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8 Attorneys for Plaintiff D C SNYDER
9 on behalf of himself, the State of California, and others similarly
10 situated and aggrieved

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

13 D C SNYDER on behalf of himself, the
14 State of California, and others similarly
situated and aggrieved,

15 Plaintiff,

17 v.

18 ROCKET MORTGAGE, LLC, a Michigan
Limited Liability Company; ROCKET
19 COMPANIES, INC., a Delaware
Corporation; QUICKEN LOANS, INC., a
20 Michigan Corporation, and QUICKEN
LOANS, LLC, a Michigan Limited
21 Liability Company and DOES 1-100,
inclusive,

22
23 Defendants.
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Case No.: 22STCV20293

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

1 Plaintiff, D C SNYDER (“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 ROCKET MORTGAGE, LLC, a Michigan Limited Liability Company;
4 ROCKET COMPANIES, INC., a Delaware Corporation; QUICKEN LOANS, INC., a Michigan
5 Corporation, and QUICKEN LOANS, LLC, a Michigan Limited Liability Company and DOES 1-
6 100, inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
7 believes and thereon alleges as follows:

8 **INTRODUCTION**

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

15 **JURISDICTION AND VENUE**

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

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

24 **THE PARTIES**

25 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
26 California and a citizen of the State of California who worked as a full-time non-exempt employee
27 for DEFENDANTS in the State of California.

28 5. PLAINTIFF was employed by DEFENDANTS from in or around January 2020

1 through in or around April 11, 2022. PLAINTIFF worked remotely from his home in Lancaster,
2 California (in the county of Los Angeles) in various departments, including but not limited to as a
3 non-exempt banker, mortgage and loan officer, account executive, and/or similar title.

4 6. Defendant ROCKET MORTGAGE, LLC is a Michigan limited liability company
5 that, at all relevant times, was authorized to do business within the State of California and is doing
6 business in the State of California. Defendant ROCKET COMPANIES, INC., is a Delaware
7 corporation that, at all relevant times, was authorized to do business within the State of California
8 and is doing business in the State of California. Based on information and belief, defendant
9 QUICKEN LOANS, INC., is a Michigan corporation that, at all relevant times, was authorized to
10 do business within the State of California and is doing business in the State of California. Based on
11 information and belief, defendant QUICKEN LOANS, LLC, is a Michigan limited liability
12 company that, at all relevant times, was authorized to do business within the State of California and
13 is doing business in the State of California. DEFENDANTS own, operate, or otherwise manage
14 companies that provide nation-wide loan services, including but not limited to residential and
15 commercial property loans.

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

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

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 9. 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 10. 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 11. 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 12. 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. For example, in 2020 and 2021, at least some of PLAINTIFF's wage statements were
21 issued by defendant Quicken Loans, Inc., and/or defendant Quicken Loans, LLC. In 2021, "Quicken
22 Loans" changed its name to "Rocket Mortgage"¹. In August 2021, PLAINTIFF received wage
23 statements that were issued by Rocket Mortgage, LLC. Moreover, PLAINTIFF's personnel file
24 includes documents identifying the following entities as PLAINTIFF's employer – Quicken Loans,
25 LLC, Quicken Loans, Inc., and Rocket Mortgage, LLC. PLAINTIFF's personnel file also includes
26 documents with the "Rocket Companies" logo as well as documents providing PLAINTIFF with
27 information related to stock awards available to PLAINTIFF and other employees of Rocket

28 ¹ See <https://www.rocketmortgage.com/about>. Last visited on June 15, 2022.

1 Companies. As such, DEFENDANTS exercised control over various aspects of PLAINTIFF's
2 employment including but not limited to creating and implementing policies to which PLAINTIFF
3 was subjected to and/or controlling the payment of wages and/or compensation for PLAINTIFF and
4 other Aggrieved Employees.

5 13. Upon further information and belief, PLAINTIFF alleges that DEFENDANTS
6 created a uniform set of policies, practices and/or procedures concerning, inter alia, hourly and
7 overtime pay, time-keeping practices, meal and rest periods, reimbursement of business expenses
8 and other working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
9 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
10 PLAINTIFF and Aggrieved Employees in a uniform manner. DEFENDANTS collectively
11 represented to PLAINTIFF and Aggrieved Employees that each was an "at-will" employee of
12 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
13 and Aggrieved Employees' employment with or without cause. Upon information and belief,
14 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
15 writing the details of their compensation, and the manner in which they were to take meal and rest
16 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
17 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
18 collectively would evaluate their wage rates.

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

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

27 16. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
28 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under

1 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
2 services from which they benefited, and furthermore that the aforementioned entities had the right
3 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
4 times herein, so as to be considered the joint employers of PLAINTIFF.

5 17. By reason of their status as joint employers of PLAINTIFF and Aggrieved
6 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
7 Code and applicable Wage Orders as to PLAINTIFF and other Aggrieved Employees.

8 **PAGA ALLEGATIONS**

9 18. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
10 of himself, the State of California and Aggrieved Employees, regarding violations of the California
11 Labor Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include:

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

16 19. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
17 section 2699(c), as he was employed by DEFENDANTS during the applicable statutory limitations
18 period and suffered one or more of the Labor Code violations set forth herein. Accordingly,
19 PLAINTIFF seeks to recover on behalf of himself, the State of California, and all other Aggrieved
20 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
21 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
22 Employees, as he was jointly employed by DEFENDANTS and is thereby affected by one or more
23 of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th
24 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by
25 the employer – regardless of whether Plaintiff experienced all violations personally. *Id.* at 760-761

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

27 20. On April 14, 2022, PLAINTIFF, through his counsel, gave written notice by online
28 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that

1 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
2 in this Complaint (“PAGA Letter”). Attached hereto as **Exhibit 1** is a true and correct copy of the
3 PAGA Letter also sent to DEFENDANTS via certified mail. On May 3, 2022, PLAINTIFF, through
4 his counsel gave written amended notice by online filing with the LWDA (“Amended PAGA
5 Letter”), adding an additional mailing address for one or more of the named DEFENDANTS.
6 Attached hereto as **Exhibit 2** is a true and correct copy of the Amended PAGA Letter also sent to
7 DEFENDANTS via certified mail.

8 21. The PAGA Letter and Amended PAGA Letter outlined PLAINTIFF’s claims for
9 violations of the California Labor Code and the applicable wage orders on behalf of himself, the
10 State of California and other Aggrieved Employees.

11 22. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
12 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
13 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
14 Accordingly, PLAINTIFF has exhausted the administrative remedies as required by Labor Code
15 section 2699.3. Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

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

19 **FACTUAL AND LEGAL ALLEGATIONS**

20 24. During the PAGA Period, PLAINTIFF and the Aggrieved Employees were
21 employed by DEFENDANTS in the State of California as non-exempt employees. DEFENDANTS,
22 at all times, exercised control over PLAINTIFF and each of the Aggrieved Employees, and suffered
23 and/or permitted them to work.

24 25. PLAINTIFF was employed by DEFENDANTS during the relevant period as a full-
25 time, non-exempt employee in several positions including but not limited to as a banker, mortgage
26 and loan officer, account executive and/or similar title. PLAINTIFF was employed by
27 DEFENDANTS from in or around January 2020 through in or around April 11, 2022. PLAINTIFF
28 regularly worked at least eight (8) hours per day, at least five (5) days per week. DEFENDANTS

1 paid PLAINTIFF on an hourly basis. PLAINTIFF also earned non-discretionary remuneration,
2 including but not limited to non-discretionary bonuses and commissions.

3 26. **Meal Period Violations.** PLAINTIFF and Aggrieved Employees consistently
4 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
5 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
6 (30) minute first (and second) meal periods. PLAINTIFF and Aggrieved Employees were
7 consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being
8 forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal
9 periods due to the nature and constraints of their job duties and/or commentary from supervisors
10 pressuring them to take non-compliant meal periods or skip meal periods completely. For example,
11 PLAINTIFF was subject to extreme pressure to meet DEFENDANTS' goals (including but not
12 limited to monthly loan goals) in order to avoid disciplinary action from DEFENDANTS, including
13 but not limited to termination. Due to the pressure to meet DEFENDANT' demands, PLAINTIFF
14 and other Aggrieved Employees did not receive timely, off-duty thirty-minute meal periods. In fact,
15 COMPLAINANT rarely took an off-duty meal period at all. In fact, PLAINTIFF rarely took an off-
16 duty meal period at all. As such, PLAINTIFF and Aggrieved Employees were consistently suffered
17 and permitted to take meal periods past the fifth hour of work and/or had their meal periods
18 interrupted, cut short, and/or on duty due to commentary from supervisors, the nature and constraints
19 of their job duties, and/or the need to meet DEFENDANTS' goals and expectations.

20 27. Based on information and belief, DEFENDANTS implemented policies and/or
21 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
22 DEFENDANTS' control during unpaid meal periods. Based on information and belief,
23 DEFENDANTS had a uniform policy and/or practice of requiring PLAINTIFF and other Aggrieved
24 Employees to always be responsive to work-related calls and/or clients during their shifts, including
25 but not limited to during unpaid meal periods. For example, PLAINTIFF's purported meal periods
26 were consistently interrupted with phone calls from clients and/or potential clients and/or phone
27 calls or messages from coworkers and/or department leads.

28 28. At other times, PLAINTIFF continued working or completing work tasks during

1 purported meal periods. For example, PLAINTIFF often worked through his purported meal
2 period(s), including but not limited to reviewing documents for loan applications, responding to
3 work related calls and messages, attending company meetings, and/or completing other work tasks.

4 29. PLAINTIFF and other Aggrieved Employees often completed off-the-clock work
5 prior to their scheduled shift time which DEFENDANTS failed to take into account when
6 scheduling meal periods for Aggrieved Employees. Based on information and belief, meal periods
7 were late, in part due to unaccounted pre-shift off-the-clock work.

8 30. Moreover, DEFENDANTS either failed to keep accurate records of the start and end
9 times of PLAINTIFF's and Aggrieved Employees' meal periods and/or failed to keep any record at
10 all of purported meal periods. For example, PLAINTIFF rarely clocked out for purported meal
11 periods as he was frequently required to work through his purported meal periods. Further, based
12 on further information and belief, to the extent any meal period was recorded, DEFENDANTS
13 illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and
14 other 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. Based on information and belief,
16 DEFENDANTS implemented a policy and/or practice of rounding the start and end times of
17 Aggrieved Employees' meal periods and/or of automatically deducting at least thirty minutes per
18 shift for missed/unlawful meal periods, despite having actual and/or constructive knowledge that
19 PLAINTIFF and other Aggrieved Employees did not receive compliant meal periods, resulting in
20 the underpayment of minimum and overtime pay (as described below).

21 31. Moreover, per DEFENDANTS' uniform policy and practice, Aggrieved Employees
22 who worked shifts of more than ten hours did not receive a second legally compliant thirty (30)
23 minute second meal period. For example, when PLAINTIFF worked more than ten hours in a shift,
24 PLAINTIFF was not provided with a second meal period.

25 32. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
26 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
27 information and belief, DEFENDANTS did not have a written meal period policy, nor did
28 DEFENDANTS have any sort of compliant policy in practice. Liability for the Aggrieved

1 Employees can be established by evidence that an employer adopted a uniform corporate break
2 policy that failed to give full effect to California law and the applicable Wage Order requirements.
3 The fact that employees may legally waive meal periods does not affect this result. *Brinker, supra*,
4 53 Cal.4th 1004.

5 33. Based on information and belief, DEFENDANTS had actual and/or constructive
6 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods owed
7 to PLAINTIFF and other Aggrieved Employees, in violation of California's meal period laws.

8 34. Based on information and belief, DEFENDANTS had actual and/or constructive
9 knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial
10 of lawful meal periods owed to PLAINTIFF and other Aggrieved Employees, in violation of
11 California's meal period laws.

12 35. Moreover, DEFENDANTS failed to pay PLAINTIFF and other Aggrieved
13 Employees, an additional hour of wages at their respective regular rates of compensation for each
14 workday a proper meal period was not provided. DEFENDANTS either failed to pay a meal period
15 premium at all for each workday a proper meal period was not provided and/or failed to pay the
16 proper meal period premium for failure to incorporate all non-discretionary remuneration, including
17 but not limited to, bonuses, commission/piece-rate pay, shift differential pay and/or other non-
18 discretionary compensation into the regular rate or compensation for purposes of calculating the
19 owed meal period premium.

20 36. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
21 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
22 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
23 middle of the work period, as required by law.

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

28 38. Rest periods were consistently interrupted, cut short, on duty, and/or late due to the

1 nature and constraints of PLAINTIFF's and other Aggrieved Employees' job duties, (including but
2 not limited to their need to attend meetings, respond to customer/client inquiries, review loan
3 documents, and/or complete other work tasks), and/or due to commentary from supervisors/ team
4 leads pressuring PLAINTIFF and other Aggrieved Employees to meet company goals, thereby
5 pressuring them to skip rest periods completely or otherwise take non-compliant rest periods.
6 PLAINTIFF and other Aggrieved Employees did not receive legally compliant first, second, or third
7 rest periods.

8 39. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
10 DEFENDANTS' control during rest periods. As such, PLAINTIFF and other Aggrieved Employees
11 were pressured to complete their work duties according to a designated schedule such that rest
12 periods were only taken once tasks were completed, and/or as time permitted. For example,
13 PLAINTIFF rarely, if ever, took an off duty/uninterrupted ten-minute rest period during his
14 employment by DEFENDANTS due to his need to respond to inquiries from customers, clients,
15 coworkers, and/or complete other necessary work tasks. Moreover, PLAINTIFF constantly received
16 work-related messages and/or phone calls throughout the day, including but not limited to during
17 purported rest periods. As such, PLAINTIFF was not afforded an opportunity to take lawful rest
18 periods. Based on information and belief, DEFENDANTS also failed to provide Aggrieved
19 Employees with lawful rest periods.

20 40. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
21 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
22 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
23 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
24 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
25 shift differential pay, commission/piece-rate pay and/or other non-discretionary compensation into
26 the regular rate of compensation for purposes of calculating the owed rest period premium.

27 41. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
28 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of

1 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
2 Employees for all hours worked by virtue of, including but not limited to, DEFENDANTS'
3 automatic deduction policies and practices for meal periods (described above), failure to relieve
4 employees of all duties and employer control during unpaid meal periods or otherwise unlawful
5 meal period practices, time-rounding policies and practices, payment according to scheduled hours
6 worked instead of actual time worked, and mandated pre-shift/post-shift and/or other mandated off-
7 the-clock work policies and practices.

8 42. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
9 unable to take off duty, thirty-minute, uninterrupted first and second meal periods, often being
10 forced to work through part or all their meal periods due to the nature and constraints of their job
11 duties, and/or commentary from supervisors pressuring them to take non-compliant meal periods or
12 skip meal periods completely in order to meet DEFENDANTS' goals and criteria. Based on
13 information, despite failing to provide lawful meal periods, DEFENDANTS implemented a policy
14 and/or practice of rounding meal period start and end times and/or automatically deducting at least
15 thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that
16 Aggrieved Employees were working through part or all of these purported meal periods, depriving
17 them of all owed minimum and overtime wages.

18 43. DEFENDANTS implemented a policy and practice of paying PLAINTIFF and
19 Aggrieved Employees for scheduled work hours only and not the hours actually worked by
20 PLAINTIFF and other Aggrieved Employees, despite having actual and/or constructive knowledge
21 that PLAINTIFF and other Aggrieved Employees worked before/after and beyond scheduled hours.
22 Moreover, PLAINTIFF and other Aggrieved Employees were required to perform other off-the-
23 clock work for which they were not compensated. For example, prior to beginning a scheduled shift,
24 PLAINTIFF and other Aggrieved Employees were required to start and/or boot all of
25 DEFENDANTS' computer systems, phone systems, and/or software so as to have all systems
26 running at the start of the scheduled shift. As such, PLAINTIFF spent at least 10-15 minutes before
27 each scheduled shift preparing approximately six different work applications in order to clock in
28 and begin his shift. This pre-shift work was off-the-clock and uncompensated resulting in unpaid

1 minimum and overtime wages.

2 44. PLAINTIFF was also pressured to complete at least some of his work tasks off-the-
3 clock in order to meet DEFENDANTS' goals and expectations. For example, PLAINTIFF
4 performed approximately 6 hours of off-the-clock work each month in the form of completing
5 DEFENDANTS' required trainings, completing client case file reviews, and/or completing other
6 work tasks to meet DEFENDANTS' quotas.

7 45. PLAINTIFF was also required to complete off-the-clock work outside of scheduled
8 shift due to work related phone calls and/or messages he received to his personal phone and was
9 required to respond to including but not limited to communications from co-workers and team
10 leads/supervisors, resulting in significant off-the-clock work.

11 46. Based on information and belief, Aggrieved Employees also regularly performed off-
12 the-clock work due to their need to perform pre-shift work, and/or other off-the-clock work,
13 including but not limited to responding to work-related communications, reviewing client files,
14 and/or completing other work tasks while off-the-clock.

15 47. Based on information and belief, DEFENDANTS failed to pay Aggrieved
16 Employees for time they were required to spend completing orientation, policy questionnaires,
17 and/or time spent completing the onboarding process including but not limited to reviewing various
18 documents and policies provided by DEFENDANTS. Based on further information and belief,
19 DEFENDANTS failed to compensate PLAINTIFF and other Aggrieved Employees for time spent
20 completing trainings and/or reviewing policies as required by DEFENDANTS. Based on
21 information and belief, this work time was completed off-the-clock and was not compensated.

22 48. Based on further information and belief, DEFENDANTS implemented a time-
23 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
24 Employees of compensable time because the time-rounding system implemented by
25 DEFENDANTS would almost always, if not always, result in understating actual compensable work
26 time. DEFENDANTS' failure to pay for all time worked by virtue of its time-rounding practices
27 resulted in the underpayment of minimum wages and overtime wages owed to PLAINTIFF and
28 other Aggrieved Employees.

1 49. Based on information and belief, DEFENDANTS had actual or constructive
2 knowledge that its time-rounding and auto-deduction policies and practices and failure to provide
3 off-duty meal periods, payment according to scheduled hours rather than actual hours worked/other
4 off-the-clock work policies and practices described above, resulted in the underpayment of
5 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as the underpayment of
6 overtime wages owed to PLAINTIFF and Aggrieved Employees that worked more than eight (8)
7 hours in a day and/or more than forty (40) hours in a week.

8 50. Based on information and belief, DEFENDANTS also failed to pay PLAINTIFF and
9 other Aggrieved Employees minimum wages for time counted by DEFENDANTS as hours worked.
10 For example, in 2021, the minimum wage rate in California was \$14 per hour for employers with
11 26 or more employees. In 2021, DEFENDANTS had more than 26 employees and was required to
12 pay its employees in California at least \$14 per hour. However, DEFENDANTS failed to pay at
13 least minimum wage for all hours worked. For example, on March 8, 2021- March 21, 2021,
14 PLAINTIFF was paid a base rate of \$12.50 per hour, well below the minimum wage standard in
15 California. As such, DEFENDANTS violated California's minimum and overtime wage laws by
16 paying below the mandated minimum wage rate and consequently below the overtime wage rate.
17 Based on information and belief, at times, DEFENDANTS similarly failed to pay other Aggrieved
18 Employees at least minimum wages for all hours worked.

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

23 52. Based on information and belief, DEFENDANTS failed to incorporate all non-
24 discretionary remuneration, including but not limited to, shift differential pay, bonus pay,
25 commission and/or piece rate pay and/or other non-discretionary pay into the regular rate of pay
26 used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of
27 overtime wages owed to PLAINTIFF and other Aggrieved Employees. For example,
28 DEFENDANTS implemented several commission and bonus incentive programs which

1 PLAINTIFF and other Aggrieved Employees were eligible to earn. Based on information and belief,
2 DEFENDANTS failed to incorporate all non-discretionary remuneration including but not limited
3 to earned commissions and bonuses into the regular rate of pay, resulting in the underpayment of
4 overtime wages owed to PLAINTIFF and Aggrieved Employees.

5 **53. Failure to Provide Written Commission Agreements.** Based on information and
6 belief, DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees who were
7 compensated on a commission basis with proper written commission agreements, in violation of
8 Labor Code section 2751.

9 **54. Violation of Labor Code section 976.** Based on information and belief,
10 DEFENDANTS have a policy and/or practice of offering prospective employees, including
11 Aggrieved Employees, a higher compensation and commission that is misleading as it falsely
12 represents the compensation or commission that will be earned during employment, as the actual
13 compensation or commission earned is lower than that which is offered, in order to induce
14 employment or continued employment. Such a practice or policy is in violation of Labor Code
15 section 976.

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

24 **56.** DEFENDANTS have failed and continue to fail to keep accurate and complete
25 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
26 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
27 employer control during unpaid meal periods, failure to record the true start and end times of meal
28 periods, shift start times and shift end times, and other off-the-clock work policies and practices

1 described herein.

2 **57. Failure to Produce Records.** Based on information and belief, DEFENDANTS
3 failed and continue to fail to produce or make available a current or former employee's personnel
4 records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432,
5 and/or the applicable Wage Order. For example, PLAINTIFF sent a request for payroll and
6 personnel records to DEFENDANTS. Yet, DEFENDANTS failed to produce complete records or
7 failed to produce any records at all within the time periods delineated by California labor law. Based
8 on information and belief, DEFENDANTS failed and continues to fail to timely produce complete
9 payroll and personnel records when requested by other Aggrieved Employees, resulting in violations
10 of Labor Code sections 226(b)-(c), 1198.5, and 432 and the applicable Wage Order.

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

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

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

24 **61. Statutory Wage Violations.** As described above, DEFENDANTS willfully and
25 systematically denied PLAINTIFF and other Aggrieved Employees minimum and overtime wages
26 for all hours worked which resulted in the payment of less than the statutorily required wages owed
27 to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but
28 not limited to, overtime wages and minimum wages, to which they were entitled to under California

1 law. Thus, DEFENDANTS violated Labor Code section 223 by paying PLAINTIFF and other
2 Aggrieved Employees lower wages than those they were entitled to while purporting that
3 PLAINTIFF and other Aggrieved Employees were properly paid.

4 **62. Unlawful Deductions.** Labor Code section 221 prohibits an employer from
5 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
6 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
7 from Aggrieved Employees paychecks during the relevant period, including but not limited to
8 deducting licensing fees or other costs advanced by DEFENDANTS from Aggrieved Employees’
9 final paychecks. Such a practice is in violation of including but not limited to, Labor Code Sections
10 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

11 **63. Unreimbursed Business Expenses.** DEFENDANTS required PLAINTIFF and
12 Aggrieved Employees to incur business expenses as a direct consequence of the performance of
13 their job duties without providing reimbursement, in violation of Labor Code section 2802. Based
14 on information and belief, PLAINTIFF and Aggrieved Employees were improperly required to
15 provide and maintain work tools that are supposed to be the responsibility of the employer.

16 **64.** Based on information and belief, DEFENDANTS shifted the costs of doing business
17 onto PLAINTIFF and other Aggrieved Employees by requiring them to pay for business expenses,
18 including but not limited to, use of PLAINTIFF’s and other Aggrieved Employees’ personal mobile
19 phone and data usage. For example, although DEFENDANTS provided PLAINTIFF with a work
20 phone/phone system, PLAINTIFF constantly received work-related phone calls and messages to his
21 personal phone from coworkers, team leads, and/or supervisors. PLAINTIFF was not reimbursed
22 for the cost of using his personal phone for work-related purposes. Based on information and belief,
23 other Aggrieved Employees were not reimbursed for the cost of using their personal phone for work
24 related purposes.

25 **65.** Based on further information and belief, PLAINTIFF and other Aggrieved
26 Employees were not sufficiently reimbursed for costs associated with using home internet services
27 for work related purposes.

28 **66.** DEFENDANTS did not offer or provide reimbursement for these business-related

1 expenses. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement for
2 all reasonable expenses associated with carrying out their duties required that Aggrieved
3 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
4 2802.

5 **67. Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
6 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
7 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
8 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
9 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
10 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
11 applicable hourly rates in effect during the pay period and the corresponding number of hours
12 worked at each hourly rate by the employee.

13 **68.** DEFENDANTS' wage statements that it provided to PLAINTIFF and all Aggrieved
14 Employees also failed to indicate the earned gross and net wages earned during the pay period, the
15 correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
16 Aggrieved Employees (by virtue of the automatic deduction for meal periods/failure to relieve
17 Aggrieved Employees of all duties and employer control during unpaid meal periods, payment
18 according to scheduled hours worked rather than actual hours worked, mandated pre-shift and/or
19 post-shift off-the-clock work and other off-the-clock work policies and practices, all described in
20 greater detail *supra*), which results in a violation of Labor Code section 226(a).

21 **69.** As described herein, DEFENDANTS also failed to incorporate all forms of non-
22 discretionary compensation earned during the pay period into the overtime pay rate calculation, and
23 as such, failed to display the proper overtime rate(s) for each hour of overtime worked by
24 PLAINTIFF and other Aggrieved Employees.

25 **70.** Moreover, based on information and belief, DEFENDANTS have incorrectly and
26 illegally displayed the overtime wages on Aggrieved Employees' wage statements because the
27 overtime is broken up in such a way that it does not permit PLAINTIFF and other Aggrieved
28 Employees the legally required notice as to what they are being paid and an opportunity to figure

1 out what may still be owed to them. As a result, PLAINTIFF and other Aggrieved Employees are
2 required to perform extensive calculations to determine what their pay rates were for each
3 corresponding hour worked. See, e.g., *McKenzie v. Fedex*, 765 F. Supp. 2d 1222 (C.D. Cal. 2011).

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

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

10 73. **Sick Leave.** Throughout the relevant time period, DEFENDANTS either failed to
11 provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate
12 of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the accrued sick
13 leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction
14 policies and practices for meal periods and shift start and end times/other required off-the-clock
15 work described herein) and by failing to incorporate multiple rates of pay and/or all non-
16 discretionary remuneration, including but not limited to, non-discretionary bonuses, shift
17 differential pay, commission and/or piece rate compensation and/or other non-discretionary
18 compensation into the sick leave pay rate calculation.

19 74. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
20 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
21 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
22 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
23 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
24 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
25 used sick leave and the balance of paid sick leave.

26 75. Throughout the relevant time period, DEFENDANTS failed to provide notice of the
27 balance of sick leave pay left for PLAINTIFF and all Aggrieved Employees, thus affecting their
28 intelligent exercise of their paid sick leave. But for this failure, PLAINTIFF and all Aggrieved

1 Employees would have used their paid sick leave at least prior to their respective separations, for as
2 on several occasions thereafter, he or she would have been entitled to use the banked sick leave and
3 earn appropriate compensation.

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

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

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

18 79. Upon separation of employment, Aggrieved Employees' final paychecks were not
19 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
20 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
21 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
22 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
23 accrued rates.

24 80. These violations subject DEFENDANTS to civil penalties under Labor Code section
25 203, 210, and/or 256.

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

27 Unlawful Financial and Criminal Background Checks

28 81. Based on information and belief, DEFENDANTS required PLAINTIFF and

1 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
2 limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
3 employment in violation of Labor Code section 432.5.

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

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

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

24 85. By requiring PLAINTIFF and other Aggrieved Employees to agree in writing to
25 unlawful criminal and/or financial checks not in conformance with the applicable laws,
26 DEFENDANTS violated Labor Code section 432.5.

27 86. Based on further information and belief, DEFENDANTS also required Aggrieved
28 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct

1 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
2 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
3 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

4 87. Based on further information and belief, DEFENDANTS knew that requiring
5 PLAINTIFF and other Aggrieved Employees to agree to unlawful criminal and/or financial
6 background checks as a condition of obtaining and/or holding employment was unlawful.

7 88. By requiring PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
8 provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

9 Unlawful Inquires into Criminal History

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

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

19 91. As such, Aggrieved Employees continue to be subject to various unlawful provisions
20 as a condition of employment.

21 92. Each violation of each Labor Code section and Wage Order provision results in a
22 separate civil penalty for PLAINTIFF and each Aggrieved Employee.

23 **FIRST CAUSE OF ACTION**

24 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**

25 **2698, *ET SEQ.***

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

28 93. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

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

9 99. Personnel Records. In addition to their right to time and pay records, employees, and
10 their representatives, have the right to inspect and receive a copy of their personnel files pursuant
11 to Labor Code section 1198.5. This statute applies to both former and current employees. Labor
12 Code section 432 further specifies that employers must furnish copies of all employment records
13 bearing the employee’s signature. Labor Code section 1198.5 also requires that the file be made
14 available for inspection or receipt within a “reasonable” amount of time, but “not later than 30
15 calendar days from the date the employer receives a written request.” An employer’s failure to
16 comply within this timeframe likewise entitles a current or former employee to recover a seven
17 hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

18 100. Based on information and belief, DEFENDANTS fail to timely produce or make
19 available Aggrieved Employees’ personnel records and/or payroll records when requested pursuant
20 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations
21 subject DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

22 Meal Period Violations

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

28 102. Employers must also provide employees with a second duty-free, uninterrupted thirty

1 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
2 be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only
3 under the following circumstances: (1) if an employee's total work period in a day is over five (5)
4 hours but no more than six (6) hours, the required meal period may be waived by mutual consent
5 of the employer and employee; and (2) if an employee's total work period in a day is over ten (10)
6 hours but no more than twelve (12) hours, the required second meal period may be waived by
7 mutual consent of the employer and employee, but only if the first meal period was not waived.
8 *Ibid.*

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

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

24 105. DEFENDANTS have a consistent policy and/or practice of not providing lawful
25 meal periods to PLAINTIFF and all Aggrieved Employees and/or providing compensation in lieu
26 thereof. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
27 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
28 being forced to take late meal periods, interrupted meal periods and/or work through part or all of

1 their meal periods due to the nature and constraints of their job duties, and/or commentary from
2 DEFENDANTS pressuring them to take non-compliant meal periods or skip meal periods
3 completely.

4 106. Based on information and belief, DEFENDANTS had and continue to have a
5 continuous policy of rounding the start and end times of employees' meal periods and/or
6 automatically deducting thirty minutes per shift despite having actual and/or constructive
7 knowledge that PLAINTIFF and Aggrieved Employees did not receive compliant meal periods.

8 107. Moreover, Aggrieved Employees did not receive a timely, uninterrupted second meal
9 period when working shifts over ten (10) hours in a workday.

10 108. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
11 periods in violation of California law or failed to pay the proper meal period premium for failure to
12 incorporate all non-discretionary remuneration including but not limited to bonuses,
13 commission/piece-rate pay, shift differential pay and/or other non-discretionary compensation into
14 the regular rate or compensation for purposes of calculating the owed meal period premium.

15 109. These unlawful meal period policies and practices result in violations of Labor Code
16 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
17 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
18 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
19 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

20 **Rest Period Violations**

21 110. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
22 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
23 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
24 "insofar as practicable." In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
25 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
26 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up
27 to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.*
28 at 1029). The rest period requirement obligates employers to permit and authorize employees to

1 take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish
2 control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5
3 Cal.5th 257. If the employer fails to provide any required rest period, the employer must pay the
4 employee one hour of pay at the employee's regular rate of compensation for each workday the
5 employer did not provide at least one legally required rest period, pursuant to Labor Code section
6 226.7, and applicable IWC Wage Order, §12(B).

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

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

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

22 **Minimum and Overtime Wage Violations**

23 114. California law provides that employees in California must be paid for all hours
24 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
25 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
26 The minimum wage standard applies to each hour employees worked for which they were not paid.
27 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
28 even if averaging an employee's total pay over all hours worked, paid or not, results in an average

1 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

2 115. California law also provides that employees in California must be paid overtime,
3 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
4 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
5 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
6 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
7 consecutive day of work in a work week. *Ibid.*

8 116. As alleged herein, PLAINTIFF and Aggrieved Employees regularly worked
9 minimum and overtime hours for which they were not compensated as required by California law.
10 DEFENDANTS failed to compensate PLAINTIFF and other Aggrieved Employees for all hours
11 worked by virtue of DEFENDANTS' automatic deduction and time rounding policies and practices
12 for meal periods, payment of less than minimum wage for time counted by DEFENDANTS as
13 hours worked (as described above), payment according to scheduled hours worked rather than
14 actual time worked/mandated pre-shift and post-shift off-the clock work (described above) as well
15 as other off-the-clock/unpaid work completed during meal periods (described above), and other
16 off-the-clock work described herein resulted in the failure to account for all hours worked and thus
17 the denial of minimum wages as well as overtime wages owed to PLAINTIFF and Aggrieved
18 Employees who worked more than eight (8) hours in a day or more than forty hours in a week.

19 117. DEFENDANTS had and continue to have a continuous policy of failing to pay
20 PLAINTIFF and Aggrieved Employees for all hours worked.

21 118. Based on information and belief, DEFENDANTS had and continue to have a
22 continuous policy of rounding PLAINTIFF's and Aggrieved Employees' time punches, including
23 the start and end of shift times, and meal period time punches and/or automatically deducting thirty
24 minutes per shift for meal periods that were not actually afforded, resulting in unpaid minimum and
25 overtime wages.

26 119. Based on information and belief, DEFENDANTS had and continue to have a
27 continuous policy of paying PLAINTIFF and Aggrieved Employees for scheduled hours, rather than
28 actual hours worked.

1 120. Based on information and belief, DEFENDANTS had and continue to have a
2 continuous policy of requiring PLAINTIFF and Aggrieved Employees to perform work prior to
3 clocking in for their shifts and/or after clocking out for their shifts and/or outside of their scheduled
4 shift times and during uncompensated meal periods, resulting in unpaid minimum and overtime
5 wages.

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

12 122. Moreover, at times, DEFENDANTS paid PLAINTIFF and other Aggrieved
13 Employees a base hourly rate that fell below California's minimum wage rate, thereby resulting in
14 the underpayment of minimum wages and overtime wages.

15 123. DEFENDANTS' unlawful policies and practices resulted in unpaid minimum wages,
16 and unpaid overtime wages owed to PLAINTIFF and those Aggrieved Employees that worked
17 more than eight (8) hours in a day or more than forty hours (40) in a week, as well as unpaid double
18 time wages.

19 124. Moreover, based in information and belief, DEFENDANTS failed to pay proper
20 overtime rates to PLAINTIFF and Aggrieved Employees due to DEFENDANTS' failure to
21 incorporate all non-discretionary remuneration, including but not limited to, shift differential pay,
22 bonus pay, commission and/or piece rate pay and/or other non-discretionary pay into the regular
23 rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and
24 underpayment of overtime wages owed to PLAINTIFF and Aggrieved Employees.

25 125. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
26 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
27 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable
28 IWC Wage Orders, section 20.

1 **Failure to Provide Written Commission Agreements**

2 126. Labor Code section 2751 requires that all that all commission contracts "be in writing
3 and . . . set forth the method by which the commissions shall be computed and paid." Cal. Lab.
4 Code section 2751(a) (2012). Under the statute, employers must also "give a signed copy of the
5 contract to every employee who is a party [to the contract] and . . . obtain a signed receipt for the
6 contract from each employee." *Id.* section 2751(b).

7 127. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
8 other Aggrieved Employees who were compensated on a commission basis with proper written
9 commission agreements, in violation of Labor Code section 2751.

10 **Violation of Labor Code section 976**

11 128. Labor Code section 976 provides that "No person shall publish or cause to be
12 published any advertisement, solicitation or communication in any newspaper, poster, or letter,
13 offering employment as a salesman, broker or agent whether as an employee or independent
14 contractor, which advertisement, solicitation or communication (a) is willfully designed to mislead
15 any person as to compensation or commissions which may be earned; or (b) falsely represents the
16 compensation or commissions which may be earned."

17 129. Based on information and belief, DEFENDANTS have a policy and/or practice of
18 offering prospective employees, including Aggrieved Employees, a higher compensation and
19 commission that is misleading as it falsely represents the compensation or commission that will be
20 earned during employment, as the actual compensation or commission earned is lower than that
21 which is offered, in order to induce employment or continued employment. Such a practice or
22 policy is in violation of Labor Code section 976.

23 130. **Unlawful Deductions:** Labor Code section 221 prohibits an employer from
24 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
25 to said employee." Based on information and belief DEFENDANTS made unlawful deductions
26 from Aggrieved Employees paychecks during the relevant period, including but not limited to
27 deducting licensing fees or other costs advanced by DEFENDANTS from AGGRIEVED
28 EMPLOYEES' final paychecks. Such a practice is in violation of including but not limited to,

1 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
2 Section 2699.

3 131. Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for
4 each pay period during which the statute provisions were violated.[1] [1] See Lab. Code §225.5
5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
6 provided in this article, every person who unlawfully withholds wages due any employee in
7 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
8 to pay each employee”).

9 **Statutory Wage Violations**

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

21 **Refusal to Make Payment**

22 133. Labor Code section 216 declares unlawful an employer’s refusal to pay wages due
23 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
24 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
25 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
26 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
27 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
28 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for

1 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

2 **Business Expense Violations**

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

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

18 136. As described above, PLAINTIFF and the Aggrieved Employees were improperly
19 required to pay for business expenses that are legally the responsibility of the employer, including
20 but not limited to costs associated with using a personal cell phone/data plan usage and charges
21 incurred as a result of being required to use a personal cell phone/other mobile communication
22 device for work related purposes, and costs associated with using home internet services for work
23 related purposes.

24 137. DEFENDANTS’ failure to provide PLAINTIFF and Aggrieved Employees with full
25 reimbursement for all reasonable expenses associated with carrying out their duties required that

26 _____
27 ³ 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 PLAINTIFF and Aggrieved Employees subsidize and/or carry the burden of business expenses in
2 violation of Labor Code section 2802.

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

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

10 **Wage Statement Violations**

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

21 141. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved Employees with
22 meal and rest periods that complied with Labor Code section 226.7, the wage statements
23 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
24 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
25 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
26 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
27 during the pay period and the corresponding number of hours worked at each hourly rate by the
28 employee, in violation of Labor Code section 226(a)(9).

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

11 143. Moreover, wage statements issued by DEFENDANTS failed to indicate the earned
12 gross and net wages earned during the pay period, the correct applicable rates of pay for all hours
13 worked, and the "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of the
14 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
15 employer control during unpaid meal periods, payment according to scheduled hours worked rather
16 than actual hours worked, mandated pre-shift and/or post-shift off-the-clock work and other off-the-
17 clock work policies and practices, all described in greater detail *supra*), which results in a violation
18 of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an
19 inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22
20 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. Moreover, based on information and belief, DEFENDANTS incorrectly and illegally
28 displayed the overtime wages on wage statements because the overtime is broken up in such a way

1 that it is does not permit PLAINTIFF and other Aggrieved Employees the legally required notice as
2 to what they are being paid and an opportunity to figure out what may be still owed to them. As a
3 result, PLAINTIFF and other Aggrieved Employees are required to perform extensive calculations
4 to determine what their pay rates were for each corresponding hour worked. See, e.g., *McKenzie v.*
5 *Fedex*, 765 F. Supp. 2d 1222 (C.D. Cal. 2011).

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

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

12 149. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
13 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
14 during which the statute provisions were violated. ⁴

15 **Standard Conditions of Labor Violations**

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

23 **Sick Leave Violations**

24 151. DEFENDANTS violated California's paid sick leave laws including, Labor Code
25 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
26 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
27 DEFENDANTS' failure to account for actual hours worked (as a result of the rounding/automatic

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

1 deduction policies and practices for meal periods and shift start and end times/other required off-
2 the-clock work described herein), and/or failure to incorporate multiple rates of pay and/or all forms
3 of non-discretionary remuneration including but not limited to, non-discretionary bonuses, shift
4 differential pay, commission and/or piece-rate compensation and/or other non-discretionary
5 compensation into the sick leave pay rate calculation.

6 152. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
7 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
8 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of
9 used sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF
10 and Aggrieved Employees’ intelligent exercise of their paid sick leave.

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

15 154. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
16 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
17 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
18 were entitled to the maximum number of hours accruable.

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

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

25 157. On information and belief, PLAINTIFF alleges that all of these practices were
26 experienced and continue to be experienced by other Aggrieved Employees.

27 158. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
28 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and

1 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

2 **Untimely Payment of Final Wages**

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

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

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

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

26 163. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
27 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
28 256.

1 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

2 164. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
3 require any employee or applicant for employment to agree, in writing, to any term or condition
4 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
5 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to submit to
6 unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
7 employment.

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

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

24 167. DEFENDANTS also required PLAINTIFF and other Aggrieved Employees to
25 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
26 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

27 168. Based on further information and belief, DEFENDANTS also required Aggrieved
28 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct

1 background checks throughout the duration of employment, in violation of the ICRAA and/or
2 FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5,
3 by requiring applicants and employees to agree to an unlawful provision as a condition of
4 employment.

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

8 170. By requiring that PLAINTIFF and other Aggrieved Employees sign off on the illegal
9 background and/or financial checks, DEFENDANTS violated Labor Code section 432.5.

10 Unlawful Inquires into Criminal History

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

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

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

25 174. As such, PLAINTIFF and other Aggrieved Employees continue to be subject to
26 various unlawful provisions as a condition of employment.

27 175. Under the provisions of PAGA and the above mentioned Labor Code sections,
28 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,

1 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 976, 1174, 1174.5, 1194, 1197, 1197.1,
2 1198, 1198.3, 1198.5, 1199, 2699, 2699.3, 2751, 2802, 2810.5 and all applicable Wage Orders as
3 well as all interpretations of these laws by California Courts and administrative bodies, as well as
4 any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
5 penalties:

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

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

17 **PRAYER FOR RELIEF**

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

- 20 1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and
21 25% payable to Aggrieved Employees);
- 22 2. For an order temporarily, preliminarily and permanently enjoining and restraining
23 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- 24 3. For reasonable attorney's fees and costs of suit; and
- 25 4. For such other and further relief that the Court deems just and proper.

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Dated: June 21, 2022

CROSNER LEGAL, PC

By: 

Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Blake R. Jones, Esq.
Chad Saunders, Esq.
Attorneys for Plaintiff,
D C SNYDER

EXHIBIT 1



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office: (310) 496-5818
fax: (310) 510-6429

April 14, 2022

VIA ONLINE FILING ONLY:

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

VIA U.S. CERTIFIED MAIL:

CT Corporation System
Agent for Service of Process for:
Rocket Mortgage, LLC
330 N. Brand Blvd. Ste 700
Glendale CA, 91203

Quicken Loans, LLC

Attn: Human Resources/ Legal Department
1050 Woodward Ave.,
Detroit, MI 48226

Rocket Mortgage, LLC

Attn: Human Resources/ Legal Department
1050 Woodward Ave.
Detroit, MI 48226

Quicken Loans, Inc.

Attn: Human Resources/ Legal Department
1050 Woodward Ave.
Detroit, MI 48226

CT Corporation System

Agent for Service of Process for:

Rocket Companies, Inc.

330 N Brand Blvd., Ste 700
Glendale, CA 91203

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Rocket Mortgage, LLC,
Quicken Loans, Inc., Quicken Loans, LLC; and Rocket Companies, Inc
Date: April 14, 2022
Subject: *D C Snyder v. Rocket Mortgage, LLC et. al.*

Introduction

This office represents COMPLAINANT, D C Snyder (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: Rocket Mortgage, LLC; Quicken Loans, Inc.; Quicken Loans, LLC; and Rocket Companies, Inc., (hereinafter, these entities and its 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 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 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 as provided to the California Secretary of State and/or the address listed on COMPLAINANT’s wage statement as EMPLOYER’s address.

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, 432.5, 432.7, 510, 512, 558, 558.1, 976, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.3, 1199, 2751, 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 other 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 and its managing agents own, manage, or otherwise operate as mortgage lenders that have helped millions of individuals achieve homeownership¹. Among other loan services, EMPLOYER provides residential and commercial property loans. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT was employed by EMPLOYER as a non-exempt employee from in or around January 2020 through in or around April 11, 2022. COMPLAINANT went on leave in or around late April 2021 and continued to receive wage statements from EMPLOYER after going on leave. COMPLAINANT's employment by EMPLOYER ended sometime in or around April 11, 2022. COMPLAINANT worked for EMPLOYER during the relevant time period in various departments including but not limited to as a non-exempt banker, mortgage and loan officer, account executive, and/or similar title. COMPLAINANT worked for EMPLOYER from COMPLAINANT's home in Lancaster, California. COMPLAINANT regularly worked at least eight hours per day, at least (5) days per week. EMPLOYER paid COMPLAINANT an hourly rate for time counted by

¹ See <https://www.rocketmortgage.com/about>. Last visited on April 12, 2022.

EMPLOYER as hours worked. COMPLAINANT was also compensated with non-discretionary remuneration, including but not limited to non-discretionary bonuses and commissions.

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; and (14) 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.

At all relevant times, 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 other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

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 other mandated off-the-clock work policies and practices, described herein.

EMPLOYER further 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.

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.

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.²

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

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

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 produce complete records or failed to produce any records at all 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 other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

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.4th 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 10th 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.4th 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.4th 1004.

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

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. COMPLAINANT and 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 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, COMPLAINANT was subject to extreme pressure to meet goals in order to avoid disciplinary action from EMPLOYER, including but not limited to termination. Due to the pressure to meet EMPLOYER's demands, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive timely, off-duty thirty-minute meal periods. In fact, COMPLAINANT rarely took an off-duty meal period at all. As such, COMPLAINANT and 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, and/or on duty due to commentary from supervisors, 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 COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal breaks. Based on information and belief, EMPLOYER had a uniform policy and/or practice of requiring COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES to always be responsive to work-related calls and/or clients during their shifts, including but not limited to during unpaid meal breaks. For example, COMPLAINANT's purported meal periods were consistently interrupted with phone calls from clients and/or potential clients and/or phone calls or messages from coworkers and/or department leads.

At other times, COMPLAINANT continued working or completing work tasks during purported meal breaks. For example, COMPLAINANT often worked through his meal period, including but not limited to reviewing documents for loan applications, responding to work related calls and messages, attending company meetings, and/or completing other work tasks.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES often completed 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 owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER either failed to keep accurate records of the start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or failed to keep any record at all of purported meal periods. For example, COMPLAINANT rarely clocked out for purported meal periods as he was frequently required to work through his purported meal periods. Further, based on further information and belief, to the extent any meal period was recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other 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 implemented a policy and/or practice of rounding the start and end times of NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or of automatically deducting at least thirty minutes per shift for missed/unlawful meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive compliant meal periods.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other 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 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 other 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.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a proper meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a proper 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, commission/piece-rate pay, 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.³ EMPLOYER's failure to provide valid meal periods, 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.

³ 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>In 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").

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.4th 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 other 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 other 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.

Rest periods were consistently interrupted, cut short, on duty, and/or late due to the nature and constraints of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' job duties, including but not limited to their need to attend meetings, respond to customer/client inquiries, review loan documents, and/or complete other work tasks and/or due to commentary from supervisors/ team leads pressuring COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES to meet company goals, thereby pressuring them to skip rest breaks completely or otherwise take non-compliant rest breaks. COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive legally compliant first, second, or third rest periods.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest breaks. As such, COMPLAINANT and other 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. For example, COMPLAINANT rarely, if ever, took an off duty/uninterrupted ten-minute rest period during his employment by EMPLOYER due to his need to respond to

inquiries from customers, clients, coworkers, and/or complete other necessary work tasks. Moreover, COMPLAINANT constantly received work-related messages and/or phone calls throughout the day, including but not limited to during purported rest periods.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed/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 other 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 proper 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, commission/piece-rate 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.⁴

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.

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.

⁴ 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”).

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER's automatic deduction and time rounding policies, payment according to scheduled hours worked instead of actual time worked, mandated pre-shift/post-shift/ and/or other off-the clock work policies and/or practices and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods.

As explained above, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take off duty, thirty-minute, uninterrupted first and second meal periods, often being forced to work through part or all their meal periods due to the nature and constraints of their job duties, and/or commentary from supervisors pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to take non-compliant meal periods or skip meal periods completely in order to meet EMPLOYER's goals and criteria.

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 NON-EXEMPT AGGRIEVED EMPLOYEES were working through part or all of these purported meal periods, depriving NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Moreover, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform other off-the-clock work for which they were not compensated. For example, prior to beginning a scheduled shift, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to start and/or boot all of EMPLOYER's computer systems, phone systems, and/or software so as to have all systems running at the start of the scheduled shift. As such, COMPLAINANT spent at least 10-15 minutes before each scheduled shift preparing approximately six different work applications in order to clock in and begin his shift. This pre-shift work was off-the-clock and uncompensated resulting in unpaid minimum and overtime wages.

COMPLAINANT was also pressured to complete at least some of his work tasks off-the-clock in order to meet EMPLOYER's goals and expectations. For example, COMPLAINANT performed approximately 6 hours of off-the-clock work each month in the form of completing EMPLOYER required trainings, completing client case file reviews, and/or completing other work tasks to meet EMPLOYER's quotas.

COMPLAINANT was also required to complete off-the-clock work outside of scheduled shift due to work related phone calls and/or messages he received to his personal phone and was required to respond to including but not limited to communications from co-workers and team leads/supervisors, resulting in significant off-the-clock work.

Based on information and belief, EMPLOYER's NON-EXEMPT AGGRIEVED EMPLOYEES also regularly performed off-the-clock work due to their need to perform pre-shift work, respond

to work-related communications, review client files, and/or complete other work tasks while off-the-clock.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices, failure to provide off-duty 30-minute meal periods, and mandated 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 forty hours in a week.

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 further information and belief, EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for time spent completing trainings and/or reviewing policies as required by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on information and belief, EMPLOYER also failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES minimum wages for time counted by EMPLOYER as hours worked. For example, in 2021, the minimum wage rate in California was \$14 per hour for employers with 26 or more employees. In 2021, EMPLOYER had more than 26 employees and was required to pay its employees in California at least \$14 per hour. However, EMPLOYER failed to pay at least minimum wage for all hours worked. For example, on March 8, 2021- March 21, 2021, COMPLAINANT was paid a base rate of \$12.50 per hour, well below the minimum wage standard in California. As such, EMPLOYER violated California's minimum and overtime wage laws by failing to pay below the mandated minimum wage rate and consequently below the overtime wage rate. Based on information and belief, EMPLOYER failed to pay other NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other 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.

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 off-duty meal periods and other mandated off-the-clock work described above resulted in the underpayment

of minimum wages owed to COMPLAINANT and other 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.⁵

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.*

EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record at all, the total number of hours worked by COMPLAINANT and other 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 of less than minimum wage for time counted by EMPLOYER as hours worked (as described above), payment according to scheduled hours worked rather than actual time worked/mandated pre-shift and post-shift off-the clock work (described above) as well as other off-the-clock/unpaid work completed during meal periods (described above), and other off-the-clock work described herein resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty hours in a week.

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

Based on information and belief, EMPLOYER failed 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.

⁵ 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").

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, commission and/or piece rate pay and/or other non-discretionary pay into the regular pay rate(s) of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. For example, EMPLOYER implemented several commission and bonus incentive programs which COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were eligible to earn. Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration including but not limited to earned commissions and bonuses into the regular rate of pay.

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.⁶

Failure to Provide Written Commission Agreements: Labor Code section 2751 requires that all commission contracts "be in writing and . . . set forth the method by which the commissions shall be computed and paid." Cal. Lab. Code section 2751(a) (2012). Under the statute, employers must also "give a signed copy of the contract to every employee who is a party [to the contract] and . . . obtain a signed receipt for the contract from each employee." *Id.* section 2751(b).

Based on information and belief, EMPLOYER failed to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES who were compensated on a commission basis with proper written commission agreements, in violation of Labor Code section 2751.

Violation of Labor Code section 976: Labor Code section 976 provides that "No person shall publish or cause to be published any advertisement, solicitation or communication in any newspaper, poster, or letter, offering employment as a salesman, broker or agent whether as an employee or independent contractor, which advertisement, solicitation or communication (a) is willfully designed to mislead any person as to compensation or commissions which may be earned; or (b) falsely represents the compensation or commissions which may be earned."

⁶ 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").

Based on information and belief, EMPLOYER has a policy and/or practice of offering prospective employees, including NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, a higher compensation and commission that is misleading as it falsely represents the compensation or commission that will be earned during employment, as the actual compensation or commission earned is lower than that which is offered to induce employment or continued employment. Such a practice or policy is in violation of Labor Code section 976.

Unlawful Deductions: Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee.” Based on information and belief EMPLOYER made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period, including but not limited to deducting licensing fees or other costs advanced by EMPLOYER from NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects EMPLOYER to civil penalties under Labor Code Section 2699.

Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.[1] [1] See Lab. 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 Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other 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 COMPLAINANT and other 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 shift start and end times/other required off-the-clock work described herein) 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 other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

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.

Throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave.

But for this failure, COMPLAINANT and other 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 all 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 all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all 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 all 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 other 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.

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 all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all 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.⁷

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 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 all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during

⁷ 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).

the pay period, the correct applicable rates of pay for all hours worked, and the “total hours worked” by the COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of the 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, mandated pre-shift and/or post-shift off-the-clock work and other off-the-clock work policies and practices, all described in greater detail *supra*), 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).

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 all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, 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 other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER has incorrectly and illegally displayed the overtime wages on NON-EXEMPT AGGRIEVED EMPLOYEES’ wage statements because the overtime is broken up in such a way that it does not permit COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES the legally required notice as to what they are being paid and an opportunity to figure out what may be still owed to them. As a result, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are required to perform extensive calculations to determine what their pay rates were for each corresponding hour worked. See, e.g., *McKenzie v. Fedex*, 765 F. Supp. 2d 1222 (C.D. Cal. 2011).

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. For example, some of the wage statements EMPLOYER issued to COMPLAINANT name “Quicken Loans, LLC” as the employer, while other wage statements name “Quicken Loans Inc.,” as the employer and other wage statements list “Rocket Mortgage, LLC” as the employer. Moreover, documents in COMPLAINANT’s personnel file indicate the following entities as COMPLAINANT’s employer:

“Quicken Loans, LLC”, “Quicken Loans, Inc.”, “Rocket Mortgage, LLC” and/or “Rocket Companies”.

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.⁸

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 other 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.

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, 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 other NON-EXEMPT AGGRIEVED EMPLOYEES minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages 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.

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

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all 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, and 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.⁹

⁹ (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").

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.

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.

At all relevant times hereto, EMPLOYER shifted its costs of doing business onto COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, use of COMPLAINANT’s and other NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ personal mobile phone and data usage. For example, although EMPLOYER provided COMPLAINANT with a work phone/phone system, COMPLAINANT constantly received work-related phone calls and messages to his personal phone from coworkers, team leads, and/or supervisors. COMPLAINANT was not reimbursed for the cost of using his personal phone for work-related purposes. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes.

EMPLOYER failed and continues to fail to reimburse COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for the use of a personal cell phone.

COMPLAINANT and other 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, including but not limited to, cell phone/data plan charges incurred as a result of being required to use their personal cell phones/other mobile communication devices for work related purposes.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses, including but not limited to costs associated with using a personal cell phone. Based on further information and belief, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not sufficiently reimbursed for costs associated with using home internet services for work related purposes. Pursuant to California Labor Code section 2802, COMPLAINANT and 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 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.

EMPLOYER also required COMPLAINANT and all 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.

EMPLOYER required COMPLAINANT and other 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 COMPLAINANT and 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 further 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 COMPLAINANT, 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 COMPLAINANT, 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 COMPLAINANT, 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 COMPLAINANT and 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 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 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.

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 other 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 requirement created by Labor Code §§ 2699, 2699.3(a), 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 all 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

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

EXHIBIT 2



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

May 3, 2022

VIA ONLINE FILING ONLY:

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

VIA U.S. CERTIFIED MAIL:

CT Corporation System
Agent for Service of Process for:
Rocket Mortgage, LLC
330 N. Brand Blvd. Ste 700
Glendale CA, 91203

Rocket Mortgage, LLC
Attn: Human Resources/ Legal Department
1050 Woodward.,
Detroit, MI 48226

CT Corporation System
Agent for Service of Process for:
Rocket Companies, Inc.
330 N Brand Blvd., Ste 700
Glendale, CA 91203

Quicken Loans, LLC
Attn: Human Resources/ Legal Department
1050 Woodward Ave.,
Detroit, MI 48226

The Corporation Company
Resident Agent for:
Quicken Loans, LLC
40600 Ann Arbor Road E Ste. 201
Plymouth, MI 48170

Quicken Loans, Inc.
Attn: Human Resources/ Legal Department
1050 Woodward Ave.,
Detroit, MI 48226

The Corporation Company
Resident Agent for:
Quicken Loans, Inc.
40600 Ann Arbor Rd E Ste. 201
Plymouth, MI 48170

AMENDED NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Rocket Mortgage, LLC,
Quicken Loans, Inc., Quicken Loans, LLC; and Rocket Companies, Inc.
Date: May 3, 2022
Subject: *D C Snyder v. Rocket Mortgage, LLC et. al.*
Amended Notice of Labor Law Violations, CA Labor Code § 2699.3
LWDA Case No.: LWDA-CM-878709-22

Introduction

This office represents COMPLAINANT, D C Snyder (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: Rocket Mortgage, LLC; Quicken Loans, Inc.; Quicken Loans, LLC; and Rocket Companies, Inc., (hereinafter, these entities and its 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 within one year of the date of COMPLAINANT’s original notice filed on April 14, 2022 (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER within one year of the date of COMPLAINANT’s original notice filed on April 14, 2022 (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written amended notice (“AMENDED NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This AMENDED 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 as provided to the California Secretary of State and/or the address listed on COMPLAINANT’s wage statement as EMPLOYER’s address and/or the registered agent as provided to the Michigan Secretary of State. The reason for this AMENDED NOTICE is to add an additional mailing address for one or more of the EMPLOYER entities.

This AMENDED 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 AMENDED NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This AMENDED NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This AMENDED 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 COMPLAINANT’s original notice filed on April 14, 2022. 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 AMENDED 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, 432.5, 432.7, 510, 512, 558, 558.1, 976, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.3, 1199, 2751, 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 other 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 and its managing agents own, manage, or otherwise operate as mortgage lenders that have helped millions of individuals achieve homeownership¹. Among other loan services, EMPLOYER provides residential and commercial property loans. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT was employed by EMPLOYER as a non-exempt employee from in or around January 2020 through in or around April 11, 2022. COMPLAINANT went on leave in or around late April 2021 and continued to receive wage statements from EMPLOYER after going on leave. COMPLAINANT's employment by EMPLOYER ended sometime in or around April 11, 2022. COMPLAINANT worked for EMPLOYER during the relevant time period in various departments including but not limited to as a non-exempt banker, mortgage and loan officer, account executive, and/or similar title. COMPLAINANT worked for EMPLOYER from COMPLAINANT's home in Lancaster, California. COMPLAINANT regularly worked at least eight hours per day, at least (5) days per week. EMPLOYER paid COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked. COMPLAINANT was also compensated with non-discretionary remuneration, including but not limited to non-discretionary bonuses and commissions.

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

¹ See <https://www.rocketmortgage.com/about>. Last visited on April 12, 2022.

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; and (14) 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.

At all relevant times, 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 other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

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 other mandated off-the-clock work policies and practices, described herein.

EMPLOYER further 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.

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.

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.²

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).

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

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 produce complete records or failed to produce any records at all 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 other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

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.4th 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 10th 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.4th 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.4th 1004.

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

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. COMPLAINANT and 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 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, COMPLAINANT was subject to extreme pressure to meet goals in order to avoid disciplinary action from EMPLOYER, including but not limited to termination. Due to the pressure to meet EMPLOYER's demands, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive timely, off-duty thirty-minute meal periods. In fact, COMPLAINANT rarely took an off-duty meal period at all. As such, COMPLAINANT and 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, and/or on duty due to commentary from supervisors, 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 COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal breaks. Based on information and belief, EMPLOYER had a uniform policy and/or practice of requiring COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES to always be responsive to work-related calls and/or clients during their shifts, including but not limited to during unpaid meal breaks. For example, COMPLAINANT's purported meal periods were consistently interrupted with phone calls from clients and/or potential clients and/or phone calls or messages from coworkers and/or department leads.

At other times, COMPLAINANT continued working or completing work tasks during purported meal breaks. For example, COMPLAINANT often worked through his meal period, including but not limited to reviewing documents for loan applications, responding to work related calls and messages, attending company meetings, and/or completing other work tasks.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES often completed 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 owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER either failed to keep accurate records of the start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or failed to keep any record at all of purported meal periods. For example, COMPLAINANT rarely clocked out for purported meal periods as he was frequently required to work through his purported meal periods. Further, based on further information and belief, to the extent any meal period was recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other 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 implemented a policy and/or practice of rounding the start and end times of NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or of automatically deducting at least thirty minutes per shift for missed/unlawful meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive compliant meal periods.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other 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 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 other 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.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a proper meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a proper 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, commission/piece-rate pay, 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.³ EMPLOYER's failure to provide valid meal periods, 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.4th 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 other 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.

³ 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 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 other 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.

Rest periods were consistently interrupted, cut short, on duty, and/or late due to the nature and constraints of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' job duties, including but not limited to their need to attend meetings, respond to customer/client inquiries, review loan documents, and/or complete other work tasks and/or due to commentary from supervisors/ team leads pressuring COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES to meet company goals, thereby pressuring them to skip rest breaks completely or otherwise take non-compliant rest breaks. COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive legally compliant first, second, or third rest periods.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest breaks. As such, COMPLAINANT and other 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. For example, COMPLAINANT rarely, if ever, took an off duty/uninterrupted ten-minute rest period during his employment by EMPLOYER due to his need to respond to inquiries from customers, clients, coworkers, and/or complete other necessary work tasks. Moreover, COMPLAINANT constantly received work-related messages and/or phone calls throughout the day, including but not limited to during purported rest periods.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed/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 other 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 proper 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, commission/piece-rate 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.⁴

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.

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 other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER’s automatic deduction and time rounding policies, payment according to scheduled hours worked instead of actual time worked, mandated pre-shift/post-shift/ and/or other off-the clock work policies and/or practices and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods.

As explained above, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take off duty, thirty-minute, uninterrupted first and second meal periods, often being forced to work through part or all their meal periods due to the nature and constraints of their job duties, and/or commentary from supervisors pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to take non-compliant meal periods or skip meal periods completely in order to meet EMPLOYER’s goals and criteria.

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 NON-EXEMPT

⁴ 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”).

AGGRIEVED EMPLOYEES were working through part or all of these purported meal periods, depriving NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Moreover, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform other off-the-clock work for which they were not compensated. For example, prior to beginning a scheduled shift, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to start and/or boot all of EMPLOYER's computer systems, phone systems, and/or software so as to have all systems running at the start of the scheduled shift. As such, COMPLAINANT spent at least 10-15 minutes before each scheduled shift preparing approximately six different work applications in order to clock in and begin his shift. This pre-shift work was off-the-clock and uncompensated resulting in unpaid minimum and overtime wages.

COMPLAINANT was also pressured to complete at least some of his work tasks off-the-clock in order to meet EMPLOYER's goals and expectations. For example, COMPLAINANT performed approximately 6 hours of off-the-clock work each month in the form of completing EMPLOYER required trainings, completing client case file reviews, and/or completing other work tasks to meet EMPLOYER's quotas.

COMPLAINANT was also required to complete off-the-clock work outside of scheduled shift due to work related phone calls and/or messages he received to his personal phone and was required to respond to including but not limited to communications from co-workers and team leads/supervisors, resulting in significant off-the-clock work.

Based on information and belief, EMPLOYER's NON-EXEMPT AGGRIEVED EMPLOYEES also regularly performed off-the-clock work due to their need to perform pre-shift work, respond to work-related communications, review client files, and/or complete other work tasks while off-the-clock.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices, failure to provide off-duty 30-minute meal periods, and mandated 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 forty hours in a week.

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 further information and belief, EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for time spent completing trainings and/or reviewing policies as required by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on information and belief, EMPLOYER also failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES minimum wages for time counted by EMPLOYER as hours worked. For example, in 2021, the minimum wage rate in California was \$14 per hour for employers with 26 or more employees. In 2021, EMPLOYER had more than 26 employees and was required to pay its employees in California at least \$14 per hour. However, EMPLOYER failed to pay at least minimum wage for all hours worked. For example, on March 8, 2021- March 21, 2021, COMPLAINANT was paid a base rate of \$12.50 per hour, well below the minimum wage standard in California. As such, EMPLOYER violated California's minimum and overtime wage laws by failing to pay below the mandated minimum wage rate and consequently below the overtime wage rate. Based on information and belief, EMPLOYER failed to pay other NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other 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.

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 off-duty meal periods and other mandated off-the-clock work described above resulted in the underpayment of minimum wages owed to COMPLAINANT and other 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.⁵

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

⁵ 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”).

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.*

EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record at all, the total number of hours worked by COMPLAINANT and other 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 of less than minimum wage for time counted by EMPLOYER as hours worked (as described above), payment according to scheduled hours worked rather than actual time worked/mandated pre-shift and post-shift off-the clock work (described above) as well as other off-the-clock/unpaid work completed during meal periods (described above), and other off-the-clock work described herein resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty hours in a week.

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

Based on information and belief, EMPLOYER failed 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, commission and/or piece rate pay and/or other non-discretionary pay into the regular pay rate(s) of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. For example, EMPLOYER implemented several commission and bonus incentive programs which COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were eligible to earn. Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration including but not limited to earned commissions and bonuses into the regular rate of pay.

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.⁶

Failure to Provide Written Commission Agreements: Labor Code section 2751 requires that all commission contracts "be in writing and . . . set forth the method by which the commissions shall be computed and paid." Cal. Lab. Code section 2751(a) (2012). Under the statute, employers must also "give a signed copy of the contract to every employee who is a party [to the contract] and . . . obtain a signed receipt for the contract from each employee." *Id.* section 2751(b).

Based on information and belief, EMPLOYER failed to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES who were compensated on a commission basis with proper written commission agreements, in violation of Labor Code section 2751.

Violation of Labor Code section 976: Labor Code section 976 provides that "No person shall publish or cause to be published any advertisement, solicitation or communication in any newspaper, poster, or letter, offering employment as a salesman, broker or agent whether as an employee or independent contractor, which advertisement, solicitation or communication (a) is willfully designed to mislead any person as to compensation or commissions which may be earned; or (b) falsely represents the compensation or commissions which may be earned."

Based on information and belief, EMPLOYER has a policy and/or practice of offering prospective employees, including NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, a higher compensation and commission that is misleading as it falsely represents the compensation or commission that will be earned during employment, as the actual compensation or commission earned is lower than that which is offered to induce employment or continued employment. Such a practice or policy is in violation of Labor Code section 976.

Unlawful Deductions: Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee." Based on information and belief EMPLOYER made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period, including but not limited to deducting licensing fees or other costs advanced by EMPLOYER from NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES' final paychecks. Such a practice is in violation of including but not

⁶ 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").

limited to, Labor Code Sections 221-222 which subjects EMPLOYER to civil penalties under Labor Code Section 2699.

Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.[1] [1] See Lab. 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 Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other 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 COMPLAINANT and other 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 shift start and end times/other required off-the-clock work described herein) 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 other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

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.

Throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave.

But for this failure, COMPLAINANT and other 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 all 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 all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all 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 all 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 other 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.

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 all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all 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.⁷

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 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 all 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 the COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of the 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, mandated pre-shift and/or post-shift off-the-clock work and other off-the-clock work policies and practices, all described in greater detail *supra*), 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).

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.

⁷ 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).

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 all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, 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 other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER has incorrectly and illegally displayed the overtime wages on NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements because the overtime is broken up in such a way that it does not permit COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES the legally required notice as to what they are being paid and an opportunity to figure out what may be still owed to them. As a result, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are required to perform extensive calculations to determine what their pay rates were for each corresponding hour worked. See, e.g., *McKenzie v. Fedex*, 765 F. Supp. 2d 1222 (C.D. Cal. 2011).

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. For example, some of the wage statements EMPLOYER issued to COMPLAINANT name "Quicken Loans, LLC" as the employer, while other wage statements name "Quicken Loans Inc.," as the employer and other wage statements list "Rocket Mortgage, LLC" as the employer. Moreover, documents in COMPLAINANT's personnel file indicate the following entities as COMPLAINANT's employer: "Quicken Loans, LLC", "Quicken Loans, Inc.", "Rocket Mortgage, LLC" and/or "Rocket Companies".

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.⁸

⁸ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

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 other 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.

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, 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 other NON-EXEMPT AGGRIEVED EMPLOYEES minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages 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 other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all 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, and 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.⁹

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

⁹ (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").

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.

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.

At all relevant times hereto, EMPLOYER shifted its costs of doing business onto COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, use of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' personal mobile phone and data usage. For example, although EMPLOYER provided COMPLAINANT with a work phone/phone system, COMPLAINANT constantly received work-related phone calls and messages to his personal phone from coworkers, team leads, and/or supervisors. COMPLAINANT was not reimbursed for the cost of using his personal phone for work-related purposes. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes.

EMPLOYER failed and continues to fail to reimburse COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for the use of a personal cell phone.

COMPLAINANT and other 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, including but not limited to, cell phone/data plan charges incurred as a result of being required to use their personal cell phones/other mobile communication devices for work related purposes.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses, including but not limited to costs associated with using a personal cell phone. Based on further information and belief, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not sufficiently reimbursed for costs associated with using home internet services for work related purposes. Pursuant to California Labor Code section 2802, COMPLAINANT and 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 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.

EMPLOYER also required COMPLAINANT and all 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.

EMPLOYER required COMPLAINANT and other 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 COMPLAINANT and 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 further 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 COMPLAINANT, 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 COMPLAINANT, 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 COMPLAINANT, 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 COMPLAINANT and 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 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 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.

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 other 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. COMPLAINANT's original notice filed on April 14, 2022 and this AMENDED 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 AMENDED NOTICE is to satisfy the requirement created by Labor Code §§ 2699, 2699.3(a), 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 AMENDED 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 all 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 AMENDED 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
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Email: zach@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

Zachary M. Crosner

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CROSNER LEGAL, PC