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SUPERIOR COURT OF THE STATE OF CALIFORNIA**FOR THE COUNTY OF LOS ANGELES**

JONATHAN VASQUEZ, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

LADDARAN MANAGEMENT
CORPORATION.

Defendant.

CASE NO: 22STCV24905

**PLAINTIFF'S CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

- (1) FAILURE TO PAY MINIMUM WAGES
(LABOR CODE §§ 1194, 1197, 1197.1, 1198,
1199)**
- (2) FAILURE TO REIMBURSE BUSINESS
EXPENSES (LABOR CODE § 2802)**
- (3) FAILURE TO PROVIDE COMPLETE AND
ACCURATE WAGE STATEMENTS (LABOR
CODE § 226)**
- (4) FAILURE TO PAY TIMELY WAGES (CAL.
LABOR CODE §§ 204, 210)**
- (5) WAITING TIME PENALTIES (CAL. LABOR
CODE §§ 201-203);**
- (6) UNFAIR COMPETITION LAW
VIOLATIONS (CAL. BUSINESS AND
PROFESSIONS CODE § 17200)**
- (7) PAGA AND OTHER PENALTIES (LABOR
CODE §§ 2698 – 2699.5)**

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff Jonathan Vasquez (“Plaintiff”), on behalf of himself, the State of California, other
3 aggrieved employees, and all others similarly situated (hereinafter “Class Members”), complains
4 and alleges as follows:

5 **OVERVIEW OF CLAIMS**

6 1. Plaintiff brings this action on behalf of himself and all others similarly situated, as a
7 class action, as a representative action pursuant to the California Private Attorneys General Act,
8 Labor Code § 2699, *et seq.* (“PAGA”), and on behalf of the California general public, against
9 Defendant Laddaran Management Corporation (“Defendant”) for (1) failure to pay all minimum
10 wages due for time spent in pre-shift COVID-19 temperature checks and questioning; (2) failure to
11 reimburse its staff crew for work-related cell phone expenses and use of personal vehicles
12 necessarily incurred in the scope of their job duties; (3) failure to provide complete and accurate
13 wage statements to current and former employees in California within the one year prior to the
14 filing of this Complaint; (4) failure to pay timely wages to employees during employment; (5)
15 failure to pay final wages upon separation of employment; (6) fraudulent business practices based
16 on the foregoing; and (7) penalties based on the foregoing pursuant to the Private Attorneys
17 General Act (“PAGA”). As a result of the foregoing, Defendant has violated California statutory
18 laws as described below.

19 2. The “Class Period” is designated as the period from four years prior to the filing of
20 this action through the trial date. The PAGA Period is one year from the date of Plaintiff’s PAGA
21 letter to the LWDA (i.e., from May 26, 2022) through the present and on-going. Defendant’s
22 violations of California’s wage-hour laws and unfair competition laws, as described more fully
23 below, have been ongoing throughout the Class Period and PAGA Period.

24 **VENUE**

25 3. Venue is proper in this county under Section 395.5 of the California Code of Civil
26 Procedure. Many of the putative Class Members were employed and/or performed work during
27 the Class Period by the Defendant in Los Angeles County. Defendant operates McDonald’s
28 restaurant franchises in the county of Los Angeles. Many of the acts alleged herein including

1 Defendant's failure to pay minimum wages, failure to reimburse employees, failure to issue
2 complete and accurate itemized wage statements, failure to pay wages on a timely basis, failure to
3 pay final wages, and fraudulent business practices, occurred in Los Angeles County. Venue is
4 therefore proper in Los Angeles County.

5 **JURISDICTION**

6 4. Defendant is within the jurisdiction of this Court. Defendant conducts business by
7 operating restaurant franchises in California. Thus, Defendant has obtained the benefits of the
8 laws of the State of California. In addition, Plaintiff asserts no claims arising under federal law.
9 Rather, Plaintiff brings causes of action based solely on, and arising from, California law. The
10 claims of the class are also based solely on California law described herein. Furthermore, the total
11 amount at issue in this case, inclusive of attorneys' fees, is less than \$5 million. Therefore,
12 jurisdiction is appropriate in Los Angeles County Superior Court.

13 **THE PARTIES**

14 5. Plaintiff is a California resident who worked for Defendant as a crew member
15 during the relevant time period, from June 2020 through May 2022.

16 6. From at least four years from the filing of this Complaint through the present, and
17 on-going, Defendant's employees, at various times throughout the Class Period, including
18 Plaintiff during his employment, were not paid all minimum wages owed for time spent in pre-
19 shift COVID-19 temperature checks and questioning; were not reimbursed for work-related cell
20 phone and personal vehicle expenses; were not provided accurate and/or complete itemized wage
21 statements; did not receive timely wages; and did not receive final wages.

22 7. Plaintiff represents the State of California and the following group of aggrieved
23 employees defined as:

24 Plaintiff and all other individuals who are or were employed by Defendant Laddaran
25 Management Corporation as non-exempt hourly-paid employees who worked at least one
26 shift in California from May 26, 2021 to the present and ongoing (hereinafter referred to as
"Aggrieved Employees").

27 8. Plaintiff also seeks to represent a Class defined as:

28 Plaintiff and all other individuals who are or were employed by Defendant Laddaran
Management Corporation as non-exempt hourly-paid employees who worked at least one

1 shift in California during the Class Period (hereinafter referred to as the “Class” or “Class
2 Members”).

- 3 a. The members of the Class who worked for Defendant during the one year preceding
4 the filing of this Complaint constitute the “Wage Statement Penalty Subclass”.

5 9. Defendant Laddaran Management Corporation is a California company doing
6 business in Los Angeles County, California. Defendant operates McDonald’s restaurant
7 franchises.

8 10. Defendant employed Plaintiff, the Class, and the Aggrieved Employees as non-
9 exempt, hourly-paid employees in California at various times during the Class Period and PAGA
10 Period. On information and belief, Defendant employed approximately 200 non-exempt, hourly-
11 paid employees in California during the Class Period.

12 **FACTUAL ALLEGATIONS**

13 11. Defendant operates and, at all times during the Class Period and PAGA Period,
14 have done business in California as a restaurant. Defendant, in the course of operating their
15 business in California during the Class Period and PAGA Period, employed Plaintiff, the Class,
16 and the Aggrieved Employees as non-exempt, hourly-paid workers.

17 12. Labor Code Section 1197 states the California requirement that employees must be
18 paid at least the minimum wage fixed by the Commission or by any applicable state or local law,
19 and any payment of less than the minimum wage is unlawful. Similarly, Labor Code Section 1194
20 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action
21 the unpaid balance of the full amount of this minimum wage.” The applicable IWC Wage
22 Order(s), including IWC Wage Order No. 5-2001, obligate employers to pay each employee
23 minimum wages for all hours worked.

24 13. These minimum wage standards apply to each hour employees worked or subject to
25 control by the employer for which they were not paid. Therefore, an employer’s failure to pay for
26 any particular hour of time worked by an employee or subject to the employer’s control is
27 unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in
28 an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal.App.4th 314,

1 324 (2005). Time spent by employees pre-shift under the control of an employer is certainly
2 compensable yet unpaid.

3 14. Here, Defendant required Plaintiff, the Class, and all Aggrieved Employees to
4 regularly perform compensable tasks off-the-clock for which they did not receive any
5 compensation. Specifically, as part of the Class Members' and Aggrieved Employees'
6 employment, Defendant required and continues to require Plaintiff, the Class, and all Aggrieved
7 Employees to undergo COVID-19 temperature checks and screenings before the start of their
8 shifts, off-the-clock. Specifically, Plaintiff was required to take his temperature before being
9 allowed to clock in for his shift. During the period from around March or April 2020 until the
10 present, Plaintiff, the Class, and the Aggrieved Employees underwent the same pre-shift
11 temperature checks and COVID-19 screenings. Only after such temperature checks and screenings
12 were Plaintiff, the Class, and the Aggrieved Employees finally able clock in for their shifts. As a
13 result, and because it improperly treated such pre-shift COVID-19 screening time as non-
14 compensable, Defendant failed to compensate Plaintiff, the Class, and the other Aggrieved
15 Employees for such time.

16 15. Employees must be paid for all "hours worked." Hours worked is considered "the
17 time during which an employee is subject to the control of an employer, and includes all the time
18 the employee is suffered or permitted to work, whether or not required to do so...." *See* Wage
19 Order 5-2001, subd. 2(K); *see also Mendiola v. CPS Security Solutions, Inc.*, 60 Cal.4th 833
20 (2015). "[I]t is only necessary that the worker be subject to the control of the employer in order to
21 be entitled to compensation." *Morillion v. Royal Packing Co.*, 22 Cal.4th 575, 584 (2000)
22 (internal citations omitted). An employee is under the employer's control and entitled to
23 compensation when the employer "'directs, commands or restrains' an employee." *Morillion*, 22
24 Cal.4th at 583 (internal citation omitted).

25 16. As the California Supreme Court made clear in *Morillion*, when determining
26 whether an employee's activity is under the employer's control entitling him or her to
27 compensation, the touchstone is not whether the employer requires the activity and thus whether
28 employees can avoid it, but the level of control employers exert over employees during the

1 activity: “The level of the employer’s control over its employees, *rather than the mere fact that the*
2 *employer requires the employees’ activity, is determinative.*” *Morillion*, 22 Cal.4th at 587
3 (emphasis added).

4 17. In *Frlekin v. Apple Inc.*, 8 Cal.5th 1038, 1056 (2020) (citing *Morillion*, 22 Cal.4th
5 at 587) the California Supreme Court reaffirmed its holding in *Morillion* that “[t]he level of the
6 employer’s control over its employees, rather than the mere fact that the employer requires the
7 employees’ activity, is determinative” concerning whether an activity is compensable under the
8 “hours worked” control clause. In *Frlekin*, the California Supreme Court found that time
9 employees spent undergoing bag searches at the end of their shifts was compensable. The Court
10 reasoned its decision by analyzing factors in determining whether an employer has exerted
11 compensable control over employees:

12 We also emphasize that whether an activity is required remains probative in
13 determining whether an employee is subject to the employer’s control. But, at least
14 with regard to cases involving *onsite* employer-controlled activities, the mandatory
15 nature of an activity is not the only factor to consider. We conclude that courts may
16 and should consider additional relevant factors—including, but not limited to, the
location of the activity, the degree of the employer’s control, whether the activity
primarily benefits the employee or employer, and whether the activity is enforced
through disciplinary measures—when evaluating such employer-controlled conduct.

17 *Frlekin*, 8 Cal.5th at 1056 (italics in original).

18 18. To be free of the employer’s control for purposes of “hours worked,” the employee
19 must be free to use his or her time “effectively for his or her own purposes.” *Morillion*, 22 Cal.4th
20 at 583.

21 19. Here, as in *Frlekin*, the Class and Aggrieved Employees could not avoid
22 Defendant’s COVID-19 temperature checks and questioning (which took place on Defendant’s
23 premises and before employees could clock in) and could not then use their time effectively for
24 their own purposes. As such, Defendant exercised compensable control over the Class and
25 Aggrieved Employees who underwent COVID-19 temperature checks and questioning and owe
26 wages to the Class and Aggrieved Employees for this time.

27 20. As recently confirmed by the United States District Court in *Boone v. Amazon.com*
28

Services, LLC, time spent by hourly, non-exempt employees completing mandatory COVID-19 screening pre-shift is compensable and should have been, but undisputedly was not, paid by Defendants. *Boone v. Amazon.com Servs., LLC* (E.D. Cal. Mar. 11, 2022, No. 1:21-cv-00241-DAD-BAM) 2022 U.S. Dist. LEXIS 44138, at *22 (“plaintiffs have sufficiently alleged that they were subject to defendant’s control while they spent time awaiting and undergoing the COVID-19 screening checks—time that constitutes “hours worked” under California law”)

21. The California Department of Industrial Relations (“DIR”) recently issued guidance regarding pre-shift worksite temperature checks and/or questionnaires. See Cal. Dept. of Industrial Relations, Safe Reopening FAQs for Workers and Employers (July 8, 2021), available at https://www.dir.ca.gov/covid19/FAQs_COVID-19_Safe_Reopening.htm. The DIR provides the following in FAQ #10 titled “Medical Checks, Testing, and Vaccinations”:

Q: Must my employer pay me for time spent at my employer’s worksite completing certain medical checks (including temperature checks) before beginning a shift?

A: Yes. Employers must pay workers for all hours worked, including time that a worker is under the control of the employer. Employers that require their workers to complete a medical check in order to begin a shift, even if it is recommended under public health orders, must compensate workers for that time worked.

The term “hours worked” means the time during which a worker is subject to the control of an employer and includes all the time the worker is suffered or permitted to work, whether or not required to do so. Under this definition, one way to determine whether time a worker spends performing a task is compensable—that is, whether it is time “worked”—is whether the employer exercised control over the worker by requiring the worker to perform that task.

If an employer requires that all workers perform a medical check (such as a temperature check) onsite before beginning a shift, the time completing the medical check, including any time waiting in line, would constitute time worked. This requirement applies even if such tasks were performed pursuant to a state or local public health guideline, because the check is done at the request and thus under the control of the

1 employer.

2 22. Notably, there is no *de minimis* defense for such time. *See, Troester v. Starbucks*
3 *Corp.*, 5 Cal.5th 829 (2018) (in light of new technologies allowing time-tracking with specificity,
4 the *de minimis* principle is not applicable in the context of an alleged policy requiring employees
5 to work minutes off the clock routinely).

6 23. Defendant's policy and practice of requiring Plaintiff, the Class, and the Aggrieved
7 Employees to undergo pre-shift COVID-19 temperature checks and questioning, clearly violated
8 Labor Code Section 1194. As a result of Defendant's policy and practices described above,
9 Defendant regularly failed to pay Plaintiff, the Class, and all Aggrieved Employees for all hours
10 worked in violation of Labor Code Sections 1194 and 1197.

11 24. Labor Code Section 1197.1, subdivision (a), authorizes employees who are paid
12 less than the minimum fixed by an applicable state or local law, or by an order of the commission a
13 civil penalty, restitution of wages, and liquidate damages as follows: (1) for any initial violation
14 that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each
15 pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the
16 same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay
17 period for which the employee is underpaid regardless of whether the initial violation is
18 intentionally committed. As set forth above, Defendant failed to compensate Plaintiff, the Class,
19 and all Aggrieved Employees for all hours worked. Accordingly, through PAGA and to the extent
20 permitted by law Plaintiff, the Class, and all Aggrieved Employees are entitled to recover
21 liquidated damages for violations of Labor Code § 1197.1. Based upon these same factual
22 allegations, Plaintiff, the Class, and all Aggrieved Employees are entitled to penalties under Labor
23 Code Sections 203 and 1197.1 and 1199.

24 25. Similarly, Labor Code § 1194.2 authorizes employees to recover wages to recover
25 liquidated damages for violations of Labor Code § 1194. Where an employee, as Plaintiff, the
26 Class, and all Aggrieved Employees experienced on a regular basis, are not paid for all hours
27 worked under Labor Code § 1194, the employees may recover minimum wages for the time for
28 which they received no compensation.

1 26. As to reimbursement of employee expenses, Defendant does not maintain an
2 expense reimbursement policy and/or practice stating that Defendant will affirmatively reimburse
3 Plaintiff, the Class, and the Aggrieved Employees for their business expenses incurred on behalf of
4 Defendant.

5 27. Specifically, California Labor Code Section 2802 requires an employer in
6 California to "indemnify his or her employee for all necessary expenditures or losses incurred by
7 that employee in direct consequence of the discharge of his or her duties." See Cal. Labor Code §
8 2802(a); *see also* § 2802(c) where "necessary" is defined to include all "reasonable" costs. "The
9 elements of a claim under Section 2802 are: (i) the employee made expenditures or incurred
10 losses; (ii) the expenditures or losses were incurred in direct consequence of the employee's
11 discharge of his or her duties, or obedience to the directions of the employer; and (iii) the
12 expenditures or losses were reasonable and necessary." *Marr v. Bank of America, N.A.*, 2011 U.S.
13 Dist. LEXIS 24868 * 3 (N.D. Cal. March 8, 2011) (*citing Gattuso v. Harte-Hanks Shoppers,*
14 *Inc.*, 42 Cal.4th 554, 568 (2007). "In addition, the employer 'must either know or have reason to
15 know that the employee has incurred [the] expense.'" *Id.* (*citing Stuart v. RadioShack Corp.*, 641
16 F.Supp. 2d 901 (N.D. Cal. 2009). Where an employer has knowledge that employees are incurring
17 a reimbursable expense, the employer must "exercise due diligence to ensure each employee is
18 reimbursed." *Marr*, at *1. The right of an employee to expense reimbursements from his or her
19 employer is not waivable. *See* Cal. Labor Code § 2804; *Edwards v. Arthur Andersen LLP*, 44
20 Cal.4th 937, 954-55 (2008) ("no employee's right to indemnification, to which he or she is entitled
21 under the law, can be waived").

22 28. As to failure to reimburse employees, Defendant failed to reimburse employees for
23 their business-related expenses incurred on behalf of Defendant, including cell phone expenses.
24 Specifically, Defendant required Plaintiff, the Class, and Aggrieved Employees to use their
25 personal cell phones to do surveys to provide "positive" reviews for the restaurant in which they
26 worked. Additionally, Defendant required some employees to pick up certain supplies for
27 Defendant's restaurants using their personal vehicles. Defendant did not reimburse Plaintiff, the
28 Class, and the Aggrieved Employees for their personal cell phone expenses or use of their personal

1 vehicles.

2 29. As part of Plaintiff's job duties, Defendant's Store Managers directed Plaintiff and
3 other employees to use their personal phones to complete surveys in which they were to pose as
4 customers to write positive reviews for Defendant's restaurants. Plaintiff estimates he would spend
5 several minutes per day in which he would complete approximately five (5) surveys per day.
6 Defendant's managers requested that the employees complete four (4) surveys per shift with some
7 employees completing approximately ten (10) or more surveys per day. This was true for all of the
8 Class Members and Aggrieved Employees who were requested to do restaurant online surveys.

9 30. As a result, Plaintiff, the Class, and the Aggrieved Employees incurred personal cell
10 phone related expenses but were not reimbursed a reasonable portion of their personal cell phone
11 bills and were not reimbursed in violation of Sections 2802 (a) and (c) of the California Labor
12 Code and applicable state law. See, e.g., *Cochran v. Schwan's Home Services, Inc.*, Case No.
13 B247160 (Cal.App. Ct . (2nd Dist.) Aug. 12, 2014) ("We hold that when employees must use their
14 personal cell phones for work -related calls, Labor Code section 2802 requires the employer to
15 reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited
16 minutes, the reimbursement owed is a reasonable percentage of their cell phone bills"); *Aguilar v.*
17 *Zep, Inc.*, 2014 WL 4245988 *17 (N.D.Cal. Aug. 27, 2014) (granting plaintiffs ' motion for partial
18 summary judgment on the plaintiffs' cell phone reimbursement claim). Plaintiff and the Aggrieved
19 Employees incurred monthly cell phone expenses of \$50 to \$100 per month, a reasonable portion
20 of which should have been reimbursed, but was not during the PAGA period.

21 31. Under California law, the employer must pay for all necessary equipment used by
22 employees unless they earn twice minimum wage. Here, Plaintiff, the Class, and Aggrieved
23 Employees never earned twice minimum wage. Accordingly, Defendant is, and has been, required
24 to pay for the portion of costs of the cell-phone bills of all Class Members and Aggrieved
25 Employees.

26 32. In short, Defendant's policies and/or practices require and expect, and/or with
27 Defendant's knowledge thereof permit, Plaintiff, the Class, and the Aggrieved Employees to pay
28 for business expenses incurred in direct consequence of discharging their duties on behalf of

1 Defendant, without reimbursement in full by Defendant for such expenses. Defendant has
2 maintained their policies and/or practices of denying reimbursement in full of Plaintiff's, the Class
3 Members', and the Aggrieved Employees' necessarily incurred business expenses, or substantially
4 similar policies, throughout California and throughout the Class and PAGA Periods.

5 33. Plaintiff and the Aggrieved Employees incurred monthly cell phone expenses of
6 \$50 to \$100 per month, a reasonable portion of which should have been reimbursed, but was not,
7 during the Class and PAGA Periods.

8 34. As to Plaintiff, the Wage Statement Subclass (as defined in Paragraph 8, *supra*),
9 and all Aggrieved Employees, Defendant also failed to provide accurate itemized wage statements
10 in accordance with Labor Code § 226(a).

11 35. Defendant knowingly and intentionally failed to pay Plaintiff, Aggrieved
12 Employees, and all Wage Statement Subclass Members all minimum wages associated with
13 COVID-19 temperature checks and questioning. Accordingly, all wage statements contained
14 inaccurate information as to hours worked and wages earned since time spent on pre-shift COVID
15 temperature checks and questioning were never included. Moreover, Plaintiff, Aggrieved
16 Employees, and all Wage Statement Subclass Members also suffered legal "injury" for purposes of
17 Labor Code Section 226(e) insofar as they were unable to readily and easily determine the
18 information required to be set forth by Section 226(a). Specifically, Plaintiff, Aggrieved
19 Employees, and the Wage Statement Subclass Members were unable to determine the actual and
20 accurate total hours worked by the employees, the gross wages earned, the net wages earned, since
21 time spent on mandatory COVID-19 temperature checks and questions was always done off the
22 clock and pre-shift.

23 36. Plaintiff, the Wage Statement Subclass and the Aggrieved Employees will prevail
24 on their claim for PAGA penalties under Labor Code § 226(a) without having to show injury or
25 willfulness. *See Lopez v. Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788 (2017) ("a plaintiff
26 seeking civil penalties under PAGA for a violation of Labor Code section 226(a) does not have to
27 satisfy the 'injury' and 'knowing and intentional' requirements of section 226(e)(1)."); *Raines v.*
28 *Coastal Pacific Food Distributors, Inc.*, 23 Cal.App.5th 667, 679 (2018) (finding that the

1 “requirements for a section 226(e) claim do not apply to a PAGA claim for a violation of section
2 226(a).”).

3 37. As to Plaintiff and all Aggrieved Employees, Defendant also failed to pay all wages
4 due for time spent on temperature checks and COVID-19 screenings on a timely basis in violation
5 of Labor Code sections 204 and 210.

6 38. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in any
7 employment are due and payable twice during each calendar month, on days designated in advance
8 by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these requirements are
9 “deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the
10 wages are paid not more than seven calendar days following the close of the payroll period.”

11 39. Pursuant to Labor Code Section 210, as amended,

12 (a) In addition to, and entirely independent and apart from, any other penalty
13 provided in this article, every person who fails to pay the wages of each employee as
14 provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5,
15 shall be subject to a penalty as follows:

16 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay
17 each employee.

18 (2) For each subsequent violation, or any willful or intentional violation, two
19 hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of
20 the amount unlawfully withheld.

21 (b) The penalty shall either be recovered by the employee as a statutory penalty
22 pursuant to Section 98 or by the Labor Commissioner as a civil penalty through
23 the issuance of a citation or pursuant to Section 98.3. The procedures for issuing,
24 contesting, and enforcing judgments for citations issued by the Labor
25 Commissioner under this section shall be the same as those set forth in
26 subdivisions (b) through (k), inclusive, of Section 1197.1.

27 (c) An employee is only entitled to either recover the statutory penalty
28 provided for in this section or to enforce a civil penalty as set forth in
subdivision (a) of Section 2699, but not both, for the same violation.

39. As a result of the faulty compensation policies and practices described in detail
above and Defendant’s failure to pay Plaintiff, the Class, and all Aggrieved Employees for all
time, including pre-shift COVID-19 screening time, within seven (7) days of the close of the
payroll period, the State of California is entitled to recover penalties under Labor Code § 210
through PAGA. See *Amaral v. Cintas Corp.* No. 2, 163 Cal.App.4th 1157, 1209 (2008) (affirming

1 an award of Labor Code section 210 penalties under PAGA due to the employer's failure to timely
2 pay wages at the proper rate in accordance with a local wage ordinance).

3 41. Due to Defendant's failure to pay for all pre-shift temperature checks and COVID-
4 19 screening time, Defendant failed to pay all wages due to departing employees in violation of
5 Labor Code sections 201-203. Labor Code § 203 expressly requires that "If an employer willfully
6 fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee
7 shall continue as a penalty..." for up to 30 days.

8 42. The administrative prerequisites of PAGA have been satisfied and Plaintiff has also
9 paid the \$75.00 fee and has otherwise satisfied the administrative prerequisites of PAGA.

10 43. Plaintiff by this action seeks to recover, on behalf of himself and all other current
11 and former Aggrieved Employees of Defendant, the civil penalties provided by PAGA, as
12 specified in Labor Code § 2699(f). Plaintiff seeks to recover the PAGA civil penalties through a
13 representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior*
14 *Court*, 46 Cal.4th 969 (2009). Class certification of the PAGA claims is not required. *Id.*

15 **CLASS ACTION ALLEGATIONS**

16 44. Plaintiff brings this action, on behalf of himself and all others similarly situated, as
17 a class action pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class
18 composed of and defined as: and all other individuals who are or were employed by Defendant
19 Laddaran Management Corporation, as non-exempt hourly-paid employees, who worked at least
20 one shift in California during the Class Period (hereinafter "Class Members"). All such Class
21 Members were subject to Defendant's unlawful policies including, Defendant's failure to pay
22 minimum wages, Defendant's failure to reimburse for out-of-pocket business expenses,
23 Defendant's failure to issue compliant wage statements, Defendant's failure to pay final wages,
24 and Defendant's failure to pay timely wages.

25 45. This action has been brought and may properly be maintained as a class action
26 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the
27 litigation, the proposed class is easily ascertainable, and Plaintiff is a proper representative of the
28 Class:

1 a. Numerosity: The potential members of the Class as defined are so
2 numerous that joinder of all the members of the Class is impracticable. While the precise number
3 of Class Members has not been determined at this time, Plaintiff is informed and believes that
4 Defendant has employed approximately 200 Class Members as non-exempt, hourly-paid workers
5 in California who were subject to Defendant's unlawful compensation, wage statement, final pay,
6 and reimbursement policies. The Class Members are dispersed throughout California. Joinder of
7 all members of the proposed classes is therefore not practicable.

8 b. Commonality: There are questions of law and fact common to Plaintiff and
9 the Class that predominate over any questions affecting only individual members of the Class.
10 These common questions of law and fact include, without limitation:

11 i. Whether Defendant violated Sections 1194 and 1197 of the Labor Code by
12 failing to pay minimum wages for all hours worked, including for pre-shift time associated with
13 COVID-19 temperature checks and questioning;

14 ii. Whether Defendant violated Labor Code Section 2802 by failing to reimburse
15 Plaintiff and the Class for their business expenses incurred during the Class Period;

16 iii. Whether Defendant failed to provide Plaintiff and the members of the Class
17 compliant wage statements in violation of Labor Code Section 226(a);

18 iv. Whether Defendant violated Sections 204 and 210 of the Labor Code by
19 failing to pay member of the Class all wages due on a timely basis;

20 v. Whether Defendant violated Sections 201-203 of the Labor Code by failing
21 to pay member of the Class all final wages upon separation of their employment by Defendant;

22 vi. Whether Defendant engaged in an unfair practice and violated Section
23 17200 of the California Business and Professions Code by failing to pay Plaintiff and the members
24 of the Class all minimum wages owed, and by failing to reimburse them for their business-related
25 expenses during the Class Period;

26 vii. Whether Plaintiff and the Class are entitled to restitution under Business and
27 Professions Code § 17200;

28 viii. The proper formula(s) for calculating damages, interest, and restitution

owed to Plaintiff and the Class Members; and

ix. The nature and extent of class-wide damages.

c. Typicality: Plaintiff's claims are typical of the claims of the Class. Both Plaintiff and Class Members sustained injuries and damages, and were deprived of property rightly belonging to them, arising out of, and caused by Defendant's common course of conduct in violation of law as alleged herein, in similar ways and for the same types of unpaid wages.

d. Adequacy of Representation: Plaintiff is a member of the Class and will fairly and adequately represent and protect the interests of the Class and Class Members. Plaintiff's interests do not conflict with those of Class and Class Members. Counsel who represents Plaintiff are competent and experienced in litigating large wage and hour class actions, and will devote sufficient time and resources to the case and otherwise adequately represent the Class and Class Members.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each Class Member has been damaged or may be damaged in the future by reason of Defendant's unlawful policies and/or practices. Certification of this case as a class action will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Certifying this case as a class action is superior because it allows for efficient and full disgorgement of the ill-gotten gains Defendant has enjoyed by failing to pay all minimum wages due and failing to reimburse all work-related expenses and will thereby effectuate California's strong public policy of protecting employees from deprivation or offsetting of compensation earned in their employment. If this action is not certified as a Class Action, it will be impossible as a practical matter, for many or most Class Members to bring individual actions to recover monies unlawfully withheld from their lawful compensation due from Defendant, due to the relatively small amounts of such individual recoveries relative to the costs and burdens of litigation.

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
[Cal. Labor Code §§ 1194, 1197, 1197.1, 1198, and 1199]
On behalf of Plaintiff and the Class Against Defendant

46. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

47. The actionable period for this cause of action is three years prior to the filing of the Complaint through the present, and on-going until the violations are corrected, or the Class is certified.

48. Labor Code § 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. Similarly, Labor Code § 1194 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order 5-2001 also obligates employers to pay each employee minimum wages *for all hours worked*. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time 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.*, 135 Cal.App.4th 314, 324 (2005).

49. Furthermore, pursuant to Labor Code § 1198, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

50. Here, Defendant required Plaintiff and all Class Members to regularly perform compensable tasks off-the-clock for which they did not receive any compensation. Specifically, as part of the Class Members’ employment, Defendant required and continues to require Plaintiff and all Class Members to undergo COVID-19 temperature checks and screenings before the start of their shifts, off-the-clock. Specifically, Plaintiff was required to take his temperature before being allowed to clock in for his shift.

1 51. During the period from around March or April 2020 until the present, Plaintiff and
2 the Class underwent the same pre-shift temperature checks and COVID-19 screenings. Only after
3 such temperature checks and screenings were Plaintiff and the Class finally able clock in for their
4 shifts. As a result, and because it improperly treated such pre-shift COVID-19 screening time as
5 non-compensable, Defendant failed to compensate Plaintiff and the other Class Members for such
6 time. Labor Code § 1194 provides, in part, that any employee receiving less than the legal
7 minimum wage is entitled to recover in a civil action the unpaid balance of the minimum wage,
8 including interest thereon, reasonable attorney's fees, and costs of suit.

9 52. Labor Code § 1194.2 allows an employee to recover liquidated damages in an
10 amount equal to the wages unlawfully unpaid and interest thereon for any action under Labor Code
11 § 1194. Where an employee, such as Plaintiff and the other Class members, are not paid for all
12 hours worked under Labor Code § 1194, the employee may recover minimum wages for the time
13 associated with the overtime for which they received no compensation. *See Sillah v. Command*
14 *Int'l Sec. Servs.*, 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure
15 to pay overtime could recover liquidated damages under § 1194.2 if they also showed they were
16 paid less than minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F.Supp.3d 1115,
17 1132-33 (N.D. Cal. 2016).

18 53. Plaintiff and the other Class Members suffered and continue to suffer losses related
19 to the use and enjoyment of compensation due and owing to them as a direct result of Defendant's
20 unlawful acts and Labor Code violations in an amount to be shown according to proof at trial and
21 within the jurisdictional limitations of this Court.

22 54. Plaintiff seeks all available remedies for Defendant's violations including, but not
23 limited to, any and all wages due, monies, interest, liquidated damages, penalties attorney's fees,
24 and costs to the extent permitted by law.

25 **SECOND CAUSE OF ACTION**
26 **FAILURE TO REIMBURSE BUSINESS EXPENSES**
27 **[Cal. Labor Code § 2802]**
 On behalf of Plaintiff and the Class Against Defendant

28 55. Plaintiff re-alleges and incorporates by reference each and every allegation set forth

1 in the preceding paragraph.

2 56. The actionable period for this cause of action is three years prior to the filing of the
3 Complaint through the present, and on-going until the violations are corrected, or the subclass is
4 certified.

5 57. California Labor Code Section 2802 requires an employer in California to
6 "indemnify his or her employee for all necessary expenditures or losses incurred by that employee
7 in direct consequence of the discharge of his or her duties." See Cal. Labor Code Section
8 2802(a); *see also* 2802(c) where "necessary" is defined to include all "reasonable" costs. "The
9 elements of a claim under Section 2802 are: (i) the employee made expenditures or incurred
10 losses; (ii) the expenditures or losses were incurred in direct consequence of the employee's
11 discharge of his or her duties, or obedience to the directions of the employer; and (iii) the
12 expenditures or losses were reasonable and necessary." *Marr v. Bank of America, N.A.*, 2011 U.S.
13 Dist. LEXIS 24868 * 3 (N.D. March 8, 2011) (*citing Gattuso v. Harte-Hanks Shoppers, Inc.*, 42
14 Cal.4th 554, 568 (2007). "In addition, the employer 'must either know or have reason to know that
15 the employee has incurred [the] expense.'" *Id.* (*citing Stuart v. RadioShack Corp.*, 641 F.Supp. 2d
16 901 (N.D. Cal. 2009). Where an employer has knowledge that employees are incurring a
17 reimbursable expense, the employer must "exercise due diligence to ensure each employee is
18 reimbursed." *Marr*, at *1. The right of an employee to expense reimbursements from his or her
19 employer is not waivable. *See* Cal. Labor Code § 2804; *Edwards v. Arthur Andersen LLP*, 44 Cal.
20 4th 937, 954-55 (2008).

21 58. Here, Defendant failed to reimburse employees for their business-related expenses
22 incurred on behalf of Defendant, including cell phone expenses. Specifically, Defendant required
23 Plaintiff and Class Members to use their personal cell phones to do surveys to provide "positive"
24 reviews for the restaurant in which they worked. Additionally, Defendant required some
25 employees to pick up certain supplies for Defendant's restaurants using their personal vehicles.
26 Defendant did not reimburse Plaintiff and the Class for their personal cell phone expenses or use of
27 their personal vehicles.

28 59. As part of Plaintiff's job duties, Defendant's Store Managers directed Plaintiff and

other employees to use their personal phones to complete surveys in which they were to pose as customers to write positive reviews for Defendant's restaurants. Plaintiff estimates he would spend several minutes per day in which he would complete approximately five (5) surveys per day. Defendant's managers requested that the employees complete four (4) surveys per shift with some employees completing approximately ten (10) or more surveys per day. This was true for all of the Aggrieved Employees who were requested to do restaurant online surveys. Accordingly, Defendant violated Labor Code § 2802 and continue to do so by failing to reimburse Plaintiff and all other Class Members for all work-related charges they incurred in connection with their job duties. By failing to reimburse Plaintiff and the Class for their personal expenses incurred for work-related purposes, Defendant violated Labor Code § 2802.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE COMPLETE WAGE STATEMENTS
[Cal. Labor Code § 226(a) and (e)]
On behalf of Plaintiff and the Class Against Defendant

60. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

61. The actionable period for this cause of action is one year prior to the filing of this Complaint through the present, and on-going until the violations are corrected, or the subclass is certified. This claim is brought on behalf of the Wage Statement Subclass.

62. Section 226(a) of the California Labor Code provides, in relevant part:

Every employer shall...furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (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, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (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

• • • •

63. Defendant knowingly and intentionally failed to pay Plaintiff and all Wage Statement Subclass Members all minimum wages associated with COVID-19 temperature checks and questioning. Accordingly, all wage statements contained inaccurate information as to hours worked and wages earned (since time spent on pre-shift COVID temperature checks and questioning were never included). Moreover, Plaintiff and all Wage Statement Subclass Members also suffered legal “injury” for purposes of Labor Code Section 226(e) insofar as they were unable to readily and easily determine the information required to be set forth by Section 226(a). Specifically, Plaintiff and the Wage Statement Subclass Members were unable to determine the actual and accurate total hours worked by the employees, the gross wages earned, the net wages earned, since time spent on COVID-19 temperature checks, questions, and waiting in line was always done off the clock and pre-shift.

64. Defendant’s violation of Labor Code § 226 was knowing and intentional. See *Garnett v. ADT LLC*, 139 F.Supp. 3d 1121, 1134 (E.D. Cal. 2015) (finding that the defendant knowingly and intentionally violated Labor Code § 226 because the “[d]efendant knew that it was not providing total hours worked to plaintiff or other employees paid on commission” even though it believed that employees paid solely on commission or commission and salary “are exempt and therefore we do not record hours on a wage statement”).

As a result of Defendant’s failure to issue compliant wage statements to Plaintiff and the Wage Statement Subclass Members (i.e., those members of the class who were employed by Defendant during the actionable period for this cause of action) in violation of Section 226(a) of the California Labor Code, Plaintiff and the Wage Statement Subclass Members are each entitled to recover an initial penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendant pursuant to Section 226(e) of the Labor Code, costs and reasonable attorneys’ fees.

FOURTH CAUSE OF ACTION
FAILURE TO PAY WAGES ON A TIMELY BASIS
[Cal. Labor Code §§ 204, 210]
On behalf of Plaintiff and the Class Against Defendant

1 65. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
2 in the preceding paragraphs.

3 66. Labor Code § 204 expressly requires that “[a]ll wages...earned by any person in
4 any employment are due and payable twice during each calendar month, on days designated in
5 advance by the employer as the regular paydays.” Pursuant to Labor Code § 204(d), these
6 requirements are deemed satisfied by the payment of wages for weekly, biweekly or semimonthly
7 payroll if the wages are paid not more than seven calendar days after the end of the pay period.

8 67. Due to Defendant’s failure to pay Plaintiff and the Class Members for minimum
9 wages owed, Defendant violated Labor Code § 204 by failing to pay all wages due to the Late
10 Wages Subclass members within seven (7) days of the close of the payroll period on a regular and
11 consistent basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL
12 1734010, at *3-5 (N.D. Cal. May 2, 2016) (finding that a failure to pay rest period premiums can
13 support claims under Labor Code §§ 203 and 204).

14 68. Labor Code § 210 provides that “in addition to, an entirely independent and apart
15 from, any other penalty provided in this article, every person who fails to pay the wages of each
16 employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any
17 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
18 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
19 failure to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the
20 faulty compensation policies and practices described in detail above, Plaintiff and the Class are
21 entitled to recover penalties under Labor Code § 210. See also AB 673 (amending Section 210 to
22 provide for the existence of a private right of action to recover Section 210 penalties).

23 **FIFTH CAUSE OF ACTION**
24 **WAITING TIME PENALTIES**
25 **[Cal. Labor Code §§ 201-203]**

26 **On behalf of Plaintiff and the Class Against Defendant**

27 69. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
28 in the preceding paragraphs.

 70. Under Labor Code §§ 201-202, an employer must provide an employee wages at

1 the time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203
2 provides “if an employer willfully fails to pay ... any wages of an employee who is discharged or
3 who quits, the wages of the employee shall continue as a penalty...” for up to 30 days. Lab. Code
4 § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

5
6 71. As described in detail above, Defendant failed to pay Class Members whose
7 employment with Defendant has now ended, all wages owed, including but not limited to all
8 minimum wages owed within the time constraints proscribed in Labor Code §§ 201-202. Thus, as
9 a result of Defendant’s faulty policies described above, Class Members who had separated from
10 Defendant, did not receive their final wages for each and every hour worked at the appropriate rate
11 in violation of Labor Code §§ 201, 202, 203, and 210 thus triggering 30 days of wage claims for
12 each former employee.
13

14 **SIXTH CAUSE OF ACTION**
15 **UNFAIR COMPETITION LAW VIOLATIONS**
16 **(BUS. & PROF. CODE § 17200, ET SEQ.)**
17 **On Behalf of Plaintiff and the Class Against Defendant**

18 72. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
19 in the preceding paragraphs.

20 73. Section 17200 of the California Business & Professions Code prohibits any
21 unlawful, unfair, or fraudulent business practices. Business & Professions Code § 17204 allows
22 “any person who has suffered injury in fact and has lost money or property” to prosecute a civil
23 action for violation of the UCL. Such a person may bring such an action on behalf of himself, and
24 others similarly situated who are affected by the unlawful, unfair, or fraudulent business practice.

25 74. Under Section 17208 of the California Business and Professions Code, the statute
26 of limitations for a claim under Section 17200 is four years. Accordingly, the actionable period for
27 this cause of action is four years prior to the filing of this Complaint through the present, and on-
28 going until the violations are corrected, or the Class is certified.

75. Section 90.5(a) of the Labor Code states that it is the public policy of California to

1 enforce vigorously minimum labor standards in order to ensure employees are not required to work
2 under substandard and unlawful conditions, and to protect employers who comply with the law
3 from those who attempt to gain competitive advantage at the expense of their workers by failing to
4 comply with minimum labor standards.

5 76. As a direct and proximate result of Defendant's unlawful business practices,
6 Plaintiff and the Class Members have suffered economic injuries. Defendant has profited from its
7 unlawful, unfair, and/or fraudulent acts and practices.

8 77. Plaintiff and similarly situated Class Members are entitled to monetary relief
9 pursuant to Business & Professions Code §§ 17203 and 17208 for all unpaid minimum wages, the
10 right to receive accurate itemized wage statements, and unreimbursed business expenses due and
11 interest thereon, from at least four years prior to the filing of this Complaint through to the date of
12 such restitution, at rates specified by law. Defendant should be required to disgorge all the profits
13 and gains they have reaped and restore such profits and gains to Plaintiff and Class Members, from
14 whom they were unlawfully taken.

15 78. Through the actions alleged herein, Defendant has engaged in unfair competition
16 within the meaning of Section 17200 of the California Business & Professions Code, because
17 Defendant's conduct, as herein alleged has damaged Plaintiff and the Class Members by
18 wrongfully denying them minimum wages, the right to receive accurate itemized wage statements,
19 and wrongfully denying them reimbursement for business expenses, and therefore was
20 substantially injurious to Plaintiff and the Class Members.

21 79. Defendant engaged in unfair competition in violation of Sections 17200 et seq. of
22 the California Business & Professions Code by violating Section 1194 of the California Labor
23 Code.

24 80. Defendant's course of conduct, act, and practice in violation of the California laws
25 mentioned above constitute independent violations of Sections 17200 et seq. of the California
26 Business and Professions Code.

27 81. Plaintiff and similarly situated Class Members are entitled to enforce all applicable
28 penalty provisions of the Labor Code pursuant to Business & Professions Code § 17202.

1 82. Plaintiff has assumed the responsibility of enforcement of the laws and public
2 policies specified herein by suing on behalf of himself and other similarly situated Class Members
3 previously or presently employed by Defendant in California. Plaintiff's success in this action will
4 enforce important rights affecting the public interest. Plaintiff will incur a financial burden in
5 pursuing this action in the public interest. Therefore, an award of reasonable attorneys' fees to
6 Plaintiff is appropriate pursuant to Code of Civil Procedure § 1021.5.

7 **SEVENTH CAUSE OF ACTION**
8 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**
9 **PENALTIES FOR LABOR CODE VIOLATIONS**
 (Labor Code §§ 2698-2699.5)

10 **On Behalf of Plaintiff, the LWDA and the Aggrieved Employees Against Defendant**

11 83. Plaintiff re-alleges and incorporates by reference each and every allegation set forth
12 in the preceding paragraphs.

13 84. Plaintiff and the "Aggrieved Employees" under PAGA, i.e., those employees who,
14 during the PAGA Period, suffered the Labor Code violations alleged herein; specifically,
15 violations of §§ 201, 202, 203, 204, 210, 226(a), 1194, 1197, 1197.1, 1198, 1199, and 2802 of the
16 Labor Code as well as section 12 of IWC Wage Order 5-2001 bring claims under PAGA. Plaintiff
17 was employed by Defendant during the one year preceding the submission of a PAGA letter to the
18 LDWA on or around May 26, 2022. As such, he seeks to recover, on behalf of himself and all
19 other current and former aggrieved employees of Defendant, the civil penalties provided by
20 PAGA.

21 85. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, Plaintiff and
22 all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial
23 subject to the following formula:

24 \$100 for the initial violation per employee per pay period; and

25 \$200 for each subsequent violation per employee per pay period.

26 These penalties will be allocated 75% to the Labor Workforce Development Agency and
27 25% to the affected Aggrieved Employees.

28 86. The Aggrieved Employees are all individuals who worked for Defendant as hourly-

1 paid employees in California during the PAGA Period. These employees were subject to the
2 aforementioned Labor Code violations, during the period of time from one year prior to the
3 submission of Plaintiff's letter to the LDWA on May 26, 2022 through to the present and on-
4 going, i.e., from May 26, 2022 to the present.

5 87. Further, Plaintiff, and the Aggrieved Employees, need not demonstrate or prove that
6 Defendant's conduct in refusing to provide itemized wage statements was knowing, intentional, or
7 willful. *See Lopez v. Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788 (2017); *see also Willner v.*
8 *Manpower Inc.* 35 F. Supp. 3d 1116, 1136 (N.D. Cal. 2014) (To obtain judgment on a PAGA
9 claim, "all [plaintiff] needs to establish is a violation of section 226(a), which she has done, as
10 discussed above."); *McKenzie v. Fed. Express Corp.*, 765 F.Supp.2d 1222, 1231-1232 (C.D. Cal.
11 2011) (holding that "for the purposes of recovering PAGA penalties, one need only prove a
12 violation of Section 226(a), and need not establish a Section 226(e) injury."); *Aguirre v. Genesis*
13 *Logistics*, 2013 U.S. Dist. LEXIS 189815, at *28 (C.D. Cal. July 3, 2013) ("Plaintiffs do not need
14 to establish a Cal. Lab. Code § 226(e) injury to recover penalties under § 2699(f) of PAGA.").

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

18 89. Pursuant to Labor Code § 2699.3 (a), on May 26, 2022, Plaintiff gave written notice
19 by certified mail to Defendant, and to the Labor and Workforce Development Agency ("LWDA")
20 of his claims, including the facts and theories supporting all claims outlined in this Complaint.
21 Accordingly, Plaintiff has or soon will have fulfilled all administrative prerequisites to the pursuit
22 of his PAGA claim on behalf of himself and all other current and former aggrieved employees of
23 Defendant.

24 JURY DEMAND

25 90. Plaintiff hereby demands trial by jury of his and the Class Members' claims against
26 Defendant, except for the PAGA and UCL claims which will be tried to the Court.

27 PRAYER FOR RELIEF

28 Wherefore, Plaintiff, on behalf of himself and the members of the Class, and the LWDA

1 and the Aggrieved Employees, prays for judgment against Defendant as follows:

2 1. An Order than this action may proceed and be maintained as a class action;

3 2. On the First Cause of Action:

4 a. A declaratory judgment that Defendant has violated California Labor Code
5 Sections 1194 and 1197 in failing to pay Plaintiff, the Class and the Aggrieved Employees all
6 minimum wages due;

7 b. An award to Plaintiff and the other members of the Class in the amount of
8 their unpaid minimum wages owed, plus interest and/or liquidated damages under 1194.2 during
9 the Class Period, as well as attorneys' fees under Labor Code Section 1194;

10 3. On the Second Cause of Action:

11 a. A declarator judgment that Defendant violated Labor Code § 2802 as to
12 Plaintiff, the Class and the Aggrieved Employees;

13 b. Pursuant to Labor Code § 2802 (a)-(c), reimbursement for all at the
14 unreimbursed business expenses incurred by Plaintiff and the Class, plus interest and attorney's
15 fees.

16 4. On the Third Cause of Action:

17 a. A declaratory judgment that Defendant violated California Labor Code §
18 226 by failing to issue compliant wage statements to Plaintiff, the Aggrieved Employees and the
19 Wage Statement Subclass members;

20 b. An award to Plaintiff and Wage Statement Subclass Members of \$50 for
21 each initial pay period in which a violation of Section 226 occurred and \$100 for each subsequent
22 pay period in which a violation of Section 226 occurred, not to exceed \$4,000 for each member of
23 the Class, as well as an award of costs and reasonable attorney's fees, pursuant to Labor Code §
24 226(e).

25 5. On the Fourth Cause of Action:

26 a. A declaratory judgment that Defendant violated California Labor Code §§
27 204 and 210;

28 b. Pursuant to Labor Code §§ 204 and 210, an award to Plaintiff and the Late

1 Wage Subclass for penalties pursuant to Labor Code § 210.

2 6. On the Fifth Cause of Action:

3 a. A declaratory judgment that Defendants have violated California Labor
4 Code §203 in failing to pay the Class all final wages due;

5 b. An award to members of the Class whose employment with Defendant
6 ended in the amount 30 days wages under Labor Code section 203.

7 7. On the Sixth Cause of Action:

8 a. That the Court find and declare that Defendant has violated the UCL and
9 committed unfair and unlawful business practices by failing to pay minimum wages and by failing
10 to reimburse Plaintiff and the Class for all their business-related expenses;

11 b. Restitution, including, but not limited to, the relief permitted by sections
12 1194 and 2802 of the California Labor Code (i.e., unpaid minimum wages owed and
13 reimbursement of all business-related expenses by Plaintiff and the members of the Class during
14 the Class Period).

15 8. On the Seventh Cause of Action:

16 a. A civil penalty against Defendant in the amount of \$100 for the initial
17 violation and \$200 for each subsequent violation as specified in section 2699(f)(2) of the
18 California Labor Code for Plaintiff and the Aggrieved Employees during all of the pay periods in
19 the one year preceding the submission of Plaintiff's LWDA letter through the present and on-going
20 until the violations are corrected, or this subclass is certified;

21 b. An award of reasonable attorney's fees against Defendant as specified in
22 Labor Code § 2699(g)(1), for all the work performed by Plaintiff's counsel in connection with the
23 PAGA claims;

24 c. An award of all costs incurred by the undersigned counsel for Plaintiff in
25 connection with Plaintiff's and Class Members' PAGA claim against Defendant, as provided for in
26 Labor Code § 2699(g)(1); and

27 ///

28 ///

1 9. All other relief as this Court deems proper.

2
3 Dated: August 2, 2022

Respectfully submitted,

4 ACKERMANN & TILAJEF, P.C.
5 THE LAW OFFICES OF TATIANA
6 HERNANDEZ, P.C.

7 By:

Tatiana Hernandez

Craig Ackermann, Esq.

Tatiana Hernandez, Esq.

8 Counsel for Plaintiff, the Class, the LWDA and
9 the Aggrieved Employees
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