

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: David Sotelo

1 MICHAEL R. CROSNER, ESQ. (SBN 41299)  
mike@crosnerlegal.com  
2 ZACHARY M. CROSNER, ESQ. (SBN 272295)  
zach@crosnerlegal.com  
3 BLAKE R. JONES, ESQ. (SBN 211221)  
blake@crosnerlegal.com  
4 **CROSNER LEGAL, PC**  
5 9440 Santa Monica Blvd. Suite 301  
6 Beverly Hills, CA 90210  
7 Tel: (310) 496-5818  
8 Fax: (310) 510-6429

9 Attorneys for Plaintiff JULIO LOPEZ  
10 on behalf of himself, the State of California, and others similarly  
11 situated and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES**

14 JULIO LOPEZ on behalf of himself, the  
15 State of California, and others similarly  
16 situated and aggrieved,

17 Plaintiff,

18 v.

19 STEVEN LABEL, LLC, a Delaware  
20 Limited Liability Company; STEVEN  
21 LABEL CORPORATION, a California  
22 Corporation; STEVEN LABEL, LLC, a  
23 California Limited Liability Company; and  
24 DOES 1-100, inclusive,

25 Defendants.

Case No.: **22STCV21691**

**PLAINTIFF'S REPRESENTATIVE  
COMPLAINT FOR VIOLATION OF THE  
PRIVATE ATTORNEYS GENERAL ACT,  
CAL. LABOR CODE SECTIONS 2698, *et*  
*seq.***

1 Plaintiff, JULIO LOPEZ (“PLAINTIFF”), an individual on behalf of himself, the State of  
2 California, and all other Aggrieved Employees (as defined below), hereby files this Complaint  
3 against Defendants STEVEN LABEL, LLC, a Delaware Limited Liability Company; STEVEN  
4 LABEL CORPORATION, a California Corporation; STEVEN LABEL, LLC, a California Limited  
5 Liability Company; and DOES 1-100, inclusive, (collectively referred to herein as  
6 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

### 7 **INTRODUCTION**

8 1. This is a representative action filed by PLAINTIFF on behalf of himself, other  
9 similarly Aggrieved Employees and the State of California against DEFENDANTS, pursuant to  
10 California’s Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover  
11 civil penalties (75% payable to the Labor and Workforce Development Agency and 25% payable to  
12 Aggrieved Employees) for DEFENDANTS’ violations of the California Labor Code as alleged  
13 below.

### 14 **JURISDICTION AND VENUE**

15 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to  
16 California statutes, including but not limited to the PAGA, and decisional law and regulations.

17 3. Venue is proper in this judicial district and the County of Los Angeles pursuant to  
18 California Code of Civil Procedure section 395.5 because DEFENDANTS employed PLAINTIFF  
19 in this judicial district, and some of the acts, omissions, and conduct alleged by PLAINTIFF herein  
20 occurred in this county. *Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th  
21 1069 (venue in a PAGA action is proper in any county where the defendants committed Labor Code  
22 violations against some of its employees).

### 23 **THE PARTIES**

24 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of  
25 California and a citizen of the State of California. PLAINTIFF worked for DEFENDANTS in the  
26 State of California as a non-exempt employee from in or around April 2014 through in or around  
27 late May 2021, when PLAINTIFF went on leave.

28 5. PLAINTIFF worked for DEFENDANTS as a press operator or similar title at one or

1 more of DEFENDANTS' facilities, including but not limited to two of DEFENDANTS' facilities  
2 located in Santa Fe Springs, California, in the county of Los Angeles.

3         6.         DEFENDANTS are either a California limited liability company or California  
4 corporation and/or a Delaware limited liability company that, at all relevant times, were authorized  
5 to do business within the State of California and are doing business in the State of California.

6         7.         DEFENDANTS own, operate, or otherwise manage several plants, facilities, and/or  
7 locations in California including but not limited to facilities in Santa Fe Springs, California and  
8 Temecula California. DEFENDANTS also own, operate, or otherwise manage facilities that operate  
9 divisions of Steven Label, LLC and/or Steven Label Corporation including but not limited to  
10 Robinson Printing and Gold Coast. DEFENDANTS, through their various facilities/locations serve  
11 manufactures in the medical, consumer, industrial, electronic, automotive, and aerospace industries  
12 by, among other services, designing, printing, and producing labels for products sold by client  
13 companies and manufacturers in these industries<sup>1</sup> and/or by printing product instructions for client  
14 companies and manufacturers.

15         8.         The true names and capacities of the DOE Defendants sued herein as DOES 1  
16 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such  
17 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally  
18 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this  
19 Complaint to reflect the true names and capacities of the Doe Defendants when such identities  
20 become known.

21         9.         PLAINTIFF is further informed and believes that, at all relevant times, each  
22 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,  
23 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or  
24 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of  
25 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all  
26 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this  
27 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant

28 

---

<sup>1</sup> See <https://www.stevenlabel.com/>. Last visited on June 28, 2022.

1 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant  
2 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,  
3 controlled, aided and abetted the conduct of all other Defendants.

#### 4 **JOINT LIABILITY**

5 10. Under California law, the definition of the terms “to employ” are broadly construed  
6 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to  
7 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)  
8 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49  
9 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control  
10 was to reach situations in which multiple entities control different aspects of the employment  
11 relationship. Supervision of the work, in the specific sense of exercising control over how services  
12 are properly performed, is properly viewed as one of the “working conditions” mentioned in the  
13 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a  
14 temporary employment agency) hires and pays a worker, and the other entity supervises the work.  
15 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in  
16 California, applying a less stringent standard to what constitutes sufficient control by a business  
17 over its vendor’s employees’ wages and working conditions to render that business liable as a joint  
18 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative  
19 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the  
20 wages, hours, or working conditions of the employee, that is a sufficient showing of joint  
21 employment,” *Id.* at 875 [emphasis added].

22 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the  
23 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of  
24 the Wage Orders, under the alternative definitions of “to employ” adopted by the California  
25 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control  
26 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)  
27 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and, (3) engaged  
28 PLAINTIFF and Aggrieved Employees to work for them.

1           12.     PLAINTIFF is informed and believes, and thereon alleges that at all relevant times  
2 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized  
3 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices and  
4 subjected all of the Aggrieved Employees to these same policies and practices regardless of the  
5 location(s) where they worked. Among other things, PLAINTIFF is informed and believes that: (1)  
6 there is common ownership in, and financial control, in DEFENDANTS' companies, (2)  
7 DEFENDANTS utilize common management, who have control over the day-to-day operations and  
8 employment matters, including the power to hire and fire, set schedules, issue employee policies,  
9 and determine rates of compensation across its locations in California; (3) DEFENDANTS utilize  
10 the same policies and procedures for all California employees, including issuing the same employee  
11 handbooks and other form agreements; (4) DEFENDANTS use at least some of the same Human  
12 Resources personnel and attorneys to oversee employment matters; and, (6) DEFENDANTS share  
13 employees.

14           13.     PLAINTIFF is informed and believes, and thereon alleges that at all times relevant  
15 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved  
16 Employees upon whose behalf PLAINTIFF brings these allegations and cause of action, in that  
17 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'  
18 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved  
19 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved  
20 Employees. As such, DEFENDANTS exercised control over various aspects of PLAINTIFF's  
21 employment including but not limited to creating and implementing policies to which PLAINTIFF  
22 was subjected to and/or controlling the payment of wages and/or compensation for PLAINTIFF and  
23 other Aggrieved Employees.

24           14.     Upon further information and belief, PLAINTIFF alleges that DEFENDANTS  
25 created a uniform set of policies, practices and/or procedures concerning, inter alia, hourly and  
26 overtime pay, time-keeping practices, meal and rest periods, reimbursement of business expenses  
27 and other working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved  
28 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of

1 PLAINTIFF and Aggrieved Employees in a uniform manner. DEFENDANTS collectively  
2 represented to PLAINTIFF and Aggrieved Employees that each was an "at-will" employee of  
3 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's  
4 and Aggrieved Employees' employment with or without cause. Upon information and belief,  
5 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in  
6 writing the details of their compensation, and the manner in which they were to take meal and rest  
7 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked  
8 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS  
9 collectively would evaluate their wage rates.

10 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours  
11 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS  
12 collectively held the right to control virtually every aspect of PLAINTIFF's and Aggrieved  
13 Employees' employment, including the instrumentality that resulted in the illegal conduct for which  
14 PLAINTIFF seeks relief in this Complaint.

15 16. PLAINTIFF is informed and believes that DEFENDANTS exercised the same  
16 control over, applied the same policies and practices, and engaged in the same acts and omissions  
17 with regard to the other Aggrieved Employees.

18 17. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must  
19 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under  
20 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform  
21 services from which they benefited, and furthermore that the aforementioned entities had the right  
22 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant  
23 times herein, so as to be considered the joint employers of PLAINTIFF.

24 18. By reason of their status as joint employers of PLAINTIFF and Aggrieved  
25 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor  
26 Code and applicable Wage Orders as to PLAINTIFF and other Aggrieved Employees.

27 **PAGA ALLEGATIONS**

28 19. PLAINTIFF brings this action under the PAGA, as a representative action on behalf

1 of himself, the State of California and Aggrieved Employees, regarding violations of the California  
2 Labor Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include:

3 All current and former non-exempt employees that worked for  
4 DEFENDANTS at any location in California at any time from one  
5 year plus 65 days from filing of the initial Complaint through the  
6 present (“PAGA Period”).

7 20. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code  
8 section 2699(c), as he was employed by DEFENDANTS during the applicable statutory limitations  
9 period and suffered one or more of the Labor Code violations set forth herein. Accordingly,  
10 PLAINTIFF seeks to recover on behalf of himself, the State of California, and all other Aggrieved  
11 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.  
12 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved  
13 Employees, as he was jointly employed by DEFENDANTS and is thereby affected by one or more  
14 of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th  
15 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by  
16 the employer – regardless of whether Plaintiff experienced all violations personally. *Id.* at 760-761

17 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

18 21. On April 28, 2022, PLAINTIFF, through his counsel, gave written notice by online  
19 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that  
20 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged  
21 in this Complaint (“PAGA Letter”). Attached hereto as **Exhibit 1** is a true and correct copy of the  
22 PAGA Letter also sent to DEFENDANTS via certified mail.

23 22. The PAGA Letter outlined PLAINTIFF’s claims for violations of the California  
24 Labor Code and the applicable wage orders on behalf of himself, the State of California and other  
25 Aggrieved Employees.

26 23. The LWDA did not provide notice of its intention to investigate DEFENDANTS’  
27 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the  
28 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.

1 Accordingly, PLAINTIFF has exhausted the administrative remedies as required by Labor Code  
2 section 2699.3. Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

3 24. PLAINTIFF seeks to recover the PAGA civil penalties through a representative  
4 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46  
5 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

6 **FACTUAL AND LEGAL ALLEGATIONS**

7 25. During the PAGA Period, PLAINTIFF and the Aggrieved Employees were  
8 employed by DEFENDANTS in the State of California as non-exempt employees. DEFENDANTS,  
9 at all times, exercised control over PLAINTIFF and each of the Aggrieved Employees, and suffered  
10 and/or permitted them to work.

11 26. PLAINTIFF was employed by DEFENDANTS during the relevant period as a full-  
12 time, non-exempt employee as a press operator and/or similar title/position. PLAINTIFF worked  
13 for DEFENDANTS from in or around April 2014 through in or around late May 2021, when  
14 PLAINTIFF went on leave. PLAINTIFF worked for DEFENDANTS out of a couple of  
15 DEFENDANTS' locations including but not limited to two of DEFENDANTS' facilities located in  
16 Santa Fe Springs, California. PLAINTIFF regularly worked at least eight (8) hours per day, at least  
17 five (5) days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by  
18 DEFENDANTS as hours worked.

19 27. **Meal Period Violations.** PLAINTIFF and Aggrieved Employees consistently  
20 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.  
21 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty  
22 (30) minute first (and second) meal periods. Based on information and belief, Aggrieved Employees  
23 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often  
24 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their  
25 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary  
26 from supervisors pressuring them to take non-compliant meal periods or skip meal periods  
27 completely. For example, at least once a month, PLAINTIFF was forced to take a late meal period  
28 due to his need to help repair a machine and/or otherwise complete assigned job duties.

1           28.     Additionally, DEFENDANTS required PLAINTIFF and other Aggrieved  
2 Employees to remain on DEFENDANTS' premises during purport meal periods. As a result,  
3 PLAINTIFF and other Aggrieved Employees took their meal periods within the facility in which  
4 they worked. As such, PLAINTIFF and other Aggrieved Employees remained subject to  
5 DEFENDANTS' control during purported meal periods, thereby rendering the meal periods  
6 unlawful.

7           29.     Based on information and belief, other Aggrieved Employees were consistently  
8 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods  
9 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to  
10 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or  
11 the need to meet DEFENDANTS' goals and expectations.

12           30.     Based on information and belief, DEFENDANTS implemented policies and/or  
13 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control  
14 during unpaid meal periods.

15           31.     Based on information and belief, DEFENDANTS required Aggrieved Employees to  
16 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take  
17 into account when scheduling meal periods for Aggrieved Employees. Based on information and  
18 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

19           32.     Based on information and belief, despite DEFENDANTS' failure to provide lawful  
20 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end  
21 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically  
22 deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods  
23 (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or  
24 constructive knowledge that PLAINTIFF and other Aggrieved Employees did not receive lawful  
25 meal periods.

26           33.     Moreover, per DEFENDANTS' uniform policy and practice, Aggrieved Employees  
27 who worked shifts of more than ten hours did not receive a second legally compliant thirty (30)  
28 minute second meal period. For example, when PLAINTIFF worked more than ten hours in a shift,

1 PLAINTIFF was not provided with a second meal period.

2 34. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and  
3 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further  
4 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor  
5 did DEFENDANTS have any sort of compliant policy in practice. Liability for Aggrieved  
6 Employees can be established by evidence that an employer adopted a uniform corporate break  
7 policy that failed to give full effect to California law and the applicable Wage Order requirements.  
8 The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*,  
9 53 Cal.4th 1004.

10 35. Moreover, based on information and belief, DEFENDANTS failed to keep accurate  
11 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.  
12 Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally  
13 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other  
14 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal  
15 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

16 36. Based on information and belief, DEFENDANTS had actual and/or constructive  
17 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which  
18 were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in  
19 violation of California's meal period laws.

20 37. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an  
21 additional hour of wages at their respective regular rates of compensation for each workday a lawful  
22 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for  
23 each workday a lawful meal period was not provided and/or failed to pay the proper meal period  
24 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,  
25 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or  
26 compensation for purposes of calculating the owed meal period premium.

27 38. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide  
28 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every

1 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the  
2 middle of the work period, as required by law.

3 39. PLAINTIFF and other Aggrieved Employees were not adequately informed,  
4 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California  
5 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to  
6 the taking of duty-free rest periods.

7 40. Based on information and belief, DEFENDANTS did not have a have a compliant  
8 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in  
9 practice. For example, all purported rest periods were restricted to DEFENDANTS' premises. As  
10 such, PLAINTIFF and other Aggrieved Employees were required to remain within the plant/facility  
11 where they worked during purported rest periods.

12 41. Based on information and belief, Aggrieved Employees' rest periods were  
13 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and  
14 constraints of their job duties, and/or due to commentary from supervisors/managers pressuring  
15 Aggrieved Employees to skip rest periods completely or otherwise take non-compliant rest periods.

16 42. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts  
17 lasting longer than ten hours. For example, when PLAINTIFF worked shifts lasting longer than ten  
18 hours, he was not afforded the opportunity and/or was not permitted to take a third ten-minute rest  
19 period. Moreover, when PLAINTIFF worked a shift on Saturdays (which usually lasted at least 6-7  
20 hours), PLAINTIFF was not provided with any rest periods.

21 43. Based on information and belief, DEFENDANTS implemented policies and/or  
22 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and  
23 DEFENDANTS' control during rest periods.

24 44. Based on information and belief, Aggrieved Employees were pressured to complete  
25 their work duties according to a designated schedule such that rest breaks were only taken once tasks  
26 were completed, and/or as time permitted.

27 45. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in  
28 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in

1 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each  
2 workday a proper rest period was not provided and/or failed to pay the proper rest period premium  
3 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,  
4 shift differential pay, and/or other non-discretionary compensation into the regular rate of  
5 compensation for purposes of calculating the owed rest period premium.

6       **46. Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate  
7 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of  
8 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved  
9 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time  
10 rounding policies, and failure to relieve employees of all duties/employer control during unpaid  
11 meal periods or otherwise unlawful practices for missed or improper meal periods, including but not  
12 limited to meal periods restricted to DEFENDANTS' premises. As explained above, PLAINTIFF's  
13 and other Aggrieved Employees' meal periods were restricted to DEFENDANTS' premises.  
14 Moreover, at times, PLAINTIFF was forced to take a late, shortened, interrupted, or otherwise work  
15 through a portion of his meal period as a result of his need to help fix a machine or complete other  
16 work tasks. Based on information and belief other Aggrieved Employees took meal periods that  
17 were restricted to DEFENDANTS' premises and/or otherwise took meal periods that were late,  
18 short, on duty, or otherwise not relieved of all duties and employer control.

19       **47.** Based on information and belief, DEFENDANTS implemented a policy and/or  
20 practice of rounding meal period start and end times and/or automatically deducting at least thirty  
21 minutes per shift for meal periods, despite having actual and/or constructive knowledge that  
22 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during  
23 purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving  
24 PLAINTIFF and Aggrieved Employees of all wages owed.

25       **48.** Based on information and belief, Aggrieved Employees were not paid for all hours  
26 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours  
27 worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

28       **49.** Based on information and belief, DEFENDANTS failed to pay Aggrieved

1 Employees for time they were required to spend completing orientation, policy questionnaires,  
2 and/or time spent completing the onboarding process including but not limited to reviewing various  
3 documents and policies provided by DEFENDANTS. Based on information and belief, this work time  
4 was completed off-the-clock and was not compensated.

5 50. Based on further information and belief, DEFENDANTS implemented a time-  
6 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved  
7 Employees of compensable time because the time-rounding system implemented by  
8 DEFENDANTS would almost always, if not always, result in understating actual compensable work  
9 time.

10 51. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,  
11 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal  
12 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of  
13 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages  
14 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than  
15 forty (40) hours in a week.

16 52. Based on information and belief, DEFENDANTS had actual and/or constructive  
17 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to  
18 provide lawful meal periods (including but not limited to meal periods that were restricted to  
19 premises) and/or other off-the-clock work resulted in the underpayment of minimum wages owed  
20 to PLAINTIFF and other Aggrieved Employees, in violation of California's minimum and overtime  
21 wage laws.

22 53. Based on information and belief, DEFENDANTS failed and continue to fail to pay  
23 twice Aggrieved Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per  
24 workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a  
25 work week, in violation of California's overtime laws.

26 54. Based on information and belief, DEFENDANTS failed to incorporate all non-  
27 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or  
28 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),

1 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other  
2 Aggrieved Employees.

3       55.     **Inaccurate Records.** Based on the above-described unlawful policies and practices,  
4 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as  
5 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.  
6 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as  
7 required by law, including but not limited to the following records: total daily hours worked,  
8 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees  
9 began and ended each work period, time records of meal periods, and accurate itemized wage  
10 statements.

11       56.     DEFENDANTS have failed and continue to fail to keep accurate and complete  
12 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal  
13 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and  
14 employer control during unpaid meal periods, failure to record the true start and end times of meal  
15 periods, shift start times and shift end times, and other off-the-clock work policies and practices  
16 described herein.

17       57.     **Failure to Produce Records.** Based on information and belief, DEFENDANTS  
18 failed and continue to fail to produce or make available a current or former employee's personnel  
19 records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432,  
20 and/or the applicable Wage Order. For example, PLAINTIFF sent a request for payroll and  
21 personnel records to DEFENDANTS. Yet, DEFENDANTS failed to produce complete records  
22 within the time periods delineated by California labor law. Based on information and belief,  
23 DEFENDANTS failed and continues to fail to timely produce complete payroll and personnel  
24 records when requested by other Aggrieved Employees, resulting in violations of Labor Code  
25 sections 226(b)-(c), 1198.5, and 432 and the applicable Wage Order.

26       58.     **Failure to Provide Suitable Seating.** Based on information and belief,  
27 DEFENDANTS failed to provide Aggrieved Employees with suitable seating, and when such  
28 employees were not engaged in duties which required them to stand, no seating was placed in

1 reasonable proximity to their workstations.

2 59. Moreover, based on information and belief, the nature of the work reasonably  
3 permitted the use of seats for at least part of the time that Aggrieved Employees were working.  
4 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of  
5 their employment, yet there were no suitable seats in reasonable proximity to the work area and use  
6 of seats would not interfere with the performance of their duties.

7 60. DEFENDANTS' Aggrieved Employees worked in various positions. The nature of  
8 Aggrieved Employees' work reasonably permitted the use of seats. However,  
9 DEFENDANTS failed to provide suitable seating in reasonable proximity to Aggrieved Employees'  
10 work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections  
11 1198, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699.

12 61. **Standard Conditions of Labor violations.** DEFENDANTS' unlawful policies and  
13 practices described herein also resulted in violations of Labor Code Sections 1198 and 1199, which  
14 together, make it unlawful to employ individuals under conditions that are prohibited by the Wage  
15 Orders or any provision within Part 4, Chapter 1 of the Labor Code, including section 1174, 1197,  
16 and 1198, or order or ruling of the commission.

17 62. Therefore, DEFENDANTS' violations with respect to meal periods, rest periods,  
18 recordkeeping provisions, minimum wages and overtime wages, suitable seating, and business  
19 expenses result in separate violations of sections 1198 and 1199.

20 63. **Refusal to Make Payment.** DEFENDANTS violated and continue to violate Labor  
21 Code section 216 by failing to pay PLAINTIFF and Aggrieved Employees for all hours worked at  
22 the proper wage rate and by failing to pay PLAINTIFF and Aggrieved Employees an additional  
23 hour of pay for each meal/rest period not provided or that was otherwise unlawful. *Gould v.*  
24 *Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

25 64. **Statutory Wage Violations.** As described above, DEFENDANTS willfully and  
26 systematically denied PLAINTIFF and other Aggrieved Employees minimum and overtime wages  
27 for all hours worked which resulted in the payment of less than the statutorily required wages owed  
28 to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but

1 not limited to, overtime wages and minimum wages, to which they were entitled to under California  
2 law. Thus, DEFENDANTS violated Labor Code section 223 by paying PLAINTIFF and other  
3 Aggrieved Employees lower wages than those they were entitled to while purporting that  
4 PLAINTIFF and other Aggrieved Employees were properly paid.

5       **65. Unreimbursed Business Expenses.** Based on information and belief,  
6 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a  
7 direct consequence of the performance of their job duties without providing reimbursement, in  
8 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved  
9 Employees were improperly required to provide and maintain work tools that are supposed to be the  
10 responsibility of the employer.

11       **66.** Based on information and belief, DEFENDANTS shifted the costs of doing business  
12 onto Aggrieved Employees by requiring them to pay for business expenses, including but not  
13 limited to, uniforms and/or the use of Aggrieved Employees' personal mobile phone and data usage  
14 for work related purposes including but not limited to receiving and responding to work related  
15 messages and/or phone calls.

16       **67.** Based on information and belief, DEFENDANTS regularly failed to reimburse and  
17 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section  
18 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable  
19 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties  
20 assigned by DEFENDANTS.

21       **68.** DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement  
22 for all reasonable expenses associated with carrying out their duties required that Aggrieved  
23 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section  
24 2802.

25       **69. Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to  
26 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied  
27 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved  
28 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements

1 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to  
2 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all  
3 applicable hourly rates in effect during the pay period and the corresponding number of hours  
4 worked at each hourly rate by the employee.

5 70. DEFENDANTS' wage statements that it provided to PLAINTIFF and all Aggrieved  
6 Employees also failed to indicate the earned gross and net wages earned during the pay period, the  
7 correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and  
8 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal  
9 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid  
10 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or  
11 other off-the-clock work policies and practices) which results in a violation of Labor Code section  
12 226(a).

13 71. As described herein, based on information and belief, DEFENDANTS also failed to  
14 incorporate all forms of non-discretionary compensation earned during the pay period into the  
15 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour  
16 of overtime worked by PLAINTIFF and other Aggrieved Employees.

17 72. Based on information and belief, wage statements issued by DEFENDANTS failed  
18 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

19 73. Moreover, based on information and belief, DEFENDANTS issued wage statements  
20 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among  
21 other things, failing to list the correct name and/or address of the legal entity that is the employer.

22 74. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved  
23 Employees that were not accurate and did not include all of the statutorily required information. As  
24 such, DEFENDANTS violated Labor Code section 226.

25 75. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS either  
26 failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick  
27 leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the accrued  
28 sick leave hours on the correct number of hours worked (as a result of the rounding/automatic

1 deduction policies and practices for meal periods and/or shift start and end times/other required off-  
2 the-clock work including but not limited to unpaid meal periods that were restricted to  
3 DEFENDANTS' premises) and by failing to incorporate multiple rates of pay and/or all non-  
4 discretionary remuneration, including but not limited to, non-discretionary bonuses, shift  
5 differential pay, commission and/or piece rate compensation and/or other non-discretionary  
6 compensation into the sick leave pay rate calculation.

7         76. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF  
8 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their  
9 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,  
10 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to  
11 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.  
12 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of  
13 used sick leave and the balance of paid sick leave.

14         77. Based on information and belief, throughout the relevant time period,  
15 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and  
16 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for  
17 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least  
18 prior to their respective separations, for as on several occasions thereafter, he or she would have  
19 been entitled to use the banked sick leave and earn appropriate compensation.

20         78. Upon information and belief, DEFENDANTS failed and continue to fail to comply  
21 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with  
22 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick  
23 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays  
24 wages.

25         79. As such, DEFENDANTS have violated California's paid sick leave laws and  
26 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as  
27 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These  
28 unlawful practices and policies violate Labor Code sections 245-248.5.

1           80.     **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides  
2 that all employers with 26 or more employees are required to provide up to 80 hours for covered  
3 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care  
4 for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS  
5 violated Labor Code § 248.2 by not providing Aggrieved Employees with required 2021 COVID-  
6 19 Supplemental Paid Sick Leave.

7           81.     **Failure to Timely Pay All Wages Upon Separation of Employment .** Based on  
8 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that  
9 were due and owing upon termination or resignation. Based on information and belief,  
10 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing  
11 requirements of Labor Code sections 201-202.

12           82.     Upon separation of employment, Aggrieved Employees' final paychecks were not  
13 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.  
14 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed  
15 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,  
16 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly  
17 accrued rates.

18           83.     These violations subject DEFENDANTS to civil penalties under Labor Code section  
19 203, 210, and/or 256.

20           84.     **Unlawful Inquiries into Salary History.** Based on information and belief,  
21 DEFENDANTS have a policy and/or practice of unlawfully asking Aggrieved Employees to reveal  
22 their salary history when applying for employment with DEFENDANTS. For example, when  
23 PLAINTIFF applied for employment with DEFENDANTS, PLAINTIFF was required to fill out an  
24 application that requested, among other things, the following information: Name and address of  
25 former employer, length of former employment relationship, and the "starting" and "final" "hourly  
26 rate/salary" of the former employment relationship. Based on information and belief,  
27 DEFENDANTS required other Aggrieved Employees to disclose the same or similar information,  
28 in violation of Labor Code section 432.3.

1           **Unlawful Agreements-Unlawful Criminal History Inquiries.**

2           Unlawful Financial and Criminal Background Checks

3           85.     Based on information and belief, DEFENDANTS required Aggrieved Employees to  
4 agree in writing to unlawful conditions of employment including but not limited to unlawful  
5 criminal and/or financial checks as a condition of obtaining and/or continuing employment in  
6 violation of Labor Code section 432.5.

7           86.     Based on information and belief, DEFENDANTS ordered unlawful financial credit  
8 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved  
9 Employees to provide ongoing written consent to the unlawful credit checks as a condition of  
10 employment, in violation of California and Federal law, which results in a further violation of Labor  
11 Code section 432.5.

12          87.     Based on information and belief, DEFENDANTS also required Aggrieved  
13 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as  
14 a condition of obtaining and/or holding employment in violation of the Investigative Consumer  
15 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit  
16 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*)

17          88.     Based on information and belief, DEFENDANTS required Aggrieved Employees to  
18 agree in writing to a background check which failed to abide by the requirements set forth in CA  
19 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by  
20 failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all),  
21 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for  
22 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,  
23 failing to provide a way by which the individual could request a copy of the report, failing to disclose  
24 the name, address, and telephone number of the third party preparing the report, and failing to  
25 properly obtain authorization or consent to such a background check, and thus was an unlawful  
26 background check.

27          89.     By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or  
28 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code

1 section 432.5.

2 90. Based on further information and belief, DEFENDANTS also required Aggrieved  
3 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct  
4 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA  
5 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by  
6 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

7 91. Based on further information and belief, DEFENDANTS knew that requiring  
8 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a  
9 condition of obtaining and/or holding employment was unlawful.

10 92. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a  
11 condition of employment, DEFENDANTS violated Labor Code section 432.5.

12 Unlawful Inquires into Criminal History

13 93. Labor Code section 432.7 prohibits an employer from asking applicants about past  
14 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
15 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
16 convictions on its employment application, in violation of California law.

17 94. Upon information and belief, DEFENDANTS, in violation of California law,  
18 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act  
19 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of  
20 employment and/or otherwise impermissibly inquired into criminal history on its employment  
21 application in violation of California law, and in violation of Labor code section 432.5.

22 Unlawful PAGA Waiver

23 95. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring  
24 PLAINTIFF and Aggrieved Employees to agree in writing to other unlawful agreements, including  
25 but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of  
26 employment.

27 96. An action pursuant to PAGA “...is a representative action on behalf of the state”  
28 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5<sup>th</sup> 73, 86-87. Agreements purporting to waive an

1 employee's right to a trial of PAGA claims is contrary to California law and unenforceable. *See*  
2 *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4<sup>th</sup> 348, 384 ("We conclude that  
3 where, as here, an employment agreement compels the waiver of representative claims under the  
4 PAGA, it is contrary to public policy and unenforceable as a matter of state law.")

5 97. Upon information and belief, DEFENDANTS required PLAINTIFF and Aggrieved  
6 Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California  
7 law. By requiring PLAINTIFF and Aggrieved Employees to agree, in writing, to an unlawful PAGA  
8 waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of  
9 employment which is a violation of labor code section 432.5.

10 98. As such, Aggrieved Employees continue to be subject to various unlawful provisions  
11 as a condition of employment.

12 99. Each violation of each Labor Code section and Wage Order provision results in a  
13 separate civil penalty for PLAINTIFF and each Aggrieved Employee.

14 **FIRST CAUSE OF ACTION**

15 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**  
16 **2698, *ET SEQ.***

17 **(On behalf of Plaintiff, Aggrieved Employees, and the State of California against all**  
18 **Defendants)**

19 100. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

20 **Failure to Keep Accurate Records**

21 101. California Labor Code § 1174 requires employers to keep "accurate and complete"  
22 payroll records showing, among other things, the hours worked daily by all non-exempt employees.  
23 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the  
24 times during which all owed meal periods were provided each day.

25 102. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate  
26 and complete records as required by law, including but not limited to the following records: total  
27 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other  
28 Aggrieved Employees began and ended each work period, time records of meal periods, and

1 accurate itemized wage statements.

2 103. DEFENDANTS' failure to keep "accurate and complete" payroll records for  
3 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all  
4 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties  
5 under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section  
6 and Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for  
7 each pay period during which the referenced statutes and Wage Order provisions were violated.<sup>2</sup>

8 **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

9 104. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage  
10 Orders, section 7 require that employers keep the following information on file for each employee  
11 for a minimum of three years: The employee's dates of employment; the employee's hourly rates  
12 and the corresponding number of hours worked by the employee at each hourly rate, when the  
13 employee begins and ends each work period (including meal periods) and split intervals; total hours  
14 worked by the employee; all deductions; gross wages earned; and net wages earned.

15 105. Section (b) of Labor Code section 226 further requires employers to "afford current  
16 and former employees the right to inspect or receive a copy of records pertaining to their  
17 employment upon reasonable request to the employer." Section (c) of Labor Code section 226  
18 provides that, "an employer who receives a written or oral request to inspect or receive a copy of  
19 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with  
20 the request as soon as practicable, but no later than 21 calendar days from the date of the request.  
21 A violation of this subdivision is an infraction." An employer's failure to comply within this  
22 timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750)  
23 penalty from the employer. Lab. Code section 226(f).

24 106. Personnel Records. In addition to their right to time and pay records, employees, and

25 <sup>2</sup> Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor  
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the  
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "[i]n addition to any other civil  
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes  
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each  
pay period during which the employee was underpaid") (emphasis added).

1 their representatives, have the right to inspect and receive a copy of their personnel files pursuant  
2 to Labor Code section 1198.5. This statute applies to both former and current employees. Labor  
3 Code section 432 further specifies that employers must furnish copies of all employment records  
4 bearing the employee's signature. Labor Code section 1198.5 also requires that the file be made  
5 available for inspection or receipt within a "reasonable" amount of time, but "not later than 30  
6 calendar days from the date the employer receives a written request." An employer's failure to  
7 comply within this timeframe likewise entitles a current or former employee to recover a seven  
8 hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

9 107. Based on information and belief, DEFENDANTS fail to timely produce or make  
10 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant  
11 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations  
12 subject DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

### 13 **Meal Period Violations**

14 108. California law requires employers to provide employees a duty-free, uninterrupted  
15 thirty (30) minute meal period when an employee works more than five (5) hours in a workday,  
16 and it must be provided within the first five (5) hours the employee works. Lab. Code section 512  
17 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v.*  
18 *Superior Court* (2012) 53 Cal.4<sup>th</sup> 1004.

19 109. Employers must also provide employees with a second duty-free, uninterrupted thirty  
20 (30) minute meal period when an employee works more than (10) hours in a workday, and it must  
21 be provided before the end of the 10<sup>th</sup> hour of work. *Ibid.* Meal periods can be waived, but only  
22 under the following circumstances: (1) if an employee's total work period in a day is over five (5)  
23 hours but no more than six (6) hours, the required meal period may be waived by mutual consent  
24 of the employer and employee; and (2) if an employee's total work period in a day is over ten (10)  
25 hours but no more than twelve (12) hours, the required second meal period may be waived by  
26 mutual consent of the employer and employee, but only if the first meal period was not waived.  
27 *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout  
28 his employment by DEFENDANTS.

1           110. Employers covered by any and all applicable IWC Wage Orders have an obligation  
2 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),  
3 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is  
4 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)  
5 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4<sup>th</sup> 1004, 1052-1053, citing  
6 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a  
7 rebuttable presumption arises that the employee was not relieved of duty and no meal period was  
8 provided”).

9           111. Employers must pay employees an additional hour of wages at the employees’  
10 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted  
11 meal period, first meal period provided after five (5) hours, second meal period provided after 10  
12 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to  
13 provide an employee a meal period in accordance with the applicable provision of this Order, the  
14 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation  
15 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4<sup>th</sup> 1004.

16           112. DEFENDANTS have a consistent policy and/or practice of not providing lawful  
17 meal periods to PLAINTIFF and all Aggrieved Employees and/or providing compensation in lieu  
18 thereof. As explained above, PLAINTIFF and other Aggrieved Employees were regularly unable  
19 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being  
20 forced to take late meal periods, interrupted meal periods and/or work through part or all of their  
21 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary  
22 from DEFENDANTS pressuring them to take non-compliant meal periods or skip meal periods  
23 completely.

24           113. Moreover, DEFENDANTS required PLAINTIFF and other Aggrieved Employees  
25 to remain on DEFENDANTS’ premises during purported meal periods.

26           114. Based on information and belief, DEFENDANTS had and continue to have a  
27 continuous policy of rounding the start and end times of employees’ meal periods and/or  
28 automatically deducting thirty minutes per shift despite having actual and/or constructive

1 knowledge that PLAINTIFF and Aggrieved Employees did not receive compliant meal periods.

2 115. Moreover, PLAINTIFF and Aggrieved Employees did not receive a timely,  
3 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

4 116. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal  
5 periods in violation of California law or failed to pay the proper meal period premium for failure to  
6 incorporate all non-discretionary remuneration including but not limited to bonuses, shift  
7 differential pay and/or other non-discretionary compensation into the regular rate or compensation  
8 for purposes of calculating the owed meal period premium.

9 117. These unlawful meal period policies and practices result in violations of Labor Code  
10 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject  
11 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable  
12 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §  
13 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

14 **Rest Period Violations**

15 118. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer  
16 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours  
17 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period  
18 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4<sup>th</sup> 1004 (2012),  
19 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for  
20 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up  
21 to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.*  
22 at 1029). The rest period requirement obligates employers to permit and authorize employees to  
23 take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish  
24 control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5  
25 Cal.5<sup>th</sup> 257. If the employer fails to provide any required rest period, the employer must pay the  
26 employee one hour of pay at the employee’s regular rate of compensation for each workday the  
27 employer did not provide at least one legally required rest period, pursuant to Labor Code section  
28 226.7, and applicable IWC Wage Order, §12(B).

1           119. As explained above, PLAINTIFF and other Aggrieved Employees did not receive  
2 compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction thereof.  
3 Any purported rest periods were interrupted, cut short, on duty, and/or late. PLAINTIFF and other  
4 Aggrieved Employees were pressured to complete their work such that rest periods were only taken  
5 once tasks were completed/as time permitted.

6           120. Moreover, PLAINTIFF and Aggrieved Employees were required to stay on  
7 DEFENDANTS' premises during purported rest periods.

8           121. Moreover, DEFENDANTS failed to pay a rest period premium to PLAINTIFF and  
9 other Aggrieved Employees for each workday in which there was a missed or otherwise unlawful  
10 rest period. Based on further information and belief, when a rest premium was paid, DEFENDANTS  
11 failed to include non-discretionary compensation including but not limited to, bonuses, shift  
12 differential pay, and/or other non-discretionary compensation into the regular rate of compensation  
13 for purposes of determining the owed rest period premium.

14           122. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and  
15 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties  
16 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

17           **Minimum and Overtime Wage Violations**

18           123. California law provides that employees in California must be paid for all hours  
19 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less  
20 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.  
21 The minimum wage standard applies to each hour employees worked for which they were not paid.  
22 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful  
23 even if averaging an employee's total pay over all hours worked, paid or not, results in an average  
24 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

25           124. California law also provides that employees in California must be paid overtime,  
26 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per  
27 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers  
28 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond

1 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh  
2 consecutive day of work in a work week. *Ibid.*

3 125. As alleged herein, PLAINTIFF and Aggrieved Employees regularly worked  
4 minimum and overtime hours for which they were not compensated as required by California law.  
5 DEFENDANTS failed to compensate PLAINTIFF and other Aggrieved Employees for all hours  
6 worked by virtue of DEFENDANTS' automatic deduction for meal periods, time rounding policies  
7 for meal periods and shift start and end times, failure to relieve employees of all duties/employer  
8 control during unpaid meal periods or otherwise unlawful practices for missed or improper meal  
9 periods, including but not limited to meal periods restricted to DEFENDANTS' premises/subject  
10 to DEFENDANTS' control during off-the-clock meal periods, payment according to scheduled  
11 hours rather than actual hours worked and/or other off-the-clock work resulted in the failure to  
12 account for all hours worked and thus the denial of minimum wages as well as overtime wages  
13 owed to PLAINTIFF and Aggrieved Employees who worked more than eight (8) hours in a day or  
14 more than forty hours in a week.

15 126. DEFENDANTS had and continue to have a continuous policy of failing to pay  
16 PLAINTIFF and Aggrieved Employees for all hours worked.

17 127. Based on information and belief, DEFENDANTS had and continue to have a  
18 continuous policy of paying PLAINTIFF and Aggrieved Employees for scheduled hours, rather than  
19 actual hours worked.

20 128. Based on information and belief, DEFENDANTS had actual or constructive  
21 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for  
22 meal periods, failing to relieve employees of all duties and employer control during unpaid meal  
23 periods, policy and practice of payment according to scheduled time rather than actual work time,  
24 and other mandated off-the-clock work resulted in the underpayment of minimum and overtime  
25 wages owed to PLAINTIFF and other Aggrieved Employees.

26 129. DEFENDANTS' unlawful policies and practices resulted in unpaid minimum wages,  
27 and unpaid overtime wages owed to PLAINTIFF and those Aggrieved Employees that worked  
28 more than eight (8) hours in a day or more than forty hours (40) in a week, as well as unpaid double

1 time wages.

2 130. Moreover, based in information and belief, DEFENDANTS failed to pay proper  
3 overtime rates to PLAINTIFF and Aggrieved Employees due to DEFENDANTS' failure to  
4 incorporate all non-discretionary remuneration, including but not limited to, shift differential pay,  
5 bonus pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the  
6 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed  
7 to PLAINTIFF and Aggrieved Employees.

8 131. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,  
9 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS  
10 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable  
11 IWC Wage Orders, section 20.

12 **Statutory Wage Violations**

13 132. California Labor Code section 223 makes it unlawful for an employer to secretly pay  
14 wages lower than required by statute while purporting to pay legal wages. As described above,  
15 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all  
16 earned minimum and overtime compensation for all hours worked which resulted in the payment  
17 of less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of  
18 statutory wages, including, but not limited to, minimum and overtime wages, to which they were  
19 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved  
20 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and  
21 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved  
22 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to  
23 Labor Code § 2699(f)-(g).

24 **Refusal to Make Payment**

25 133. Labor Code section 216 declares unlawful an employer's refusal to pay wages due  
26 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated  
27 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all  
28 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each

1 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*  
2 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil  
3 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for  
4 each Aggrieved Employee, for each pay period during which the statute provisions were violated.<sup>3</sup>

5 **Business Expense Violations**

6 134. California law requires employers to indemnify their employees for all necessary  
7 expenditures incurred by the employee in direct consequence of the discharge of their duties or of  
8 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable  
9 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary  
10 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’  
11 fees incurred by the employee enforcing the rights granted by this section.”

12 135. Among other things, under California law, when employees must use their personal  
13 cellphones for work-related purposes, the employer must reimburse them for a reasonable  
14 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228  
15 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was  
16 required to use their personal cellphone for work-related purposes and not reimbursed for the use.  
17 *Id.* 1144-1145. Further, “any contract or agreement, express or implied, made by any employee to  
18 waive the benefits of this article or any part thereof, is null and void, and this article shall not  
19 deprive any employee or his personal representative of any right or remedy to which he is entitled  
20 to under the laws of this State.” *See* Cal. Lab. Code section 2804.

21 136. As described above, PLAINTIFF and the Aggrieved Employees were improperly  
22 required to pay for business expenses that are legally the responsibility of the employer, including  
23 but not limited to costs associated with using a personal cell phone/data plan usage and charges,  
24 costs of purchasing and/or maintaining a uniform or work clothing.

25 137. DEFENDANTS’ failure to provide PLAINTIFF and Aggrieved Employees with full  
26

---

27 <sup>3</sup> Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty  
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,  
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 reimbursement for all reasonable expenses associated with carrying out their duties required that  
2 PLAINTIFF and Aggrieved Employees subsidize and/or carry the burden of business expenses in  
3 violation of Labor Code section 2802.

4 138. Pursuant to California Labor Code section 2802, PLAINTIFF and Aggrieved  
5 Employees are entitled to be reimbursed for all reasonable expenses associated with carrying out  
6 DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

7 139. Despite being aware of these business expenses, DEFENDANTS failed to reimburse  
8 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor  
9 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor  
10 Code § 2802 and the applicable Wage Order.

11 **Wage Statement Violations**

12 140. California law requires every employer semi-monthly or at the time of each payment  
13 of wages to furnish its employees with an accurate itemized wage statement in writing that contains  
14 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of  
15 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;  
16 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee  
17 is paid; (7) the name of the employee and only the last four digits of his or her social security  
18 number or an employee identification number other than a social security number; (8) the name  
19 and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect  
20 during the pay period and the corresponding number of hours worked at each hourly rate. Lab.  
21 Code § 226.

22 141. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved Employees with  
23 meal and rest periods that complied with Labor Code section 226.7, the wage statements  
24 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to  
25 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the  
26 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages  
27 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect  
28 during the pay period and the corresponding number of hours worked at each hourly rate by the

1 employee, in violation of Labor Code section 226(a)(9).

2 142. Moreover, due to violations detailed above, including but not limited to,  
3 DEFENDANTS' failure to pay minimum and overtime wages for all hours worked, failure to pay  
4 all sick leave wages at the proper rates, and failure to provide meal and rest break premiums,  
5 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish  
6 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed  
7 the earned gross and net wages earned and the correct applicable rates of pay for all hours worked.  
8 As described above, DEFENDANTS also failed to incorporate all forms of non-discretionary  
9 compensation earned during the pay period into regular rate of pay for purposes of calculating the  
10 overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of overtime  
11 worked by PLAINTIFF and other Aggrieved Employees.

12 143. Moreover, wage statements issued by DEFENDANTS failed to indicate the earned  
13 gross and net wages earned during the pay period, the correct applicable rates of pay for all hours  
14 worked, and the "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of  
15 rounded time entries, automatic deduction for meal periods/failure to relieve Aggrieved Employees  
16 of all duties and employer control during unpaid meal periods, payment according to scheduled  
17 hours worked rather than actual hours worked, and/or other off-the-clock work policies and  
18 practices) which results in a violation of Labor Code section 226(a). Failure to list all hours worked  
19 on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado*  
20 *v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

21 144. DEFENDANTS' failure to accurately list all hours worked on all wage statements  
22 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved  
23 Employees over whether they received all wages owed to them.

24 145. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as  
25 they could not easily determine whether they received all wages owed to them and whether they  
26 were paid for all hours worked.

27 146. Based on further information and belief, DEFENDANTS failed to list the inclusive  
28 dates of the pay period for which the employee is being paid.

1 147. Separately, and independent of the above allegations, based on information and  
2 belief, DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved Employees that  
3 further violate Labor Code section 226(a), by failing to list the correct name and/or address of the  
4 legal entity that is the employer.

5 148. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and the  
6 Aggrieved Employees with accurate, itemized wage statements.

7 149. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.  
8 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period  
9 during which the statute provisions were violated. <sup>4</sup>

10 **Failure to Provide Suitable Seating**

11 150. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be  
12 provided with suitable seats when the nature of the work reasonably permits the use of seats and  
13 when they are not actively engaged in the work duties that would not permit them to be seated.

14 151. All applicable IWC Wage Orders, Section 14(A-B) provides:

15 (A) All working employees shall be provided with suitable  
16 seats when the nature of the work reasonably permits the use  
17 of seats.

18 (B) When employees are not engaged in the active duties of  
19 their employment and the nature of the work requires standing,  
20 an adequate number of suitable seats shall be placed in  
21 reasonable proximity to the work area and employees shall be  
22 permitted to use such seats when it does not interfere with the  
23 performance of their duties.

24 152. Suitable seating is one of the worker protections covered by California's Wage  
25 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly  
26 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*  
27 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

28 <sup>4</sup> Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1           153. As alleged herein, based on information and belief, the nature of Aggrieved  
2 Employees' work reasonably permitted the use of seats, but no such seats were provided. Moreover,  
3 there were periods of time when Aggrieved Employees were not engaged in active duties of their  
4 employment, yet there were no suitable seats in reasonable proximity to the work area even when  
5 the use of seats would not interfere with the performance of their duties.

6           154. As such, DEFENDANTS violated and continue to violate section 14(A)-(B) of all  
7 applicable Wage Orders and Labor Code sections 1198 and 1199 by failing to provide suitable  
8 seating to PLAINTIFF and other Aggrieved Employees, subjecting DEFENDANTS to civil  
9 penalties under Labor Code sections 1199 and 2699.

10           **Standard Conditions of Labor Violations**

11           155. Together, Labor Code sections 1198 and 1199 make unlawful any employment of  
12 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,  
13 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including  
14 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'  
15 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,  
16 suitable seating and minimum/overtime wages result in separate violations of sections 1198 and  
17 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

18           **Sick Leave Violations**

19           156. DEFENDANTS violated California's paid sick leave laws including, Labor Code  
20 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to  
21 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to  
22 DEFENDANTS' failure to account for actual hours worked (as a result of the rounding/automatic  
23 deduction policies and practices for meal periods and/or shift start and end times/other required  
24 off-the-clock work including but not limited to unpaid meal periods that were restricted to  
25 DEFENDANTS' premises), and/or failure to incorporate multiple rates of pay and/or all forms of  
26 non-discretionary remuneration including but not limited to, non-discretionary bonuses, shift  
27 differential pay, commission and/or piece-rate compensation and/or other non-discretionary  
28 compensation into the sick leave pay rate calculation.

1           157. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees  
2 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor  
3 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of  
4 used sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF  
5 and Aggrieved Employees’ intelligent exercise of their paid sick leave.

6           158. But for this failure, PLAINTIFF and other Aggrieved Employees would have used  
7 their paid sick leave at least prior to their respective separations, for as on several occasions  
8 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate  
9 compensation.

10           159. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records  
11 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all  
12 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees  
13 were entitled to the maximum number of hours accruable.

14           160. Upon information and belief, DEFENDANTS failed and continue to fail to comply  
15 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with  
16 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick  
17 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays  
18 wages.

19           161. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

20           162. On information and belief, PLAINTIFF alleges that all of these practices were  
21 experienced and continue to be experienced by other Aggrieved Employees.

22           163. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the  
23 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and  
24 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

25           **Failure To Provide Supplemental Paid Sick Leave**

26           164. Labor Code § 248.2 provides that all employers with 26 or more employees are  
27 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental  
28 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.

1 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved  
2 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave.

3 **Untimely Payment of Final Wages**

4 165. California Labor Code section 201(a) provides, in relevant part, that “[i]f an  
5 employer discharges an employee, the wages earned and unpaid at the time of discharge are due  
6 and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that  
7 “[i]f an employee not having a written contract for a definite period quits his or her employment,  
8 his or her wages shall become due and payable not later than 72 hours thereafter, unless the  
9 employee has given 72 hours previous notice of his or her intention to quit, in which case the  
10 employee is entitled to his or her wages at the time of quitting.”

11 166. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages  
12 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty  
13 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.  
14 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code  
15 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see  
16 also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

17 167. Based on information and belief, DEFENDANTS fail to timely pay final wages to  
18 Aggrieved Employees upon separation of employment in violation of Labor Code sections 201-  
19 202 and/or did not include all owed vacation pay and/or fail to timely provide final wages with all  
20 owed vacation and/or paid time off. Based on information and belief, DEFENDANTS untimely  
21 provide final wages to Aggrieved Employees without regard to the timing requirements of Labor  
22 Code sections 201-202.

23 168. Moreover, final paychecks, once provided to Aggrieved Employees did not include  
24 all wages owed as they are devoid of, including but not limited to, all owed minimum wages,  
25 overtime wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages  
26 at the properly accrued rates.

27 169. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These  
28 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or

1 256.

2 **Unlawful Inquiries into Salary History**

3 170. Labor code section 432.3 provides in part “(b) An employer shall not, orally or in  
4 writing, personally or through an agent, seek salary history information, including compensation  
5 and benefits, about an applicant for employment.” Based on information and belief,  
6 DEFENDANTS have a policy and/or practice of unlawfully asking Aggrieved Employees to reveal  
7 their salary history when applying for employment with DEFENDANTS. For example, when  
8 PLAINTIFF applied for employment with DEFENDANTS, PLAINTIFF was required to fill out  
9 an application that requested, among other things, the following information: Name and address of  
10 former employer, length of former employment relationship, and the “starting” and “final” “hourly  
11 rate/salary” of the former employment relationship. Based on information and belief,  
12 DEFENDANTS required other Aggrieved Employees to disclose the same or similar information,  
13 in violation of Labor Code section 432.3.

14 171. Moreover, by requiring Aggrieved Employees to disclose prior salary information in  
15 a written application for employment, DEFENDANTS violated Labor Code section 432.5 by  
16 requiring Aggrieved Employees to agree in writing to disclose their salary history as a condition of  
17 obtaining employment with DEFENDANTS, in violation of California law.

18 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

19 172. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall  
20 require any employee or applicant for employment to agree, in writing, to any term or condition  
21 which is known by such employer...to be prohibited by law.” DEFENDANTS required and  
22 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to submit to  
23 unlawful criminal and/or financial checks as a condition of obtaining and/or continuing  
24 employment.

25 173. The California Labor Code places certain procedural and substantive limits on an  
26 employers’ ability to conduct employee background checks and on how employers can use the  
27 information they obtain through those background checks. Labor Code section 1024.5 states that  
28 employers, except for financial institutions, may order a credit check only if the individual works

1 (or is applying to work) in certain positions (e.g., managerial positions, financially-related  
2 positions, and certain government positions). Additionally, the Investigative Consumer Reporting  
3 Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act  
4 (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an  
5 employee background check, including but not limited to identifying an appropriate reason for the  
6 background check, a separate consent form with required disclosures and certain formatting  
7 requirements, additional forms such as a summary of rights, a way by which to request a copy of  
8 the report, as well as proper notice of adverse actions taken, among other statutory requirements.

9 174. Based on information and belief, DEFENDANTS ordered unlawful financial credit  
10 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to  
11 provide ongoing written consent to the unlawful credit checks as a condition of employment, in  
12 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

13 175. Based on information and belief, DEFENDANTS required Aggrieved Employees to  
14 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of  
15 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

16 176. Based on further information and belief, DEFENDANTS required Aggrieved  
17 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct  
18 background checks throughout the duration of employment, in violation of the ICRAA and/or  
19 FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5,  
20 by requiring applicants and employees to agree to an unlawful provision as a condition of  
21 employment.

22 177. Based on further information and belief, DEFENDANTS knew that requiring  
23 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a  
24 condition of obtaining and/or holding employment was unlawful.

25 178. By requiring that Aggrieved Employees sign off on the illegal background and/or  
26 financial checks, DEFENDANTS violated Labor Code section 432.5.

27 Unlawful Inquires into Criminal History

28 179. Labor Code section 432.7 prohibits an employer from asking applicants about past

1 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on  
2 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in  
3 convictions on its employment application, in violation of California law.

4 180. Upon information and belief, DEFENDANTS, in violation of California law,  
5 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act  
6 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of  
7 employment and/or otherwise impermissibly inquired into criminal history on its employment  
8 application in violation of California law.

9 181. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor  
10 Code section 432.7. By asking about convictions at the application phase or prior to extending an  
11 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated  
12 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to  
13 disclose arrests and/or convictions as a condition of employment.

14 Unlawful PAGA Waiver

15 182. Moreover, based on information and belief, DEFENDANTS require Aggrieved  
16 Employees to agree in writing to waive the right to bring a PAGA action in court, in violation of  
17 California law, which further violates Labor Code section 432.5. For example, DEFENDANTS’  
18 arbitration agreement states as follows: “The claims which are to be arbitrated under this policy  
19 include, but are not limited to ... claims under the California Labor Code Private Attorneys General  
20 Act of 2004 (“PAGA”)...”

21 183. As such, PLAINTIFF and other Aggrieved Employees continue to be subject to  
22 various unlawful provisions as a condition of employment.

23 184. Under the provisions of PAGA and the above mentioned Labor Code sections,  
24 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,  
25 245-248.5, 256, 432, 432.3, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1,  
26 1198, 1198.3, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as  
27 all interpretations of these laws by California Courts and administrative bodies, as well as any other  
28 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 1 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the  
2 relevant California Labor Code provisions listed herein only if permitted by the  
3 PAGA statute, pursuant to Labor Code section 2699(a); and  
4 b. Default PAGA penalties for any violation of the enumerated list of Labor Code  
5 violations without a civil penalty recoverable under the PAGA, all in the default  
6 amounts provided by Labor Code section 2699(f).  
7 c. The proper measure of penalties under PAGA is the number of violations,  
8 whether those violations were committed as against PLAINTIFF or any  
9 Aggrieved Employee, whether a party to this action or not.

10 185. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,  
11 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of himself,  
14 the State of California, and the Aggrieved Employees:

- 15 1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and  
16 25% payable to Aggrieved Employees);  
17 2. For an order temporarily, preliminarily and permanently enjoining and restraining  
18 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;  
19 3. For reasonable attorney's fees and costs of suit; and  
20 4. For such other and further relief that the Court deems just and proper.

21  
22 Dated: July 5, 2022

**CROSNER LEGAL, PC**

23  
24 By: 

25 Michael R. Crosner, Esq.  
26 Zachary M. Crosner, Esq.  
27 Blake R. Jones, Esq.  
28 Attorneys for Plaintiff,  
JULIO LOPEZ

# **EXHIBIT**

**1**



Zachary Crosner, Esq.  
Managing Attorney  
Los Angeles Office  
9440 Santa Monica Blvd.,  
Ste. 301  
Beverly Hills, CA 90210

zach@crosnerlegal.com  
office: (310) 496-5818  
fax: (310) 510-6429

---

April 28, 2022

**VIA PAGA ONLINE FILING ONLY:**

California Labor & Workforce  
Development Agency  
ATTN: PAGA Administrator  
455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102  
PAGAfiling@dir.ca.gov

**VIA U.S. CERTIFIED MAIL:**

Steve Stong  
Agent for Service of Process for:  
**Steven Label, LLC**  
11926 Burke Street  
Santa Fe Springs, CA 90670

Steve Stong  
Agent for Service of Process for:  
**Steven Label Corporation**  
11926 Burke St  
Santa Fe Springs, CA 90670

**Steven Label, LLC**  
Attn: Human Resources/ Legal Department  
11926 Burke Street  
Santa Fe Springs, CA 90670

**NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM**

---

To: California Labor and Workforce Development Agency; Steven Label, LLC; and  
Steven Label Corporation  
Date: April 28, 2022  
Subject: *Julio Lopez v. Steven Label, LLC et. al.*

---

## **Introduction**

This office represents COMPLAINANT, Julio Lopez (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Steven Label, LLC; and Steven Label Corporation (hereinafter, these entities and their managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by EMPLOYER at any of their facilities or locations in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER at any of their facilities or locations in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant

to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 432, 432.3, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

**The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES**

California courts have recognized that the definition of "employer" for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

### **Individual Liability Under Labor Code § 558.1**

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person who is an owner, director, officer, or managing agent of the employer.*" The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

### **General Information**

EMPLOYER owns, operates or otherwise manages several plants, facilities, and/or locations in California including but not limited to facilities in Santa Fe Springs, California and Temecula California. EMPLOYER also owns, operates, or otherwise manages facilities that operate divisions of Steven Label, LLC and/or Steven Label Corporation including but not limited to Robinson Printing and Gold Coast. EMPLOYER, through its various facilities/locations serves manufactures in the medical, consumer, industrial, electronic, automotive, and aerospace industries by, among other services, designing, printing, and producing labels for products sold by client companies and manufacturers in these industries<sup>1</sup> and/or by printing product instructions for client companies and manufacturers. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT is currently employed by EMPLOYER as a non-exempt employee. COMPLAINANT worked for EMPLOYER as a press operator or similar title from in or around April 2014 through in or around late May 2021, when COMPLAINANT went on leave.

---

<sup>1</sup> See <https://www.stevenlabel.com/>. Last visited on April 28, 2022.

COMPLAINANT worked for EMPLOYER out of a couple of EMPLOYER's locations including but not limited to two of EMPLOYER's facilities located in Santa Fe Springs, California. COMPLAINANT regularly worked at least eight (8) hours per day, at least (5) days per week. EMPLOYER paid COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGREIVED EMPLOYEES to disclose their salary history; (15) failed and continues to fail to provide suitable seating; and (16) required and continues to require COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in

writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

### **Labor Code Violations**

**Recordkeeping Requirement Violations:** California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER’s time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER’s failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER’s control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT’s and NON-EXEMPT AGGRIEVED EMPLOYEES’ meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES’ work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER’s failure to keep “accurate and complete” payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor

Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.<sup>2</sup>

**Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:**

**Time and Pay Records**

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

**Personnel Records**

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a request for payroll and personnel records to EMPLOYER. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records when requested by NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

---

<sup>2</sup> See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

**Meal Period Violations:** California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4<sup>th</sup> 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10<sup>th</sup> hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT's employment by EMPLOYER.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4<sup>th</sup> 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4<sup>th</sup> 1004.

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more.

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute,

uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, at least once a month, COMPLAINANT was forced to take a late meal period due to his need to help repair a machine and/or otherwise complete assigned job duties.

Additionally, EMPLOYER required COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES to remain on EMPLOYER's premises during purport meal periods. As a result, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES took their meal periods within the facility in which they worked. As such, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES remained subject to EMPLOYER's control during purported meal periods, thereby rendering the meal periods unlawful.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER's goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal breaks.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Moreover, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break. For example, when COMPLAINANT worked more than ten hours in a shift, COMPLAINANT was not provided with a second meal period.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal

periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.<sup>3</sup> EMPLOYER's failure to provide valid meal periods,

---

<sup>3</sup> See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil

and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

**Rest Period Violations:** California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.*, *v. Superior Court*, 53 Cal.4<sup>th</sup> 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

EMPLOYER did not properly authorize and provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice. For example, all purported rest periods were restricted to EMPLOYER's premises. As such, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain within the plant/facility where they worked during purported meal periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

---

penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Moreover, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours. For example, when COMPLAINANT worked shifts lasting longer than ten hours, COMPLAINANT was not afforded the opportunity and/or was not permitted to take a third ten-minute rest period. Moreover, when COMPLAINANT worked a shift on Saturdays (which usually lasted at least 6-7 hours) COMPLAINANT was not provided with any rest periods.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.<sup>4</sup>

**Minimum Wage Violations:** “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

---

<sup>4</sup> See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon..." *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER's automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods, including but not limited to meal periods restricted to EMPLOYER's premises. As explained above, COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods were restricted to EMPLOYER's premises. Moreover, at times, COMPLAINANT was forced to take a late, shortened, interrupted, or otherwise work through a portion of his meal period as a result of his need to help fix a machine or complete other work tasks. Based on information and belief NON-EXEMPT AGGRIEVED EMPLOYEES took meal periods that were restricted to EMPLOYER's premises and/or otherwise took meal periods that were late, short, on duty, or otherwise not relieved of all duties and employer control.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER's control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER's policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.<sup>5</sup>

**Overtime Violations:** California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by

---

<sup>5</sup> See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.<sup>6</sup>

**Violation of California Labor Code §§ 245-248.5:** Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to

---

<sup>6</sup> See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to EMPLOYER's premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

**Failure To Provide Supplemental Paid Sick Leave:** Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave.

**Refusal to Make Payment:** Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.<sup>7</sup>

**Wage Statement Violations:** California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage

---

<sup>7</sup> Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

Based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE or EXEMPT AGGRIEVED EMPLOYEE is being paid.

EMPLOYER's failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and NON-EXEMPT

AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.<sup>8</sup>

**Semimonthly Payment Violations:** Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

**Seating Violations:** Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be

---

<sup>8</sup> See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, EMPLOYER failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

EMPLOYER's NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, EMPLOYER failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting EMPLOYER to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.<sup>9</sup>

**Standard Conditions of Labor Violations:** Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable seating, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

**Statutory Wage Violations:** Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for

---

<sup>9</sup> See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

**Final Pay Violations:** Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED

EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.<sup>10</sup>

**Business Expense Violations:** California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. See Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. See applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. See *Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” See Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing.

---

<sup>10</sup> (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

#### **Unlawful Inquiries into Salary History**

Labor code section 432.3 provides in part "(b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment." Based on information and belief, EMPLOYER has a policy and/or practice of unlawfully asking NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to reveal their salary history when applying for employment with EMPLOYER. For example, when COMPLAINANT applied for employment with EMPLOYER, COMPLAINANT was required to fill out an application that requested, among other things, the following information: Name and address of former employer, length of former employment relationship, and the "starting" and "final" "hourly rate/salary" of the former employment relationship. Based on information and belief, EMPLOYER required other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose the same or similar information, in violation of Labor Code section 432.3.

Moreover, by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose prior salary information in a written application for employment, EMPLOYER violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose their salary history as a condition of obtaining employment with EMPLOYER, in violation of California law.

## **Unlawful Agreements/ Unlawful Criminal History Inquiries:**

### **Unlawful Agreements**

Labor Code section 432.5 provides that “no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law.” Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers’ ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name,

address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

#### Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

### Unlawful PAGA Waiver

Additionally, EMPLOYER violated Labor Code section 432.5 by requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5<sup>th</sup> 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4<sup>th</sup> 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5<sup>th</sup> 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, EMPLOYER required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

### Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys’ fees, and costs. The civil penalties COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis

for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Zachary Crosner  
Crosner Legal, PC  
9440 Santa Monica Blvd., Ste. 301  
Beverly Hills, CA 90210  
Main: 310.496.5818  
Fax: 310.510.6429  
Email: [zach@crosnerlegal.com](mailto:zach@crosnerlegal.com)

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink that reads "Zachary M. Crosner". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Zachary M. Crosner, Esq.  
CROSNER LEGAL, PC