintiff and the Represented
16 Employees to incur necessary business-related expenses and costs without reimbursement. For
17 example, Plaintiff was required to incur substantial expenses without reimbursement during
18 employment, including but not limited to purchasing and/or providing gloves, scissors, and other
19 hand tools and equipment for use during their shifts.

20 9. Plaintiff also alleges that he and the Represented Employees were not paid all
21 wages due and owing each pay period (Labor Code § 204) and upon separation of employment
22 within the time required by Labor Code §§ 201 – 203. Plaintiff further alleges that Defendants
23 engaged in the practice of failing to timely pay all wages due and owing to Plaintiff and the
24 Represented Employees at the time their employment ended with Defendants, including, but not
25 limited to minimum, regular, and overtime wages, wage premiums, vacation wages, among
26 others.

27 10. Plaintiff further alleges that Defendants failed to provide accurate itemized wage
28 statements that fully complied with the requirements of Labor Code § 226(a).

1 11. Plaintiff alleges that Defendants' violations of the wage and hour components of
2 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their
3 level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over
4 its competitors.

5 12. At all material times, Defendants and DOES 1 through 20 were and/or are the
6 Represented Employees' employers or persons acting on behalf of the Represented Employees'
7 employer, within the meaning of California Labor Code § 558, who violated or caused to be
8 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
9 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each
10 underpaid employee as set forth in Labor Code § 558 and under California law.

11 13. Plaintiff brings this lawsuit seeking declaratory, injunctive, equitable, and
12 monetary relief against Defendants and each of them, on behalf of himself and the Represented
13 Employees to recover, among other things, unpaid wages and benefits, interest, attorneys' fees,
14 penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 208,
15 210, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and
16 2802, among possibly other sections inadvertently omitted. Plaintiff also reserves the right to
17 name additional representatives throughout the State of California.

18 **II. JURISDICTION**

19 14. This Court has jurisdiction over the claims for relief of Plaintiff and the
20 Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

21 **III. VENUE**

22 15. Venue as to each Defendant is proper in this Court pursuant to Code of Civil
23 Procedure § 395(a). Defendants transact business in Santa Barbara County and the unlawful acts
24 alleged herein have a direct effect on Plaintiff and the Represented Employees in Santa Barbara
25 County. Furthermore, Defendants employed or employ Plaintiff and Represented Employees in
26 Santa Barbara County.

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1 **IV. PARTIES**

2 **Plaintiff**

3 16. Plaintiff and Class Representative Eduardo Aquino Rodriguez was employed by
4 Defendants from approximately 2014 through December 2021 and performed work for
5 Defendants in Santa Barbara County.

6 **Defendants**

7 17. Plaintiff is informed and believes and thereon alleges that Defendant Eat Sweet
8 Farms, LLC is a California limited liability company authorized to and doing business in Santa
9 Barbara County, California. Plaintiff is also informed and believes that Defendant Eat Sweet
10 Farms, LLC is and/or was the legal employer of Plaintiff and the Represented Employees during
11 the applicable statutory periods.

12 18. Plaintiff is informed and believes and thereon alleges that Defendant JDB Pro,
13 Inc. dba Central West Produce is a California corporation authorized to and doing business in
14 Santa Barbara County, California. Plaintiff is also informed and believes that Defendant JDB
15 Pro, Inc. is and/or was the legal employer of Plaintiff and the Represented Employees during the
16 applicable statutory periods.

17 19. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
18 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
19 inclusive, but on information and belief alleges that those Defendants are legally responsible for
20 the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of
21 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
22 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
23 Defendants when ascertained.

24 20. Plaintiff is informed and believes and thereon alleges that he and the Represented
25 Employees worked under the joint direction and control of Defendants and that Defendants, and
26 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,
27 carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of
28 each Defendant are legally attributable to the other Defendants. On information and belief, a

1 unity of interest and ownership between each Defendant exists such that all Defendants acted as
2 a single employer of Plaintiff and other Represented Employees.

3 21. Furthermore, Plaintiff is informed and believes and thereon alleges that
4 Defendants, and each of them, are an integrated enterprise and should be treated as a single
5 employer because these entities share an interrelation of operations, with common human
6 resources and personnel policies and shared common offices and facilities. Additionally,
7 Defendants also have a shared website, common management, a centralized control of labor
8 operations, and common ownership or financial control.

9 22. Plaintiff is informed and believes and thereon alleges that, in conducting
10 themselves in the manner described herein, Defendants, and each of them, were acting in active
11 concert with one another such that the acts of each were and are fully attributable to the others in
12 all material respects. Plaintiff is further informed and believes that at all relevant times
13 Defendants and each of them are now, and at all material times herein mentioned were, the
14 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
15 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
16 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
17 their remaining co-Defendants.

18 23. Plaintiff is further informed and believes that at all relevant times, Defendants
19 have been inadequately capitalized to conduct business, have failed to follow appropriate
20 corporate formalities, and have simply been a shell and instrumentality through which
21 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
22 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
23 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
24 separate existence of these corporate entities would permit abuse of the corporate privilege,
25 thereby sanctioning fraud and promoting injustice.

26 **V. CLASS ACTION ALLEGATIONS**

27 24. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
28 alleged herein.

1 25. Plaintiff brings this action on behalf of himself and all others similarly situated as
2 a class action, pursuant to Code of Civil Procedure § 382.

3 26. The relevant time period for this class action is defined as the period beginning
4 four years prior to the filing of this action until class certification (the “Relevant Time Period”).

5 27. The Class, also referred to as the “Represented Employees,” that Plaintiff seeks to
6 represent is defined as follows:

7 All current and former nonexempt employees employed by
8 Defendants in California during the Relevant Time Period.

9 28. Plaintiff also seeks to represent the following subclasses:

10 **Meal Break Subclass**

11 All Represented Employees who worked a shift in excess of
12 5 hours during the Relevant Time Period.

13 **Rest Break Subclass**

14 All Represented Employees who worked a shift of at least
15 3.5 hours during the Relevant Time Period.

16 **Vested Vacation Subclass**

17 All Represented Employees who had accrued but unused
18 vacation upon separation of employment during the period
19 four years before the filing of this action and ending when
20 final judgment is entered.

21 **Unreimbursed Expense Subclass**

22 All Represented Employees who were required to incur
23 expenses to discharge their duties for Defendants without
24 reimbursement during the Relevant Time Period.

25 **Waiting Time Penalties Subclass**

26 All Represented Employees who separated from their
27 employment with Defendants during the period three years
28 before the filing of this action and ending when final

judgment is entered.

Wage Statement Penalties Subclass

All Represented Employees during the period one year before the filing of this action and ending when final judgment is entered.

29. Plaintiff reserves the right to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues as appropriate.

30. Plaintiff, as Class Representative, is a member of the class and subclasses that he seeks to represent.

31. This action has been brought and may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable from Defendants' records.

32. **Numerosity:** The potential members of the Class as defined are so numerous that a joinder of all Represented Employees is impracticable. Although the exact number is currently unknown to Plaintiff, this information is easily ascertainable from Defendants' records.

33. **Commonality:** There are questions of law and fact common to the class which predominate over any questions affecting only individual members of the class, including without limitation:

i. Whether Defendants violated the Labor Code and applicable IWC Wage Order by failing to pay wages to Plaintiff and the Represented Employees for all hours worked;

ii. Whether Defendants violated the Labor Code and applicable IWC Wage Order by failing to pay proper overtime wages to Plaintiff and the Represented Employees for overtime hours worked;

iii. Whether Defendants violated the Labor Code and applicable IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break Subclass and whether Defendants failed to compensate Plaintiff and the Meal Break Subclass with one additional hour of wages at the regular rate of pay for each instance when a compliant meal period was not provided;

iv. Whether Defendants violated the Labor Code and applicable IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass with one additional hour of wages at the regular rate of pay for each instance when a paid rest break was not provided;

v. Whether Defendants violated the California Labor Code by failing to compensate Plaintiff and the Vested Vacation Subclass for all accrued but unused vacation hours upon separation of employment;

vi. Whether Defendants violated the Labor Code and applicable IWC Wage Order by failing to reimburse Plaintiff and the Unreimbursed Expense Subclass for business expenses incurred discharging their duties or in obedience to the directions of their employer;

vii. Whether Defendants violated the Labor Code by failing to timely pay all wages due upon separation of employment between Defendants and Plaintiff and the Waiting Time Penalties Subclass, whether such separation was voluntary or involuntary;

viii. Whether Defendants violated the Labor Code by failing to provide Plaintiff and the Wage Statement Penalties Subclass with accurate, itemized wage statements;

ix. Whether Defendants violated California Business & Professions Code §§ 17200 *et seq.* due to the: failure to pay all wages owed, failure to provide mandated paid rest breaks, failure to provide mandated meal periods, failure to pay vested vacation, failure to reimburse business expenses, and failure to timely pay final wages; and

x. Whether Plaintiff and Represented Employees are entitled to equitable relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

34. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants' ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all wages owed, failure to provide mandated meal periods, failure to provide mandated paid rest breaks, failure to timely pay wages upon separation of employment, and failure to provide accurate itemized wage statements.

1 35. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
2 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in
3 conflict with those of the Class. Class Representative's counsel are competent and experienced in
4 litigating large employment class actions and other complex litigation matters, including cases
5 like this case.

6 36. **Superiority of Class Action.** Class certification is appropriate because a class
7 action is superior to other available means for the fair and efficient adjudication of this
8 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
9 law and fact common to the Class predominate over any questions affecting only individual
10 members of the Class. Each Represented Employee has been damaged and is entitled to
11 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
12 treatment will allow those similarly situated persons to litigate their claims in the manner that is
13 most efficient and economical for the parties and the judicial system.

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

16 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

17 *Plaintiff and the Represented Employees Against All Defendants*

18 37. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
19 alleged herein.

20 38. Plaintiff and the Represented Employees were not exempt from the requirement
21 to be paid at least the applicable California minimum wage throughout the statutory period for
22 each hour worked.

23 39. Plaintiff and the Represented Employees were not provided proper minimum and
24 regular wages due to Defendants' failure to accurately record and compensate for all hours
25 worked. As a result of this policy and practice, Plaintiff and the Represented Employees were
26 required to perform off-the-clock work that Defendants either knew or should have known they
27 were performing.

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1 40. Consequently, Defendants violated California Labor Code laws and minimum
2 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
3 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

4 41. Plaintiff is informed and believes and thereon alleges that Defendants
5 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Represented
6 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

7 42. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
8 Represented Employees were entitled to be paid wages throughout the statutory period for each
9 hour worked, including proper minimum and regular wages, yet Defendants chose not to pay
10 them in accordance thereto.

11 43. At all material times, Defendants DOES 1 through 20 were and/or are the
12 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
13 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
14 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
15 Labor Code regulating hours and days of work respectively.

16 44. During employment of Plaintiff and the Represented Employees, Defendants
17 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

18 45. As a result of the Defendants' wrongful conduct, Plaintiff and the Represented
19 Employees have been damaged in amounts to be proven at trial.

20 46. Plaintiff, on behalf of himself and the Represented Employees, seeks recovery of
21 all unpaid minimum wages, liquidated damages, penalties, interest, attorneys' fees and costs of
22 suit, pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven
23 at trial.

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1 54. At all material times, Defendants DOES 1 through 20 were and/or are the
2 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
3 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
4 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
5 Labor Code regulating hours and days of work respectively.

6 55. During the employment of Plaintiff and the Represented Employees, Defendants
7 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

8 56. As a result of Defendants' wrongful conduct, Plaintiff and the Represented
9 Employees have been damaged in amounts to be proven at trial.

10 57. Plaintiff, on behalf of himself and the Represented Employees, seeks recovery of
11 all unpaid overtime wages, penalties, interest, attorneys' fees, and costs of suit against
12 Defendants in an amount to be proven at trial.

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO PROVIDE MEAL PERIODS**

15 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

16 *Plaintiff and the Meal Break Subclass Against All Defendants*

17 58. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
18 alleged herein.

19 59. Plaintiff and the Meal Break Subclass are and/or were employees of Defendants
20 who did not receive proper protections and benefits of the laws governing mandatory meal
21 periods.

22 60. Labor Code § 226.7 requires employers, including Defendants, to provide
23 employees with meal periods as mandated by the Industrial Welfare Commission.

24 61. Labor Code § 512(a), in part, provides that employers, including Defendants, may
25 not employ an employee for a work period of more than five hours per day without providing an
26 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
27 except that if the total work period per day of the employee is no more than six hours, the meal
28 period may be waived by mutual consent of both the employer and the employee. Employers

1 may not employ an employee for a work period more than 10 hours per day without providing
2 the employee with a second meal period of not less than 30 minutes.

3 62. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order,
4 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
5 pay for each meal period that is missed.

6 63. At all relevant times herein, Plaintiff and the Meal Break Subclass were denied
7 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
8 practices, Plaintiff and the Represented Employees were subjected to meal period violations
9 when they were: (1) unable to take a meal period due to workload, (2) forced to take an on-duty
10 meal period while under the control of the Company, (3) forced to take a shortened meal period,
11 (4) forced to take a meal period after the 5th hour of work, and (5) not provided mandated
12 second or third meal periods for shifts in excess of 10 and 15 hours, respectively.

13 64. Moreover, on the occasions when Plaintiff and the Represented Employees were
14 denied compliant meal periods, Defendants failed to pay the "premium" required under Labor
15 Code § 226.7. And, on the occasions when Defendants did pay a premium for such violations, it
16 only paid at the employee's base rate rather than at the employee's "regular rate," as mandated
17 by California law. See *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858 (the
18 California Supreme Court unanimously held that meal and rest period premiums must be
19 calculated in the same fashion as overtime pay and, therefore, must factor in all forms of
20 nondiscretionary compensation).

21 65. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
22 Order every pay period because Plaintiff and the Meal Break Subclass were not provided with all
23 mandatory meal periods and Defendants failed to pay Plaintiff and the Meal Break Subclass one
24 additional hour of compensation at the regular rate of pay in lieu thereof.

25 66. At all relevant times herein, Defendants failed to provide Plaintiff and the Meal
26 Break Subclass all mandated meal periods and failed to pay wage premiums in lieu of mandated
27 meal or rest periods, thereby receiving an economic benefit.

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1 67. On information and belief, Plaintiff and the Meal Break Subclass did not
2 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
3 obtained from Plaintiff and the Meal Break Subclass were not willfully obtained, were not
4 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
5 unlawful adherence. Defendants did not permit or authorize Plaintiff and the Meal Break Subclass
6 to take meal periods in accordance with California law.

7 68. By their failure to provide Plaintiff and the Meal Break Subclass with meal
8 periods as required by California law, and failing to pay one hour of additional wages in lieu of
9 each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and
10 IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at
11 the employee's regular rate of compensation for each work day that a meal period was not
12 lawfully provided in an amount to be proven at time of trial.

13 69. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
14 and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the Meal
15 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE REST BREAKS**

18 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

19 *Plaintiff and the Rest Break Subclass Against All Defendants*

20 70. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
21 alleged herein.

22 71. Plaintiff and the Rest Break Subclass are and/or were employees of Defendants
23 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

24 72. Labor Code § 226.7 requires employers, including Defendants, to provide rest
25 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

26 73. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
27 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
28 each work period. Employees shall receive a 10-minute rest period every four hours or major

fraction thereof that they are required to work. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

74. Pursuant to Labor Code § 226.7(b) and Section 12 of the applicable Wage Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay at his regular rate of compensation for each day that the rest period is not provided.

75. At all relevant times, Defendants also failed to provide Plaintiff and the Rest Break Subclass with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the Rest Break Subclass were often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the Rest Break Subclass worked lengthy shifts, Defendants failed to authorize and/or permit mandated third or fourth rest breaks.

76. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period because Plaintiff and the Rest Break Subclass were not provided with all mandatory rest periods and Defendants failed to pay Plaintiff and the Represented Employees one additional hour of compensation in lieu thereof.

77. At all relevant times herein, Defendants failed to provide Plaintiff and the Rest Break Subclass all mandated rest breaks and failed to pay wage premiums in lieu of mandated rest periods, thereby receiving an economic benefit.

78. By their failure to provide Plaintiff and the Rest Break Subclass with rest breaks as required by California law, and failing to pay one hour of additional wages in lieu of each rest break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage Order § 12. Accordingly, Defendants are liable for one hour of additional wages at the employee's regular rate of compensation for each workday that a paid rest break was not lawfully provided in an amount to be proven at time of trial.

79. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512, and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the Rest Break Subclass for unpaid wage premiums, penalties, costs, and interest.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PAY VESTED VACATION**

3 (Labor Code § 227.3)

4 *Plaintiff and the Vested Vacation Subclass Against All Defendants*

5 80. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 81. Plaintiff and the Vested Vacation Subclass were employees of Defendants who
8 did not receive proper protections and benefits of the laws governing the payment of vested
9 vacation time and/or paid time off upon separation of employment.

10 82. Pursuant to Labor Code § 227.3, an employer that has implemented a paid
11 vacation, paid time off, or compensated time off policy must, upon an employee's separation
12 from employment, pay to the employee all vested but unused vacation and/or paid time off at her
13 final rate of pay.

14 83. At all relevant times, Defendants utilized a policy and practice through which
15 Plaintiff and the Vested Vacation Subclass accrued vacation and/or PTO hours (collectively,
16 "vacation hours"). However, Defendants' policy and practice violated Labor Code § 227.3 by
17 failing to pay the departing employees all accrued vacation hours upon separation of
18 employment.

19 84. As a result, Plaintiff and the Vested Vacation Subclass did not receive
20 compensation for all accrued but unused vacation hours as required by Labor Code § 227.3.

21 85. At all relevant times herein, Defendants failed to pay the Vested Vacation
22 Subclass, including Plaintiff, all vested but unused vacation time and/or paid time off upon
23 separation from employment, thereby receiving an economic benefit.

24 86. Plaintiff is informed and believes and thereon alleges that Defendants, and each of
25 them, knowingly refused to perform their obligations to compensate the Vested Vacation
26 Subclass for all vested but unused vacation time and/or paid time off upon separation from
27 employment.

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87. As a result of Defendants' violations of Labor Code § 227.3, Plaintiff and the Vested Vacation Subclass seek to recover the unpaid vacation hours, as well as penalties, interest, attorneys' fees, and costs as permitted under California law.

SIXTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802)

Plaintiff and the Unreimbursed Expense Subclass Against All Defendants

88. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

89. Plaintiff and the Unreimbursed Expense Subclass are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing reimbursement of business expenses.

90. Labor Code § 2802(a) requires that the employer indemnify its employees for expenses and losses incurred while discharging their duties or in obedience to the directions of their employer.

91. At all relevant times herein mentioned, as a condition of employment, Defendants required Plaintiff and the Unreimbursed Expense Subclass to incur necessary business-related expenses and costs without reimbursement, including, but not limited to purchasing and/or providing gloves, scissors, and other hand tools and equipment for use during their shifts.

92. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they failed to reimburse Plaintiff and the Unreimbursed Expense Subclass for expenses incurred as a direct consequence of employment with Defendants and/or under the direction of Defendants.

93. At all relevant times herein, Defendants failed to reimburse the Unreimbursed Expense Subclass, including Plaintiff, for expenses incurred while discharging duties to Defendants, thereby receiving an economic benefit.

94. As a direct result of Defendants' violation of Labor Code § 2802 and IWC Wage Order § 9(B), Plaintiff and the Unreimbursed Expense Subclass have suffered, and continue to suffer, substantial losses related to such incurred expenses, expenses, and attorney's fees in

1 seeking to compel Defendants to fully perform their obligations under the law, all in an amount
2 to be proved at time of trial.

3 95. Labor Code § 2802(b) states that “[a]ll awards made by a Court for
4 reimbursement of necessary expenditures” shall carry interest, at the same rate as judgments in
5 civil actions, and said interest will accrue from the date on which the employee incurred the
6 necessary expenditure or loss including, but not limited to, reasonable costs and attorney’s fees
7 incurred by the employee enforcing the rights granted pursuant to Labor Code § 2802. The exact
8 amount of the necessary expenditures or losses is in an amount to be proven at time of trial.

9 96. Furthermore, Labor Code § 2802(c) states that “[f]or the purposes of this section,
10 the term 'necessary expenditures or losses' shall include all reasonable costs, including, but not
11 limited to, attorney’s fees incurred by the employee in enforcing the rights granted by this
12 section.” Therefore, Plaintiff and the Unreimbursed Expense Subclass seek to recover the
13 unreimbursed expenses, interest on the unreimbursed expenses, and the costs and attorney’s fees
14 necessarily incurred in pursuing same. The exact amount of reimbursements, interest, costs, and
15 attorney’s fees will be in an amount to be proved at the time of trial.

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO TIMELY PAY FINAL WAGES**

18 (Labor Code §§ 201 – 203)

19 *Plaintiff and the Waiting Time Penalties Subclass against All Defendants*

20 97. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
21 alleged herein.

22 98. Plaintiff and the Waiting Time Penalties Subclass are and/or were employees of
23 Defendants who did not receive proper protections and benefits of the laws governing the timing
24 and payment of wages.

25 99. Labor Code § 201 requires that the employer immediately pay any wages, without
26 abatement or reduction, to any employee who is discharged.

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1 100. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
2 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
3 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

4 101. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
5 penalty from the due date thereof at the same rate until paid or until an action therefore is
6 commenced, but the wages shall not continue for more than thirty (30) days.

7 102. At all relevant times, Defendants employed a policy and practice whereby
8 Plaintiff and the Waiting Time Penalties Subclass were not paid all wages due and owing upon
9 separation of employment within the time required by Labor Code §§ 201 and 202.

10 103. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
11 wages due and owing to Plaintiff and the Waiting Time Penalties Subclass upon separation of
12 employment, including, but not limited to, minimum, regular, overtime, and vacation wages, as
13 well as meal and rest period premiums.

14 104. Plaintiff alleges that, at all times material to this action, Defendants had a planned
15 pattern and practice of failing to timely pay Plaintiff and the Waiting Time Penalties Subclass all
16 wages due and owing upon separation of employment as required by Labor Code §§ 201 and
17 202. Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Waiting
18 Time Penalties Subclass the above-described waiting time penalty, all in an amount to be shown
19 according to proof at trial and within the jurisdiction of this Court.

20 **EIGHTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

22 (Labor Code § 226)

23 *Plaintiff and the Wage Statement Penalties Subclass against All Defendants*

24 105. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
25 alleged herein.

26 106. Plaintiff and the Wage Statement Penalties Subclass are and/or were employees of
27 Defendants who did not receive proper protections and benefits of the laws governing the
28 provision of accurate itemized wage statements.

1 107. Labor Code § 226(a) requires an employer to provide its employees with itemized
2 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
3 inclusive dates of the pay period, the employee's name and the last four digits of his or her
4 Social Security number (or employee identification number), the name and address of the legal
5 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate by the employee.

7 108. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
8 and the Wage Statement Penalties Subclass due to violations including: failure to accurately state
9 total hours worked (the wage statements failed to accurately reflect total compensable hours);
10 failure to accurately state gross wages earned; failure to accurately state all deductions; failure to
11 accurately state net wages earned; failure to state the applicable hourly rates (including the
12 accurate overtime rate of pay); failure to accurately state the corresponding number of hours
13 worked at each hourly rate, and; the failure to accurately state the amount and rate of pay for
14 meal and rest break premiums under Labor Code § 226.7.

15 109. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
16 to Plaintiff and the Wage Statement Penalties Subclass because Defendants failed to provide a
17 wage statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
18 requirements of Labor Code § 226(a).

19 110. Defendants' failure to provide the required writing deprived Plaintiff and the
20 Wage Statement Penalties Subclass of the ability to know, understand, and question the
21 calculation and rate of pay and hours used to calculate the wages paid by Defendants. Therefore,
22 Plaintiff and the Wage Statement Penalties Subclass had no way to dispute the resulting
23 miscalculation of wages, all of which resulted in an unjustified economic enrichment to said
24 Defendants. As a direct result, Plaintiff and the Wage Statement Penalties Subclass have suffered
25 and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost
26 interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully
27 perform its obligation under state law, all to their respective damages in amounts according to
28 proof at trial.

1 111. As a result of Defendants’ knowing and intentional failure to comply with Labor
2 Code § 226(a), Plaintiff and the Wage Statement Penalties Subclass have suffered an injury in
3 that each was prevented from knowing, understanding and disputing the wage payments paid to
4 them. Furthermore, Plaintiff and the Wage Statement Penalties Subclass have each suffered an
5 injury in that the failure to show all wages earned on the itemized wage statements resulted in
6 Plaintiff and the Represented Employees being denied all necessary deductions, payments, and
7 withholdings owed by the employer, including, but not limited to, the failure to make all
8 necessary contributions for unemployment benefits, social security benefits, proper payment of
9 taxes and withholdings, and other mandated state and federal benefits.

10 112. Plaintiff has also been injured as a result of having to bring this action to attempt
11 to obtain correct wage information following Defendants’ refusal to comply with many of the
12 mandates of California’s Labor Code and related laws and regulations.

13 113. Labor Code § 226€ requires Defendants to pay the greater of all actual damages
14 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
15 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
16 attorney’s fees and costs, to Plaintiff and the Wage Statement Penalties Subclass who were
17 injured by Defendants’ failure to comply with Labor Code § 226(a). The exact amount of the
18 applicable penalty is all in an amount to be shown according to proof at trial.

19 **NINTH CAUSE OF ACTION**

20 **UNFAIR AND UNLAWFUL COMPETITION**

21 (Business and Professions Code § 17200 *et seq.*)

22 *Plaintiff and the Represented Employees against All Defendants*

23 114. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
24 alleged herein.

25 115. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
26 competition, which includes any “unlawful, unfair or fraudulent business act or practice.” The
27 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
28 due to the unfair and unlawful business practices of Defendants as alleged herein.

1 116. Defendants, and each of them, are “persons” as defined under Business &
2 Professions Code § 17021.

3 117. As alleged herein, Defendants engaged in conduct that violated California’s wage
4 and hour laws, including failure to pay minimum, regular, and overtime wages, failure to provide
5 mandated meal periods and rest breaks, failure to reimburse business expenses, and failure to
6 timely pay wages upon separation of employment, all to decrease their costs and increase profits.

7 118. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
8 Employees wages and monies and other financial obligations to which they were entitled.

9 119. As a result of Defendants’ failure to comply with the Labor Code and IWC
10 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
11 an amount to be shown according to proof at trial. Defendants’ ongoing violations of the
12 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

13 120. Defendants’ violations of the California Labor Code and IWC Wage Orders and
14 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
15 practices because it was done in a systematic manner over a period of time to the detriment of the
16 Plaintiff and all others similarly-situated.

17 121. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
18 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
19 Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code
20 of Civil Procedure § 1021.5.

21 122. A violation of California Business & Professions Code § 17200, *et seq.* may be
22 predicated on the violation of any state or federal law. All of the acts described herein as
23 violations of, among other things, the California Labor Code and IWC Wage Orders, are
24 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
25 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
26 practices in violation of California Business and Professions Code §§ 17200, *et seq.*

27 123. Plaintiff, individually, and on behalf of the Represented Employees, has no plain,
28 speedy, and/or adequate remedy at law to redress the injuries which they have suffered as a

consequence of Defendants' unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff, individually, and on behalf of the Represented Employees, has suffered and will continue to suffer irreparable harm unless Defendants, and each of them, are restrained from continuing to engage in said unfair, unlawful and/or fraudulent business practices.

124. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to, and does, seek such relief as may be necessary to disgorge the profits which Defendants have acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the Represented Employees are not obligated to establish individual knowledge of the unfair practices of Defendants in order to recover restitution.

125. Plaintiff, individually, and on behalf of the Represented Employees, is further entitled to and do seek a declaration that the above described business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining Defendants, and each of them, from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the future.

126. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and Represented Employees are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and Represented Employees; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

VI. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT CAUSES OF ACTION
(Cal. Lab. Code. §§ 2698 – 2699.5)

127. Plaintiff is an "aggrieved employee" under the PAGA as he was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil action filed on behalf of himself and all other similarly situated current and former aggrieved

employees in California against whom one or more of the alleged violations was committed (hereinafter the “Aggrieved Employees”).

128. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by PAGA through a representative action pursuant to the PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor does she, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

129. Pursuant to Labor Code § 2699.3(a), on January 14, 2022, Plaintiff gave written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

130. Therefore, once more than sixty-five (65) days have passed since that date, Plaintiff will have fully satisfied the administrative prerequisites to suit under the PAGA and this Complaint will be deemed amended to include the PAGA allegations enumerated below. Once this occurs, Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by PAGA through a representative action pursuant to the PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Plaintiff is not required to, nor does he, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

TENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES

(Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

Plaintiff and the Aggrieved Employees against All Defendants

131. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

132. Plaintiff and the Aggrieved Employees were not exempt from the requirement to be paid at least the applicable California minimum wage throughout the statutory period for each hour worked.

1 133. Plaintiff and the Aggrieved Employees were not provided proper minimum and
2 regular wages due to Defendants' failure to accurately record and compensate for all hours
3 worked.

4 134. As a result of this policy and practice, Plaintiff and the Aggrieved Employees
5 were required to perform off-the-clock work that Defendants either knew or should have known
6 they were performing.

7 135. Consequently, Defendants violated California Labor Code laws and minimum
8 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
9 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

10 136. Plaintiff is informed and believes and thereon alleges that Defendants
11 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved
12 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

13 137. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
14 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
15 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

16 **ELEVENTH CAUSE OF ACTION**

17 **PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES**

18 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

19 *Plaintiff and the Aggrieved Employees against All Defendants*

20 138. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
21 alleged herein.

22 139. Plaintiff and the Aggrieved Employees were employees of Defendants who did
23 not receive proper protections and benefits of the laws governing payment of overtime wages.

24 140. Labor Code § 204 requires that the employer timely pay all overtime wages to its
25 employees. California law requires that any overtime hours as defined by the applicable Labor
26 Code sections and/or IWC Wage Order § 3(A) shall be compensated at the rate of no less than
27 one and one-half times the regular rate of pay for an employee. Furthermore, any work
28 performed in excess of twelve (12) in one workday shall be compensated at twice the regular rate

1 of pay for an employee.

2 141. At all relevant times, Plaintiff and the Represented Employees were required by
3 Defendants to work overtime hours. However, Plaintiff and the Represented Employees did not
4 receive payment for all required overtime hours at the proper rate of pay.

5 142. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
6 Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because
7 Defendants required its employees to work overtime hours without proper overtime
8 compensation.

9 143. Plaintiff is informed and believes and thereon alleges that Defendants
10 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the
11 Aggrieved Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

12 144. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
13 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
14 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

15 **TWELFTH CAUSE OF ACTION**

16 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE COMPLIANT MEAL PERIODS**

17 (Labor Code § 226.7 and 512; IWC Wage Order § 11, 12)

18 *Plaintiff and the Aggrieved Employees against All Defendants*

19 145. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
20 alleged herein.

21 146. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
22 who did not receive proper protections and benefits of the laws governing mandatory meal
23 periods.

24 147. Labor Code § 226.7 requires employers, including Defendants, to provide
25 employees with meal periods as mandated by the Industrial Welfare Commission.

26 148. Labor Code § 512(a), in part, provides that employers, including Defendants, may
27 not employ an employee for a work period of more than five hours per day without providing an
28 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,

1 except that if the total work period per day of the employee is no more than six hours, the meal
2 period may be waived by mutual consent of both the employer and the employee. Employers
3 may not employ an employee for a work period more than 10 hours per day without providing
4 the employee with a second meal period of not less than 30 minutes.

5 149. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order,
6 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
7 pay for each meal period that is missed.

8 150. At all relevant times herein, Plaintiff and the Aggrieved Employees were denied
9 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
10 practices, Plaintiff and the Aggrieved Employees were subjected to meal period violations when
11 they were: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal
12 period while under the control of the Company, (3) forced to take a shortened meal period, (4)
13 forced to take a meal period after the 5th hour of work, and (5) not provided mandated second or
14 third meal periods for shifts in excess of 10 and 15 hours, respectively.

15 151. Furthermore, on the occasions that Defendants paid Plaintiff and the Aggrieved
16 Employees a meal premium under Labor Code § 226.7 for a missed/denied meal period,
17 Defendants paid this premium at the base rate of pay instead of at the "regular rate" which
18 incorporates additional nondiscretionary compensation (such as shift differentials and bonuses).

19 152. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
20 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with
21 all mandatory meal periods and Defendants failed to pay Plaintiff and the Aggrieved Employees
22 one additional hour of compensation at the regular rate of pay in lieu thereof.

23 153. On information and belief, Plaintiff and the Aggrieved Employees did not
24 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
25 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not
26 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
27 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved
28 Employees to take meal periods in accordance with California law.

1 154. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

4 **THIRTEENTH CAUSE OF ACTION**

5 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS**

6 (Labor Code § 226.7 and 512; IWC Wage Order § 12)

7 *Plaintiff and the Aggrieved Employees against All Defendants*

8 155. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
9 alleged herein.

10 156. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
11 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

12 157. Labor Code § 226.7 requires employers, including Defendants, to provide rest
13 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

14 158. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
15 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
16 each work period. Employees shall receive a 10-minute rest period every four hours or major
17 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
18 hours worked, for which there shall be no deduction from wages.

19 159. Pursuant to Labor Code § 226.7(b) and Section 12 of the applicable Wage Order,
20 Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay at his
21 regular rate of compensation for each day that the rest period is not provided.

22 160. At all relevant times, Defendants also failed to provide Plaintiff and the
23 Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major
24 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the
25 Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks
26 due to the lack of adequate staffing and coverage and being overwhelmed by their hectic
27 workload. Furthermore, on occasions when Plaintiff and the Aggrieved Employees worked
28 lengthy shifts, Defendants failed to authorize and/or permit mandated third and fourth rest

breaks.

161. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage Order every pay period because Plaintiff and the Aggrieved Employees were not provided with all mandatory rest periods and Defendants failed to pay Plaintiff and the Aggrieved Employees one additional hour of compensation in lieu thereof.

162. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

FOURTEENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY VESTED VACATION

(Labor Code § 227.3)

Plaintiff and the Aggrieved Employees Against All Defendants

163. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

164. Plaintiff and the Aggrieved Employees were employees of Defendants who did not receive proper protections and benefits of the laws governing the payment of vested vacation time and/or paid time off upon separation of employment.

165. Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay.

166. At all relevant times, Defendants utilized a policy and practice through which Plaintiff and the Vested Vacation Subclass accrued vacation and/or PTO hours (collectively, "vacation hours"). However, Defendants' policy and practice violated Labor Code § 227.3 by failing to pay the departing employees all accrued vacation hours upon separation of employment.

167. As a result, Plaintiff and the Aggrieved Employees did not receive compensation for all accrued but unused vacation hours as required by Labor Code § 227.3.

168. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

FIFTEENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802)

Plaintiff and the Unreimbursed Expense Subclass Against All Defendants

169. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

170. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing reimbursement of business expenses.

171. Labor Code § 2802(a) requires that the employer indemnify its employees for expenses and losses incurred while discharging their duties or in obedience to the directions of their employer.

172. At all relevant times herein mentioned, as a condition of employment, Defendants required Plaintiff and the Aggrieved Employees to incur necessary business-related expenses and costs without reimbursement, including, but not limited to purchasing and/or providing gloves, scissors, and other hand tools and equipment for use during their shifts.

173. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they failed to reimburse Plaintiff and the Aggrieved Employees for expenses incurred as a direct consequence of employment with Defendants and/or under the direction of Defendants.

174. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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1 **SIXTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

3 (Labor Code § 204)

4 *Plaintiff and the Aggrieved Employees against All Defendants*

5 175. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 176. Plaintiff and the Aggrieved Employees are and/or were “nonexempt” employees
8 of Defendants who did not receive proper protections and benefits of the laws regarding the
9 timing of payment of wages each period.

10 177. Labor Code § 204(a) states that all wages earned by a person are due and payable
11 twice during each calendar month, and further states that wages earned during the first through
12 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that
13 wages earned between the sixteenth and last day of the month must be paid by the tenth day of
14 the following month.

15 178. Furthermore, Labor Code § 204(d) states “[t]he requirements of this section shall
16 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
17 the wages are paid not more than seven calendar days following the close of the payroll period.”

18 179. At all relevant times herein, Defendants did not provide Plaintiff and the
19 Aggrieved Employees with all wages due and owing each period within the time required by
20 Labor Code § 204. Moreover, Defendants did not provide Plaintiff and the Aggrieved
21 Employees with all wages due and owing each pay period, including, but not limited to,
22 minimum, regular, and overtime wages, as well as meal and rest period premiums, within the
23 time specified by Labor Code § 204.

24 180. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
25 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
26 and seeks to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

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1 **SEVENTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

3 (Labor Code §§ 201 – 203 and 256)

4 *Plaintiff and the Aggrieved Employees against All Defendants*

5 181. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 182. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees
8 of Defendants who did not receive proper protections and benefits of the laws governing the
9 timing and payment of final wages.

10 183. Labor Code § 201 requires that the employer immediately pay any wages, without
11 abatement or reduction, to any employee who is discharged.

12 184. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
13 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
14 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

15 185. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
16 penalty from the due date thereof at the same rate until paid or until an action therefore is
17 commenced, but the wages shall not continue for more than thirty (30) days.

18 186. At all relevant times here, Defendants did not provide Plaintiff and the Aggrieved
19 Employees with all wages due and owing upon separation of employment, including, but not
20 limited to, minimum, regular, and overtime wages, as well as meal and rest period premiums,
21 within the time specified by Labor Code §§ 201 – 203.

22 187. Plaintiff alleges that, at all times material to this action, Defendants had a planned
23 pattern and practice of failing to timely pay to Plaintiff and the Aggrieved Employees all wages
24 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

25 188. As a result of the unlawful employment practices alleged herein, Plaintiff seeks
26 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
27 and seeks to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

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1 **EIGHTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR**

3 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

4 (Labor Code § 226)

5 *Plaintiff and the Aggrieved Employees against All Defendants*

6 189. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
7 alleged herein.

8 190. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
9 who did not receive proper protections and benefits of the laws governing the provision of
10 accurate itemized wage statements.

11 191. Labor Code § 226(a) requires an employer to provide its employees with itemized
12 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
13 inclusive dates of the pay period, the employee's name and the last four digits of his or her
14 Social Security number (or employee identification number), the name and address of the legal
15 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
16 corresponding number of hours worked at each hourly rate by the employee.

17 192. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
18 and the Aggrieved Employees because due to violations including: failure to accurately state
19 total hours worked (the wage statements failed to accurately reflect total compensable hours);
20 failure to accurately state gross wages earned; failure to accurately state all deductions; failure to
21 accurately state net wages earned; failure to state the applicable hourly rates (including the
22 accurate overtime rate of pay); failure to accurately state the corresponding number of hours
23 worked at each hourly rate, and; the failure to accurately state the amount and rate of pay for
24 meal and rest break premiums under Labor Code § 226.7.

25 193. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
26 to because Defendants failed to provide a wage statement to Plaintiff and the Aggrieved
27 Employees that complied with the requirements of Labor Code § 226(a).

28 ///

1 194. As a result of the Defendants' violations of Labor Code § 226(a), Plaintiff seeks
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.
4 See *Raines v. Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667, 675 ("Section
5 226.3 provides the civil penalty for failure to comply" with Labor Code § 226).

6 **VII. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff, on behalf of himself, on a representative basis, and all others
8 similarly situated, prays for judgment and relief against Defendants, jointly and severally, as
9 follows:

10 1. As to the Tenth through Eighteenth Causes of Action, the assessment of all
11 applicable and available remedies under the PAGA;

12 2. For reasonable attorneys' fees and costs as permitted under the PAGA;

13 3. That the First through Ninth Causes of Action be certified as a class action;

14 4. That Plaintiff be appointed as Class Representative;

15 5. That counsel for Plaintiff be appointed Class Counsel;

16 6. For all applicable statutory penalties recoverable under the First through Seventh
17 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
18 Orders of the Industrial Welfare Commission;

19 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
20 law, including those pursuant to the Labor Code;

21 8. For injunctive relief and/or restitution as provided by the Labor Code and
22 Business and Professions Code § 17200, *et seq.*;

23 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
24 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1197,
25 1198, 1199, and 2802, among other sections inadvertently omitted;

26 10. For an award of damages in the amount of unpaid compensation including, but
27 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
28 thereon;

- 1 11. For pre- and post-judgment interest; and
2 12. For such other relief as the Court deems just and proper.

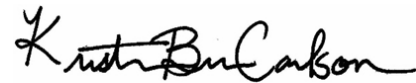
3 **DEMAND FOR JURY TRIAL**

4 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, hereby
5 demands a jury trial as to the First through Ninth Causes of Action pled herein.

6
7 Dated: January 11, 2022

LAUBY, MANKIN & LAUBY LLP

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9 BY:



10 Brian J. Mankin, Esq.
11 Kristina Bui Carlson, Esq.
12 Attorneys for Plaintiff
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