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Case #22CV393492
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

BALTAZAR PEREZ, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

BEST OVERNITE EXPRESS, INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. 22CV393492

*Assigned for All Purposes to:
Judge Patricia M. Lucas
Dept. 3*

**[Amended as a matter of right, pursuant to
Labor Code section 2699.3(a)(2)(C)]**

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Reimburse Business Expenses;
3. Failure to Provide Accurate Itemized Wage Statements;
4. Failure to Pay All Wages Due Upon Separation of Employment;
5. Violation of Business and Professions Code §§ 17200, *et seq.*; and
6. Enforcement of Labor Code § 2698 *et seq.* (“PAGA”)

1 Plaintiff Baltazar Perez, individually and on behalf of others similarly situated, alleges as
2 follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Baltazar Perez (“Plaintiff”) brings this putative class action and
5 representative action pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code. §
6 2698 *et seq.*, against defendants Best Overnight Express, Inc.; and DOES 1 through 20, inclusive
7 (collectively, “Defendants”), on Plaintiff’s own behalf and on behalf of a putative class of
8 California citizens who are and were employed by Defendants as non-exempt employees
9 throughout California.

10 2. Defendants are in the freight trucking industry.

11 3. Through this action, Plaintiff alleges that Defendants engaged in a systematic
12 pattern of wage and hour violations under the California Labor Code and Industrial Welfare
13 Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair
14 competition.

15 4. Plaintiff is informed and believe, and thereon alleges, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) failing to pay minimum wages;
- 18 (b) failing to reimburse necessary business-related costs;
- 19 (c) failing to provide accurate itemized wage statements; and
- 20 (d) failing to pay all wages due upon separation of employment.

21 5. Plaintiff seeks monetary relief against Defendants on behalf of himself and all
22 others similarly situated in California to recover, among other things, unpaid wages, un-
23 reimbursed business expenses, benefits, interest, attorneys’ fees, costs and expenses, and
24 penalties pursuant to Labor Code §§ 201, 202, 203, 204, 210, 223, 226, 1182.12, 1194, 1194.2,
25 1197, 2800, and 2802, 2698, *et seq.*, and Code of California Civil Procedure § 1021.5.

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

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

10. Plaintiff is a resident of California and worked for Defendants during the relevant time periods as alleged herein.

12. Plaintiff is unaware of the true names or capacities of the defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named defendants once their names and capacities become known.

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

14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the employer and/or joint employer of Plaintiff and the class members.

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

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

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

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this action under Code of Civil Procedure § 382 on Plaintiff's own behalf and on behalf of all others similarly situated who were affected by Defendants' Labor Code, Business and Professions Code §§ 17200, and IWC Wage Order violations.

19. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

20. Plaintiff's proposed class consists of and is defined as follows:

1 Class

2 All California citizens currently or formerly employed by Defendants as non-
3 exempt employees in the State of California at any time between July 26, 2017¹
4 and the date of class certification (“Class”).

5 21. Plaintiff also seeks to certify the following subclasses of employees:

6 Waiting Time Subclass

7 All members of the Class who separated their employment with Defendant at any
8 time between July 26, 2018 and the date of class certification (“Waiting Time
9 Subclass”).

10 22. Plaintiff reserves the right to modify or re-define the Class, establish additional
11 subclasses, or modify or re-define any class or subclass definition as appropriate based on
12 investigation, discovery, and specific theories of liability.

13 23. Members of the Class and the Waiting Time Subclass described above will be
14 collectively referred to as “Class Members.”

15 24. There are common questions of law and fact as to the Class Members that
16 predominate over any questions affecting only individual members including, but not limited to,
17 the following:

- 18 (a) Whether Defendants failed to pay Plaintiff and Class Members all
19 minimum wages for all hours worked by Plaintiff and Class Members.
- 20 (b) Whether Defendants failed to reimburse Plaintiff and Class Members for
21 necessary business-related costs expended for the benefit of Defendants.
- 22 (c) Whether Defendants failed to provide Plaintiff and Class Members
23 accurate itemized wage statements.
- 24 (d) Whether Defendants failed to timely pay the Waiting Time Subclass all
25 wages due upon termination or within seventy-two (72) hours of
26 resignation.

27 ¹ The statute of limitations for this matter was tolled between April 6, 2020 and October 1, 2020
28 pursuant to Cal. Rules of Court, Appendix I, Emergency Rule No. 9.

1 (e) Whether Defendants' conduct was willful or reckless.

2 (f) Whether Defendants engaged in unfair business practices in violation of
3 Business and Professions Code §§ 17200, *et seq.*

4 25. There is a well-defined community of interest in this litigation and the proposed
5 Class and subclasses are readily ascertainable:

6 (a) Numerosity: The Class Members are so numerous that joinder of all
7 members is impractical. Although the members of the Class are unknown to Plaintiff at this time,
8 on information and belief, the Class is estimated to be greater than fifty (50) individuals. The
9 identities of the Class Members are readily ascertainable by inspection of Defendants'
10 employment and payroll records.

11 (b) Typicality: Plaintiff's claims (or defenses, if any) are typical of the claims
12 (or defenses, if any) of the Class Members because Defendants' failure to comply with the
13 provisions of California's wage and hour laws entitled each Class Member to similar pay,
14 benefits, and other relief. The injuries sustained by Plaintiff are also typical of the injuries
15 sustained by the Class Members, because they arise out of and are caused by Defendants'
16 common course of conduct as alleged herein.

17 (c) Adequacy: Plaintiff will fairly and adequately represent and protect the
18 interests of all Class Members because it is in Plaintiff's best interest to prosecute the claims
19 alleged herein to obtain full compensation and penalties due. Plaintiff's attorneys, as proposed
20 class counsel, are competent and experienced in litigating large employment class actions and
21 versed in the rules governing class action discovery, certification, and settlement. Plaintiff has
22 incurred and, throughout the duration of this action, will continue to incur attorneys' fees and
23 costs that have been and will be necessarily expended for the prosecution of this action for the
24 substantial benefit of the Class Members.

25 (d) Superiority: The nature of this action makes use of class action
26 adjudication superior to other methods. A class action will achieve economies of time, effort, and
27 expense as compared with separate lawsuits and will avoid inconsistent outcomes because the
28 same issues can be adjudicated in the same manner for the entire Class and Waiting Time

1 Subclass at the same time. If appropriate, this Court can, and is empowered to, fashion methods
2 to efficiently manage this case as a class action.

3 (e) Public Policy Considerations: Employers in the State of California violate
4 employment and labor laws every day. Current employees are often afraid to assert their rights
5 out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
6 because they believe their former employers might damage their future endeavors through
7 negative references and/or other means. Class actions provide class members who are not named
8 in the complaint with a type of anonymity that allows for the vindication of their rights while
9 affording them privacy protections.

10 **GENERAL ALLEGATIONS**

11 26. At all relevant times mentioned herein, Defendants employed Plaintiff and other
12 California residents as non-exempt employees throughout California at Defendants' California
13 business location(s).

14 27. Defendants continue to employ non-exempt employees within California.

15 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
16 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who
17 were knowledgeable about California's wage and hour laws, employment and personnel
18 practices, and the requirements of California law.

19 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and Class Members were entitled to receive wages for all time
21 worked (including minimum wages) and that they were not receiving all minimum or promised
22 wages earned for work that was required to be performed. In violation of the Labor Code and
23 IWC Wage Orders, Plaintiff and Class Members were not paid all wages (including minimum
24 wages) for all hours worked at the correct rate of pay.

25 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and Class Members were entitled to reimbursement and/or
27 indemnification for all necessary business expenditures or losses as a direct consequence of the
28 discharge of their duties, or of their obedience to the directions of Defendants. In violation of the

1 Labor Code and IWC Wage Orders, Plaintiff and Class Members incurred necessary business
2 expenses or losses, but were not adequately reimbursed nor indemnified of such expenses or
3 losses that were incurred as a direct consequence of the discharge of their duties, or of their
4 obedience to the directions of Defendants.

5 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and Class Members were entitled to receive itemized wage
7 statements that accurately showed the following information pursuant to the Labor Code: (1)
8 gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units
9 earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
10 deductions, provided that all deductions made on written orders of the employee may be
11 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
12 which the employee is paid; (7) the name of the employee and only the last four digits of his or
13 her social security number or an employee identification number other than a social security
14 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
15 hourly rates in effect during the pay period and the corresponding number of hours worked at
16 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and Class Members
17 were not provided with accurate itemized wage statements.

18 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that the Waiting Time Subclass was entitled to timely payment of wages due
20 upon separation of employment. In violation of the Labor Code, the Waiting Time Subclass did
21 not receive payment of all wages within the permissible time periods.

22 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known they had a duty to compensate Plaintiff and Class Members, and Defendants
24 had the financial ability to pay such compensation but willfully, knowingly, and intentionally
25 failed to do so in order to increase Defendants' profits.

26 34. Therefore, Plaintiff brings this lawsuit seeking monetary and injunctive relief
27 against Defendants on Plaintiff's own behalf and on behalf of all Class Members to recover,
28 among other things, unpaid minimum wages, unreimbursed business expenditures, interest,

1 attorneys' fees, penalties, costs, and expenses.

2 **FIRST CAUSE OF ACTION**

3 **FAILURE TO PAY MINIMUM WAGES**

4 (Violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197; Violation of IWC Wage Order §3-4)

5 35. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
6 though fully set forth herein.

7 36. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
8 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
9 wage than the minimum so fixed is unlawful.

10 37. Plaintiff and Class Members were employees entitled to the protections of Labor
11 Code §§ 1194 and 1197.

12 38. During the relevant time period, Defendants failed to pay Plaintiff and Class
13 Members all wages owed when Defendants did not pay for all hours worked, including, but not
14 limited to, hours spent working off-the-clock, among others.

15 39. During the relevant time period, Defendants failed to pay at least minimum wage
16 to Plaintiff and Class Members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

17 40. Defendants' failure to pay Plaintiff and Class Members the required minimum
18 wage violates Labor Code §§ 1194 and 1197. Pursuant to these sections, Plaintiff and Class
19 Members are entitled to recover the unpaid balance of their minimum wage compensation as
20 well as interest, costs, and attorneys' fees.

21 41. Pursuant to Labor Code § 1194.2, Plaintiff and Class Members are entitled to
22 recover liquidated damages in an amount equal to the wages unlawfully unpaid and the accrued
23 interest thereon.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

26 (Violation of Labor Code §§ 2800, 2802)

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

43. Labor Code § 2800 states that “[a]n employer shall in all cases indemnify his employee for losses caused by the employer’s want of ordinary care.”

44. Labor Code § 2802(a) states that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer”

45. Labor Code § 2802(b) states that “[a]ll awards made by a court . . . for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.”

46. Labor Code § 2802(c) states that “[f]or purposes of this section, the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

47. During the relevant time period, Plaintiff and Class Members incurred necessary business-related costs that were not fully reimbursed by Defendants as alleged herein.

48. In violation of Labor Code §§ 2800 and 2802, Defendants failed to reimburse or indemnify Plaintiff and Class Members for their expenses due to Defendants' knowing and intentional failure to reimburse necessary business expenditures in connection with Plaintiff's and Class Members' work and job duties.

49. As a direct result, Plaintiff and Class Members have suffered and continue to suffer losses, and therefore seek complete reimbursement and indemnification of necessary business expenditures or losses, interest thereon at the required rate, and all reasonable costs in enforcing the rights under Labor Code § 2802, including, but not limited to attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Violation of Labor Code § 226; Violation of IWC Wage Order)

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

1 51. Labor Code § 226(a) requires Defendants to provide each employee with an
2 accurate wage statement in writing showing nine pieces of information, including, the following:
3 (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate
4 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
5 deductions, provided that all deductions made on written orders of the employee may be
6 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
7 which the employee is paid, (7) the name of the employee and the last four digits of his or her
8 social security number or an employee identification number other than a social security number,
9 (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
10 rates in effect during the pay period and the corresponding number of hours worked at each
11 hourly rate by the employee.

12 52. During the relevant time period, Defendants have knowingly and intentionally
13 failed to comply with Labor Code § 226(a) on wage statements that were provided to Plaintiff
14 and Class Members. The deficiencies include, among other things, the failure to correctly state
15 the employer's name, the gross and net wages earned, total hours worked, all applicable hourly
16 rates in effect, and the number of hours worked at each hourly rate by Plaintiff and Class
17 Members.

18 53. As a result of Defendants' knowing and intentional failure to comply with Labor
19 Code § 226(a), Plaintiff and Class Members have suffered injury and damage to their statutorily-
20 protected rights. Specifically, Plaintiff and Class Members are deemed to suffer an injury
21 pursuant to Labor Code § 226(e) where, as here, Defendants intentionally violated Labor Code §
22 226(a). Plaintiff and Class Members were denied both their legal right to receive, and their
23 protected interest in receiving, accurate itemized wage statements under Labor Code § 226(a). In
24 addition, because Defendants failed to provide the accurate rates of pay on wage statements,
25 Defendants prevented Plaintiff and Class Members from determining if all hours worked were
26 paid at the appropriate rate and the extent of the underpayment. Plaintiff had to file this lawsuit
27 in order to analyze the extent of the underpayment, thereby causing Plaintiff to incur expenses
28 and lost time. Plaintiff would not have had to engage in these efforts and incur these costs had

1 Defendants provided the accurate hours worked, wages earned, and rates of pay. This has also
2 delayed Plaintiff's ability to demand and recover the underpayment of wages from Defendants.

3 54. Plaintiff and Class Members are entitled to recover from Defendants the greater of
4 all actual damages caused by Defendants' failure to comply with Labor Code § 226(a) or fifty
5 dollars (\$50.00) for the initial pay period in which a violation occurred and one hundred dollars
6 (\$100.00) per employee for each violation in subsequent pay periods in an amount not exceeding
7 four thousand dollars (\$4,000.00) per employee, plus attorneys' fees and costs.

8 55. Defendants' violations of California Labor Code § 226(a) prevented Plaintiff and
9 Class Members from knowing, understanding, and disputing the wages paid to them and resulted
10 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
11 intentional failure to comply with California Labor Code § 226(a), Plaintiff and Class Members
12 have suffered an injury, in the exact amount of damages and/or penalties to be shown according
13 to proof at trial.

14 **FOURTH CAUSE OF ACTION**

15 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

16 (Violation of Labor Code §§ 201, 202, and 203)

17 56. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
18 though fully set forth herein.

19 57. Labor Code §§ 201 and 202 provide that if an employer discharges an employee,
20 the wages earned and unpaid at the time of discharge are due and payable immediately, and that
21 if an employee voluntarily leaves his or her employment, his or her wages shall become due and
22 payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-
23 two (72) hours previous notice of an intention to quit, in which case the employee is entitled to
24 his or her wages at the time of quitting.

25 58. During the relevant time period, Defendants willfully failed to pay the Waiting
26 Time Subclass all their earned wages upon termination, including, but not limited to, proper
27 minimum wage either at the time of discharge or within seventy-two (72) hours of their leaving
28 Defendants' employ.

59. Defendants' failure to pay the Waiting Time Subclass all their earned wages at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is in violation of Labor Code §§ 201 and 202.

60. Labor Code § 203 provides that if an employer willfully fails to pay wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue as a penalty from the due date at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

61. Pursuant to Labor Code § 203, the Waiting Time Subclass is entitled to recover from Defendants the statutory penalty, which is defined as the Waiting Time Subclass members' regular daily wages at their regular hourly rate of pay for each day they were not paid, up to a maximum of thirty (30) days.

FIFTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.

(Violation of Business and Professions Code §§ 17200, *et seq.*)

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

63. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of unfair competition, which includes any “unlawful, unfair or fraudulent business act or practice . . .”

64. A violation of California Business and Professions Code §§ 17200, *et seq.*, may be predicated on a violation of any state or federal law. In the instant case, Defendants' policies and practices violated state law, causing Plaintiff and Class Members to suffer and continue to suffer injuries-in-fact.

65. Defendants' policies and practices violated state law in at least the following respects:

(a) Failing to pay minimum wage and promised wages to Plaintiff and Class Members at the proper rate in violation of Labor Code §§ 204, 223, 1194,

1194.2, 1197.

(b) Failing to reimburse Plaintiff and Class Members for necessary business-related expenses in violation of Labor Code §§ 2800 and 2802.

(c) Failing to provide Plaintiff and Class Members with accurate itemized wage statements in violation of Labor Code § 226.

(d) Failing to timely pay all earned wages to the members of the Waiting Time Subclass upon separation of employment in violation of Labor Code §§ 201, 202, and 203.

66. As alleged herein, Defendants systematically engaged in unlawful conduct in violation of the California Labor Code and IWC Wage Orders, such as failing to pay minimum wages, failing to reimburse necessary business-related costs and expenses, failing to furnish accurate wage statements, and failing to pay all wages due and owing upon separation of employment in a timely manner to the Waiting Time Subclass, all in order to decrease their costs of doing business and increase their profits.

67. At all relevant times herein, Defendants held themselves out to Plaintiff and Class Members as being knowledgeable concerning the labor and employment laws of California.

68. At all times relevant herein, Defendants intentionally avoided paying Plaintiff and Class Members wages and monies, thereby creating for Defendants an artificially lower cost of doing business in order to undercut their competitors and establish and/or gain a greater foothold in the marketplace.

69. By violating the foregoing statutes and regulations as herein alleged, Defendants' acts constitute unfair and unlawful business practices under California Business and Professions Code §§ 17200, *et seq.*

70. As a result of the unfair and unlawful business practices of Defendants as alleged herein, Plaintiff and Class Members are entitled to injunctive relief, disgorgement, and restitution in an amount to be shown according to proof at trial.

71. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged

1 herein, has been and continues to be unfair, unlawful, and harmful to Plaintiff, Class Members,
2 and the general public. Based on Defendants' conduct as alleged herein, Plaintiff and Class
3 Members are entitled to an award of attorneys' fees pursuant to California Code of Civil
4 Procedure § 1021.5.

5 **SIXTH CAUSE OF ACTION**

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

7 72. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs
8 as though fully set forth herein.

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

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

20 75. Defendants' conduct violates numerous Wage Order and Labor Code sections,
21 including, but not limited to, the following:

- 22 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 1182.12, 1194,
23 1197, for failure to timely pay all earned wages (including minimum
24 wage) owed to Plaintiff and other aggrieved employees during
25 employment and upon separation of employment as herein alleged;
- 26 b. violation of Labor Code § 226 for failure to provide accurate itemized
27 wage statements to Plaintiff and other aggrieved employees as herein
28 alleged;

- 1 c. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
2 accurate and complete records showing, among other things, the hours
3 worked daily by and the wages paid to aggrieved employees; and
4 d. violation of Labor Code §§ 2800 and 2802 for failure to reimburse
5 Plaintiff and other aggrieved employees for necessary business expenses
6 as herein alleged.

7 76. Plaintiff is an “aggrieved employee” because he was employed by the alleged
8 violator and had one or more of the violations committed against him, and therefore is properly
9 suited to represent the interests of all other aggrieved employees.

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

13 78. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
14 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
15 cited above.

16 79. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
17 herein.

18 **PRAYER FOR RELIEF**

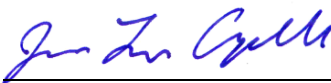
19 On Plaintiff’s own behalf and on behalf of all others similarly situated, Plaintiff prays
20 for relief and judgment against Defendants, jointly and severally, as follows:

- 21 1. For certification under California Code of Civil Procedure § 382 of the proposed
22 Class and any other appropriate subclass;
- 23 2. For appointment of Baltazar Perez as class representative;
- 24 3. For appointment of Aegis Law Firm, PC, as class counsel for all purposes;
- 25 4. For compensatory damages in an amount according to proof at trial;
- 26 5. For an award of damages in the amount of unpaid compensation including, but
27 not limited to, unpaid wages, unreimbursed expenses, benefits, and penalties;
- 28 6. For economic and/or special damages in an amount according to proof at trial;

- 1 7. For liquidated damages pursuant to Labor Code § 1194.2;
- 2 8. For statutory penalties to the extent permitted by law, including those pursuant to
- 3 the Labor Code and IWC Wage Orders;
- 4 9. For injunctive relief as provided by the California Labor Code and California
- 5 Business and Professions Code §§ 17200, *et seq.*;
- 6 10. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;
- 7 11. For an order requiring Defendants to restore and disgorge all funds to each
- 8 employee acquired by means of any act or practice declared by this Court to be unlawful, unfair,
- 9 or fraudulent and, therefore, constituting unfair competition under Business and Professions
- 10 Code §§ 17200, *et seq.*;
- 11 12. For pre-judgment interest;
- 12 13. For civil penalties;
- 13 14. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted
- 14 by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§
- 15 226(e), 1194, and 2698 *et seq.*; and
- 16 15. For such other relief as the Court deems just and proper.

17
18 Dated: April 12, 2022

AEGIS LAW FIRM, PC

19
20 By: 

Jessica L. Campbell

Attorneys for Plaintiff Baltazar Perez