

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

Sarah H. Cohen (SBN 330700)

sarah@tomorrowlaw.com

Rafael Yedoyan (SBN 351499)

rafael@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, ALEJANDRO HERNANDEZ,

as an aggrieved employee, and on behalf of all other

aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ALEJANDRO HERNANDEZ, as an
aggrieved employee, and on behalf of all other
aggrieved employees under the Labor Code
Private Attorneys' General Act of 2004,

Plaintiff,

v.

TACOS EL GAVILAN, INC., a California
limited liability company; CINGULAR FOOD
HANDLERS, INC., a California corporation;
HINGULAR HR, a California corporation;
HINGULAR GROCERS, a California
corporation; ALLI WEST GROUP ONE, a
California corporation; ALLI NORTH
GROUP ONE, a California corporation; ALLI
EAST GROUP ONE, a California corporation;
and DOES 1 through 100, inclusive,

Defendants.

Electronically FILED by
Superior Court of California,
County of Los Angeles
6/16/2025 10:24 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

CASE NO.: **25STCV17337**

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff ALEJANDRO HERNANDEZ (“Plaintiff”) as an aggrieved employee, and on
2 behalf of all other aggrieved employees under the Labor Code Private Attorneys’ General Act of
3 2004, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against TACOS EL
7 GAVILAN, INC., and any of its respective subsidiaries or affiliated companies within the State of
8 California (“TACOS EL GAVILAN”); CINGULAR FOOD HANDLERS, INC., and any of its
9 respective subsidiaries or affiliated companies within the State of California (“CINGULAR
10 FOOD”); CINGULAR HR, and any of its respective subsidiaries or affiliated companies within the
11 State of California (“CINGULAR HR”); CINGULAR GROCERS, and any of its respective
12 subsidiaries or affiliated companies within the State of California (“CINGULAR GROCERS”);
13 ALLI WEST GROUP ONE, and any of its respective subsidiaries or affiliated companies within
14 the State of California (“ALLI WEST”); ALLI NORTH GROUP ONE, and any of its respective
15 subsidiaries or affiliated companies within the State of California (“ALLI NORTH”); ALLI EAST
16 GROUP ONE, and any of its respective subsidiaries or affiliated companies within the State of
17 California (“ALLI EAST”) as a proxy of the Labor and Workforce Development Agency of the
18 State of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt
19 employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as
20 it pertains to the alleged claims for failure to comply with the Labor Code. Specifically, in
21 connection with the alleged claims for failure to comply with Labor Code sections 201, 202, 203,
22 204, 210, 221, 223, 226, 226.2, 226.3, 246, 432, 1198, 1198.5, , Plaintiff seeks to represent all
23 employees of TACOS EL GAVILAN, CINGULAR FOOD HANDLERS, and each of them, DOES
24 1 through 100, as well as their parents, subsidiaries and affiliates (hereinafter, collectively,
25 “Defendants”) working within three years preceding the date of this letter and continuing past the
26 date of this Letter into perpetuity (“Civil Penalty Period”). On all other claims mentioned herein,
27 Plaintiff seeks to represent only non-exempt employees of Defendants working within the Civil
28 Penalty Period. Collectively, those employees shall be known as “Aggrieved Employees” herein.

2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

3. Venue is proper in Los Angeles County, California pursuant to Code of Civil Procedure sections 392, et seq. because, among other things, Los Angeles County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiff and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiff and Defendants was actually performed; and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved Employees in Los Angeles County, and because Defendants employ Aggrieved Employees in Los Angeles County.

4. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein, even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to recover civil penalties under the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”), as amended, plus reasonable attorneys’ fees and costs, for Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil Penalty Period.

5. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA allegations described herein is not required.

6. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections 201, 201.3, 202, 203, 204, 204.1, 204.2, 206.5, 210, 221, 223, 226, 226.2, 226.3, 226.7, 231, 233, 235, 246, 351, 353, 404, 432, 450, 510, 511, 512, 551, 552, 558, 1101, 1102, 1174, 1174.51182.12, 1194, 1194.2, 1198, 1198.5, 1290, 1292, 1293, 1293.1, 1294.1, 1301, 1391, 1475, 1695.55, 1696.5, 1700.31, 1771, 1774, 1775, 1776, 1811, 1815, 2673, 2800, 2802, 2810.3, 2810.5, 2699, 49112, 49116, among others, California Code of Regulations, Title 8, Section 3395, 3396, Business and

1 Professions Code sections 16600, 16700, and 17200, Government Code section 12952, as well as
2 applicable Wage Orders.

3 7. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
4 such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within
5 the Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures
6 specified in Labor Code section 2699.3.

7 8. On or around January 30, 2025, Plaintiff provided written notice pursuant to Labor
8 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants'
9 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,
10 as well as by certified mail, with return receipt requested to Defendants, and each of them.

11 9. On or around March 11, 2025, Plaintiff provided an amended written notice pursuant
12 to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of
13 Defendants' violation of various, including the herein-described, provisions of the Labor Code, to
14 the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of
15 them.

16 10. Plaintiff also provided Defendants, and each of them, with notice under Labor Code
17 section 2810.3, subdivision (d) that Plaintiff would seek to hold them liable for each other's wage
18 and hour violations under Labor Code section 2810.3 on January 30, 2025 and March 11, 2025 by
19 certified mail with return receipt requested.

20 11. To the extent Defendants, or either of them, previously used the notice and cure
21 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
22 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
23 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
24 conference process pursuant to section 2699.3(f).

25 12. In the event that Defendants, or either of them, is/are determined to have satisfied
26 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
27 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
28 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

1 13. In the event that Defendants, or either of them, is/are determined to have, prior to
2 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
3 and/or his/her counsel, adequately taken all reasonable steps to be in compliance with all provisions
4 identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to section
5 2699(g)(1)-(3).

6 14. In the event that Defendants, or either of them is/are deemed to have adequately taken
7 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
8 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
9 Code section 2699(h)(1)-(3).

10 15. Plaintiff is further informed and believes that within five (5) years of any of
11 violations described above, the LWDA or a court has issued a finding or determination to the
12 Defendants, or either of them, that its/their policy or practice giving rise to such violations was
13 unlawful, and thus Defendants, or any of them, is/are further liable for civil penalties pursuant to
14 Labor Code section 2699(f)(2)(B)(i). Plaintiff is informed that Defendants, or any of them,
15 was/were found to have unlawfully committed some or all of the above-related Labor Code
16 violations, and thus is/are subject to increased penalties, as applicable, under Labor Code sections
17 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3), and is/are **not** eligible for reduced penalties under
18 either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the
19 serving of this notice. Regardless, as the Defendants' conduct giving rise to the violations detailed
20 herein was and is malicious, fraudulent, and/or oppressive, the Employer thus is subject to increased
21 penalties under Labor Code section 2699(f)(2)(B)(ii) and, per Labor Code sections 2699(g)(3) and
22 2699(h)(3), are **not** eligible for reduced penalties under either 2699(g) or 2699(h), for remedying
23 violations either prior to or after the Employer's receipt of this notice.

24 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
25 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
26 calendar days of the January 30, 2025 postmarked date of the herein-described notice sent by
27 Plaintiff to the LWDA and Defendants.

28 ///

PAGA REPRESENTATIVE ALLEGATIONS

17. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, had and have a policy or practice of requiring Plaintiff and other Aggrieved Employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections 551 and 552) without paying them proper overtime wages every day, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off the clock, and/or go through security screenings and/or temperature checks off the clock; failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods where overtime was worked and the additional compensation was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked, for paying straight pay instead of overtime pay, for failure to pay overtime as required by Labor Code section 226.2, and by attempting but failing to properly implement an alternative workweek schedule ("AWS") (including, without limitation, by failing to implement a written agreement designating the regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring; failing to adopt the AWS in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit; failing to follow the notice/disclosures procedures prior to any AWS election; and/or failing to register an AWS election with the State of California, as required by Labor Code section 511 and applicable Wage Orders) all to the detriment of Employee and other Aggrieved Employees. Consequently, Employee is informed and believes, and based thereon

1 alleges, that Employer violated Labor Code sections 221, 223, 226.2, 510, 511, 551, 552, 1194,
2 1198 (as it pertains to employees governed by a collective bargaining agreement ["CBA"]), 1811,
3 1815 and applicable Wage Orders based on its practice of providing total compensation that is less
4 than the required legal overtime compensation for the overtime worked, entitling Employee and
5 other aggrieved employees to damages, including, without limitation, at least one hour of unpaid
6 overtime wages each day worked by each Aggrieved Employee during the Civil Penalty Period.
7 Employee further informed and believes, and based thereon alleges, that Employer's conduct above
8 gave rise to such violations was malicious, fraudulent, or oppressive. Employer would also be liable
9 for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558,
10 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Employer would further
11 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

12 18. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
13 each of them, had and have a practice or policy of failing to compensate Plaintiff and other
14 Aggrieved Employees with minimum wages for all hours worked or otherwise under Employer's
15 control every day as a result of, without limitation, failing to accurately track and/or pay for all
16 minutes actually worked; engaging, suffering, or permitting employees to work off the clock,
17 including, without limitation, by requiring employees: to come early to work and leave late work
18 without being able to clock in for all that time, to suffer under Defendants' control due to long lines
19 for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out,
20 to clock out for meal periods and continue working, to clock out for rest periods, to don and doff
21 uniforms and/or safety equipment off the clock, to undergo security checks and/or bag checks off
22 the clock, to store and retrieve personal belongings off the clock, to attend company meetings off
23 the clock, to make phone calls, receive and respond to emails and/or texts, or drive off-the-clock;
24 detrimental rounding of employee time entries; failing to pay the minimum amounts required under
25 Labor Code section 226.2; editing and/or manipulation of time entries to show less hours than
26 actually worked; and failing to pay split shift premiums. In addition, Plaintiff and other Aggrieved
27 Employees were required to report to work, and did report, but were not put to work and/or were
28 furnished less than half their usual or scheduled day's work without being paid for half the usual or

1 scheduled work at their regular rate of pay. As such, Plaintiff is informed and believes, and based
2 thereon alleges, that Defendants violated, without limitation, Labor Code sections 221, 223, 226.2,
3 1197, 1182.12, Cal. and applicable Wage Orders based on its continued failure to pay minimum
4 wages for all hours worked, that Plaintiff and other Aggrieved Employees personally suffered these
5 violations, and that Plaintiff and other Aggrieved Employees are entitled to actual and liquidated
6 damages under, without limitation, Labor Code sections 1475, 1194, 1194.2, and 1198 to
7 compensate them for at least one unpaid hour of work per day for each Aggrieved Employee in the
8 Civil Penalty Period. Employee further informed and believes, and based thereon alleges, that
9 Defendants' conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
10 Plaintiff would also be liable for civil penalties pursuant to Labor Code sections 210 (for failure to
11 timely pay these wages), 558, 1197.1, 1198 and 2699, or injunctive relief under sections 2699(e)(1)
12 and 2699(k). Plaintiff would further be liable for civil penalties pursuant to Labor Code section
13 2699(f)(2)(B)(ii).

14 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
15 and have a practice or policy of failing to compensate Plaintiff and other Aggrieved Employees with
16 minimum wages for all hours worked or otherwise under Employer's control every day as a result
17 of, without limitation, failing to accurately track and/or pay for all minutes actually worked;
18 engaging, suffering, or permitting employees to work off the clock, including, without limitation,
19 by requiring employees: to come early to work and leave late work without being able to clock in
20 for all that time, to suffer under Defendants' control due to long lines for clocking in, to complete
21 pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods
22 and continue working, to clock out for rest periods, to don and doff uniforms and/or safety
23 equipment off the clock, to undergo security checks and/or bag checks off the clock, to store and
24 retrieve personal belongings off the clock, to attend company meetings off the clock, to make phone
25 calls, receive and respond to emails and/or texts, or drive off-the-clock; detrimental rounding of
26 employee time entries; editing and/or manipulation of time entries to show less hours than actually
27 worked; and failing to pay split shift premiums. In addition, Plaintiff and other Aggrieved
28 Employees were required to report to work, and did report, but were not put to work and/or were

1 furnished less than half their usual or scheduled day's work without being paid for half the usual or
2 scheduled work at their regular rate of pay. These acts and/or omissions violated Labor Code
3 sections 1771, 1774 and 1198, and, thus Plaintiff would be liable for civil penalties pursuant to these
4 sections and Labor Code section 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
5 Plaintiff further informed and believes, and based thereon alleges, that Plaintiff's conduct above
6 gave rise to such violations was malicious, fraudulent, or oppressive. Plaintiff would further be liable
7 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

8 20. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
9 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
10 Employees during the Civil Penalty Period to work every day in excess of five (5) and ten (10) hours
11 per day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
12 compensation in lieu thereof including, each workday, without limitation: by interrupting meal
13 periods; not providing timely meal periods; failing to provide first and second meal periods;
14 providing short meal periods, including without, limitation meal periods that were recorded for less
15 than thirty minutes, and meal periods that may appear on the record to be thirty minutes or longer
16 but in practice were shorter than thirty minutes due to time required to walk to and from a suitable
17 break area, time spent having to wait in line to clock back in, having to don and doff safety gear
18 during the meal period, having to undergo security or bag checks during the meal period, and /or
19 having to retrieve and store personal belongings during the meal period; requiring that employees
20 carry cellular telephones or walkie-talkies during meal periods; not permitting employees to leave
21 the premises; otherwise requiring on-duty/on-call meal periods; and auto-deducting meal periods
22 that could not be auto-deducted by law or during which employees worked. Plaintiff and other
23 Aggrieved Employees personally suffered these violations. Consequently, Plaintiff is informed and
24 believes, and based thereon alleges, that Defendants violated Labor Code sections 221, 223, 512
25 and 1198 each day for each Aggrieved Employee during the Civil Penalty Period, and that, thus
26 each Aggrieved Employee was owed one hour of premium pay at their regular rate of pay for each
27 day worked during the Civil Penalty Period under Labor Code section 226.7. However, Plaintiff is
28 informed and believes that those premium payments under Labor Code section 226.7 were not made,

1 either, for these non-compliant meal periods, either at all or at the proper regular rate of pay.
2 Plaintiff would thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to
3 timely pay these wages), 221, 223, 558, 1198 and 2699 for both failing to authorize the taking of
4 compliant meal periods and for failing to provide premium pay under Labor Code section 226.7, or
5 injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and
6 based thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
7 fraudulent, or oppressive. Employer would further be liable for civil penalties pursuant to Labor
8 Code section 2699(f)(2)(B)(ii).

9 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,
11 including, without limitation, work over four-hour periods (or major fractions thereof) without
12 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
13 and complete ten-minute rest periods in which the employees are completely relieved of all of their
14 duties, including, without limitation: by failing to provide rest periods all together; failing to provide
15 rest periods that were at least ten minutes in length, including rest periods that were shorter than ten
16 minutes, or rest periods that may have encompassed a total of ten minutes but were in practice less
17 than ten uninterrupted minutes due to, without limitation, due to time required to walk to and from
18 a suitable break area, time spent having to don and doff safety gear during the rest period, having to
19 retrieve and store personal belongings during the rest period, and/or having to undergo security or
20 bag checks during the rest period, requiring that they be bundled together and/or with meal periods;
21 interrupting them; requiring that employees carry cellular telephones or walkie-talkies during rest
22 periods; not providing rest periods in a timely fashion; and not permitting employees to leave the
23 premises; and otherwise requiring on-duty/on-call rest periods. Employee and other Aggrieved
24 Employees personally suffered these violations. Consequently, Plaintiff is informed and believes,
25 and based thereon alleges, that Defendants violated the applicable Wage Order(s) each day for each
26 Aggrieved Employee during the PAGA Period, and that, thus each Aggrieved Employee was owed
27 one hour of premium pay at their regular rate of pay for each day worked during the PAGA Period
28 under Labor Code section 226.7. However, Plaintiff is informed and believes that those premium

1 payments under Labor Code section 226.7 were not made, either, for these non-compliant rest
2 periods, either at all or at the proper regular rate of pay, in violation of Labor Code sections 226.7
3 and 1198. Defendants would thus be liable for civil penalties pursuant to Labor Code sections 210
4 (for failure to timely pay these wages), 221, 223, 558, 1198 and 2699 for both failing to authorize
5 the taking of compliant rest periods and for failing to provide premium pay under Labor Code
6 section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
7 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
8 violations was malicious, fraudulent, or oppressive. Defendants would further be liable for civil
9 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

10 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 maintain policies or practices of failing to maintain adequate temperatures which created excessive
12 heat or humidity exposing Plaintiff and Aggrieved Employees to temperature related hazards and/or
13 comfortable working environments, as required under California Code of Regulations Title 8,
14 section 3396. Plaintiff is informed and believes, and based thereon alleges that Defendants failed
15 to maintain temperatures at comfortable levels in violation of section 15 of the applicable Wage
16 Orders, which requires temperature be maintained in each work area to be reasonably comfortable,
17 consistent with industry-wide standards for the nature of the process and the work performed.
18 Defendants, as required by the same wage order provisions, also: failed and fails to take all feasible
19 means to reduce excessive heat or humidity created by the work process to provide reasonable
20 comfort; failed and fails to provide a heated room for Plaintiff and Aggrieved Employees so that
21 they may retire for warmth while maintaining such room at not less than 60 degrees; and/or failed
22 and fails to maintain a temperature of not less than 68 degrees in toilet rooms, resting rooms, and
23 change rooms during hours of use Plaintiff is further informed and believes, and based thereon
24 alleges that Defendants failed and fail to permit Plaintiff and other Aggrieved Employees from
25 taking cooldown periods every day as required under California Code of Regulations, Title 8,
26 Section 3395; rest and recovery periods as required by Labor Code section 226.2; and premium pay
27 in lieu thereof under Labor Code section 226.7. Plaintiff and other Aggrieved Employees personally
28 suffered these violations. Consequently, Plaintiff is informed and believes, and based thereon

1 alleges, that Defendants violated California Code of Regulations, Title 8, Sections 3395 and 3396
2 each day for each Aggrieved Employee during the PAGA Period, and that, thus each Aggrieved
3 Employee was owed one hour of premium pay at their regular rate of pay for each day worked
4 during the PAGA Period under Labor Code section 226.7. In addition, for the failure each day of
5 the PAGA Period by Defendants to provide rest and recovery periods under Labor Code section
6 226.2, each Aggrieved Employee was owed compensation at a regularly hourly rate that is no less
7 than the higher of the amounts set forth in Labor Code section 226.2(a)(3)(A)(i) or
8 226.2(a)(3)(A)(ii). However, Plaintiff is informed and believes that those premium payments under
9 Labor Code section 226.7, and rest and recovery periods under Labor Code section 226.2(a)(3)(A)
10 were not made for these non-compliant cooldown periods and/or rest and recovery periods, either
11 at all or at the proper rate of pay, in violation of Labor Code sections 226.2, 226.7 and/or 1198.
12 Defendants would also be liable for their failures to provide comfortable levels of temperatures to
13 employees under the wage orders, including Section 15 thereof. Defendants would thus be liable
14 for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 221,
15 223, 558, 1198 and 2699 for both failing to authorize the taking of compliant rest periods and for
16 failing to provide premium pay under Labor Code section 226.7, or injunctive relief under sections
17 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that
18 Defendants' conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
19 Defendants would further be liable for civil penalties pursuant to Labor Code section
20 2699(f)(2)(B)(ii).

21 23. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
22 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
23 statements and similar payroll documents under Labor Code section 226, documents signed to
24 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
25 section 1198.5, time records under Labor Code section 1174, the names and addresses of all
26 employees employed and the ages of all minors under Labor Code section 1174, subsection (c),
27 payroll records showing the hours worked daily by and the wages paid to, and the number of piece-
28 rate units earned by, and applicable piece rate paid to, employees employed at the respective place

1 of employment under Labor Code section 1174, subsection (d), and a copy of the payroll record
2 provided by the contractor under Labor Code section 1695.55, as well as the information required
3 to be kept under Labor Code sections 2673 and/or 1776, subdivision (a), making it difficult for
4 Employee and other aggrieved employees to calculate their unpaid wages and/or premium
5 payments. Employer also failed to provide these documents to Employee and other Aggrieved
6 Employees upon request in violation of these Labor Code sections, as well as Labor Code section
7 1198 and/or 1775, subdivision (b)(1). Plaintiff and the Aggrieved Employees personally suffered
8 these violations, which in turn would entitle Plaintiff and other Aggrieved Employees to penalties
9 prescribed by Labor Code sections 226 and 1198.5. Defendants would also be liable for civil
10 penalties pursuant to Labor Code sections 558, 1174.5, 1695.55, 1198, and 2699. Plaintiff is further
11 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
12 violations was malicious, fraudulent, or oppressive. Defendants would further be liable for civil
13 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

14 24. As a result of, among other things, Defendants' herein-described policy or practice
15 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
16 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
17 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
18 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
19 continues to fail to furnish Aggrieved Employees, including, without limitation, Plaintiff, with
20 itemized wage statements that accurately reflect: gross wages earned; total hours worked by the
21 employee; net wages earned; the inclusive dates of the period for which the employee is paid; the
22 name of the employee and only the last four digits of their social security number or an employee
23 identification number other than a social security number; all deductions; all applicable hourly rates
24 in effect during the pay period and the corresponding number of hours worked at each hourly rate
25 by the employee; the legal name and address Defendants (and, in the case of a farm labor contractor,
26 the name and address of the legal entity that secured the services of the employer); and other such
27 information as required by Labor Code section 226, subdivision (a) , as well as Labor Code section
28 226.2 to the extent it does not include for piece-rate work the information required therein including,

1 without limitation, the quantity, rate and units worked per piece, as well as separately itemized non-
2 productive time and rest and recovery periods. Specifically, Defendants intentionally failed to
3 furnish employees with itemized wage statements that accurately reflect the hours worked by
4 Plaintiff and other Aggrieved Employees and the rates of pay at which they were or should have
5 been paid (including due to failure to pay at the proper regular rate), thus resulting in a failure to
6 reflect gross and net wages earned and paid at each rate, as well. Consequently, Employee is
7 informed and believes, and based thereon alleges, that Employer violated Labor Code sections 226,
8 226.2, 1696.5 and 1198 each day for each Aggrieved Employee during the PAGA Period, and that,
9 thus Employee and each Aggrieved Employee personally suffered these violations and was owed
10 penalties under Labor Code section 226 and 226.2 for each pay period worked during the PAGA
11 Period. Plaintiff is informed and believes that those penalties under Labor Code section 226 were
12 not paid for these violations of Labor Code section 226. Defendants would thus be liable for civil
13 penalties pursuant to Labor Code sections 226.2, 226.3, 558, 1198, 1696.5 and 2699. Plaintiff is
14 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise
15 to such violations was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
16 penalties pursuant to Labor Code sections 226.2, 226.3, 558, and 2699, or injunctive relief under
17 sections 2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties pursuant to
18 Labor Code section 2699(f)(2)(B)(ii).

19 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 required or require the execution of a release of claim or right on account of wages due, or to become
21 due, or made as an advance on wages to be earned, including, without limitation, as a condition of
22 being paid, to execute a statement of the hours worked during a pay period in which Defendants
23 knew to be false. As such, Plaintiff is informed and believes, and based thereon alleges that
24 Defendants violated Labor Code sections 206.5 and 1198, and that Plaintiff and other Aggrieved
25 Employees have personally suffered these violations. Plaintiff is further informed and believes, and
26 based thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
27 fraudulent, or oppressive. Defendants would be liable for civil penalties pursuant to Labor Code
28

1 sections 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants
2 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
4 or had a policy or practice of unlawfully deducting wages from Plaintiff and other Aggrieved
5 Employees, by issuing in payment of wages due, or to become due, or as an advance on wages to
6 be earned: (1) an order, check, draft, note, memorandum, gift card, or other acknowledgement of
7 indebtedness, (unless it was negotiable and payable in cash, on demand, without discount, at some
8 established place of business in the state), the name and address of which must but did not appear
9 on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must
10 be but was not at least 30 days, the maker or drawer did not have sufficient funds in, or credit,
11 arrangement, or understanding with the drawee for its payment; and/or (2) any scrip, coupon cards,
12 or other thing redeemable, in merchandise or purporting to be payable or redeemable otherwise than
13 in money. Plaintiff is further informed and believes, and based thereon alleges, that such wages were
14 not compensated at the “regular rate” of compensation as provided under Labor Code sections 226.7
15 and 510, subsection (a), thus violating those Labor Code sections, as well as Labor Code section
16 1198. In addition, Plaintiff is informed and believes that Defendants, by these deductions and/or
17 otherwise, have caused wages earned by Plaintiff and Aggrieved Employees to be charged back or
18 kicked back to Defendants. Consequently, Plaintiff is informed and believes, and based thereon
19 alleges, that Plaintiff and other Aggrieved Employees have personally suffered violations under
20 these sections and are entitled to relief under, without limitation, Labor Code sections 221, 223,
21 226.7, 246, 510 subsection (a), 1194, and 1197. Plaintiff is further informed and believes, and based
22 thereon alleges, that Plaintiff’s conduct above gave rise to such violations was malicious, fraudulent,
23 or oppressive. Defendants would thus be liable for civil penalties pursuant to Labor Code sections
24 558, 1197.1, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants
25 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

26 27. Plaintiff is further informed and believes, and based thereon alleges that Defendants
27 failed and refused, and continues to fail and refuse, to comply with the notice requirements of Labor
28 Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing

1 to provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
2 applicable to their employment, allowances claimed as part of the minimum wage, the regular
3 payday designated by Defendants, the name of the employer, including any “doing business as”
4 names used, the name, address and telephone number of the workers’ compensation insurance
5 carrier, information regarding paid sick leave, and other pertinent information required to be
6 disclosed by Employer under Labor Code section 2810.5. Plaintiff is informed and believes that
7 failure to provide such information, including rates of pay that are in effect, has permitted
8 Defendants to pay employees at rates of pay that were not agreed upon and violate minimum wage
9 and overtime wage laws in California. Plaintiff is additionally informed and believes that the notice
10 requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury
11 reporting. Plaintiff is informed and believes that Defendants violated Labor Code sections 1198 and
12 2810.5. Plaintiff and other Aggrieved Employees personally suffered these violations. Plaintiff
13 further informed and believes, and based thereon alleges, that Defendants’ conduct above gave rise
14 to such violations was malicious, fraudulent, or oppressive. Among other relief, employees may
15 collect from Defendants in connection with these violations’ civil penalties pursuant to Labor Code
16 sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants
17 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

18 28. Plaintiff is informed and believes, and based thereon alleges that Defendants also
19 failed and refused, and continues to fail and refuse, to reimburse employees, including, without
20 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
21 vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits,
22 separately laundering mandatory uniforms, for the purchase of tools and safety equipment, and for
23 the purchase and maintenance of cellular phones and cellular phone plans, for pre-employment
24 medical, physical or drivers’ exams taken as a condition of employment, or for compelling or
25 coercing Plaintiff and Aggrieved Employees, including applicants, to patronize in the purchase of a
26 value or things, including, without limitation, Defendants’ product(s) and/or service(s), in direct
27 consequence of the discharge of their duties, or of their obedience to the directions of Defendants,
28 as required by Labor Code sections 231, 450, 1198, 2800, 2802, and other statutory and common

1 law offenses. As a result, Plaintiff and other Aggrieved Employees have personally suffered these
2 violations and Defendants are liable to reimburse Plaintiff and other Aggrieved Employees for these
3 costs incurred in furtherance of work duties. Plaintiff further informed and believes, and based
4 thereon alleges, that Defendants' conduct above gave rise to such violations was malicious,
5 fraudulent, or oppressive. In addition, Defendants would be liable for civil penalties pursuant to
6 Labor Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k).
7 Defendants would further be liable for civil penalties pursuant to Labor Code section
8 2699(f)(2)(B)(ii).

9 29. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
10 have or had a policy or practice of failing to reimburse deposits made, including uniform deposits
11 together with all interest owed at the separation of employment in violation of Labor Code sections
12 404 and 1198, that Plaintiff and other Aggrieved Employees personally suffered these violations,
13 and that Plaintiff and other Aggrieved Employees are entitled to damages in the amount of the
14 deposit and accrued interest. Plaintiff further informed and believes, and based thereon alleges, that
15 Defendants' conduct above gave rise to such violations was malicious, fraudulent, or oppressive.
16 Defendants would also be liable for civil penalties under Labor Code sections 558, 1198 and 2699,
17 or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable for
18 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

19 30. Plaintiff and other Aggrieved Employees their paid time off and vacation time owed
20 upon separation of employment as wages at their final rate of pay in violation of Labor Code sections
21 221, 223, and applicable Wage Orders. Plaintiff is thus informed and believes that Defendants
22 violated these Labor Code sections, as well as Labor Code section 1198. Plaintiff is further informed
23 and believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations
24 was malicious, fraudulent, or oppressive. Defendants would further be liable for civil penalties
25 pursuant to Labor Code section 2699(f)(2)(B)(ii).

26 31. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
27 have a policy or practice of failing to pay aggrieved employees their wages in accordance with Labor
28 Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive,

1 of any calendar month shall be paid for between the 16th and 26th day of the month during which
2 the labor was performed, and labor performed between the 16th and the last day, inclusive of any
3 calendar month, shall be paid for between the 1st and 10th day of the following month.” Plaintiff
4 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
5 and other Aggrieved Employees every day and every workweek in accordance with Labor Code
6 sections 204 and 1198. As such, Plaintiff is informed and believes, and based thereon alleges that
7 Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees have
8 personally suffered these violations. Plaintiff further informed and believes, and based thereon
9 alleges, that Defendants’ conduct above gave rise to such violations was malicious, fraudulent, or
10 oppressive. Plaintiff would be liable for civil penalties pursuant to Labor Code sections 210, 558,
11 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff would further
12 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

13 32. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
14 have a policy of failing to provide all temporary workers, including without limitation, Plaintiff,
15 with owed wages weekly by not later than the regular payday of the following week. Plaintiff is
16 informed and believes that this has resulted in a violation of Labor Code sections 201.3 and 1198.
17 As a result, pursuant to Labor Code section 201.3, Plaintiff and other Aggrieved Employees have
18 personally suffered violations thereto and Plaintiff would be liable for civil penalties pursuant to
19 Labor Code sections 201.3, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
20 2699(k). Plaintiff further informed and believes, and based thereon alleges, that Defendants’
21 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
22 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

23 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
24 or had collected, taken, or received gratuities (or a part thereof) that is paid, given to, or left for
25 Plaintiff and/or Aggrieved Employees by a patron, or deducted amounts from wages due to Plaintiff
26 and/or Aggrieved Employees on account of a gratuity, or required Plaintiff and/or Aggrieved
27 Employees to credit the amount (or a part thereof) of a gratuity against and as part of the wages due
28 to the Plaintiff and/or Aggrieved Employees from the Defendants. In addition, Plaintiff is informed

1 and believes, and based thereon alleges, that Defendants permit and/or permitted patrons to pay
2 gratuities by credit card but failed to pay Plaintiff and/or Aggrieved Employees the full amount of
3 the gratuity that the patron indicated on the credit card slip, without any deductions, for any credit
4 card payment processing fees that may be charged to the employer by the credit card company by
5 not later than the regular payday following the date the patron authorized the credit card. In addition,
6 Defendants failed to keep accurate records of all gratuities received by Defendants and made those
7 open to inspection at all reasonable hours. Plaintiff is informed and believes that this has resulted
8 in a violation of Labor Code sections 351, 353, 1198. As a result, pursuant to Labor Code sections
9 351 and 353, Plaintiff and other Aggrieved Employees have personally suffered violations thereto
10 and Defendants would be liable for civil penalties pursuant to Labor Code sections 351, 353, 1198
11 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed
12 and believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations
13 was malicious, fraudulent, or oppressive. Defendants would further be liable for civil penalties
14 pursuant to Labor Code section 2699(f)(2)(B)(ii).

15 34. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
16 have a policy or practice of failing to provide all working employees, including without limitation
17 Plaintiff, with suitable seats when the nature of the work reasonably permits the use of seats.
18 Plaintiff is further informed and believes, and based thereon alleges that Defendants have failed to
19 place an adequate number of seats in reasonable proximity to the work area and/or permitted
20 Plaintiff and other aggrieved employees to use such seats when it does not interfere with the
21 performance of their duties when employees are not engaged in the active duties of their
22 employment and the nature of their work requires standing. Plaintiff and other Aggrieved
23 Employees have personally suffered these violations. Plaintiff is informed and believes that this has
24 resulted in a violation of Labor Code section 1198. As a result, Plaintiff and other Aggrieved
25 Employees have personally suffered violations thereto and Defendants would be liable for civil
26 penalties under Labor Code sections 1198 and 2699, or injunctive relief under sections 2699(e)(1)
27 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
28

1 conduct above gave rise to such violations was malicious, fraudulent, or oppressive. Defendants
2 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 35. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
4 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
5 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
6 Employees pursuant to PAGA.

7 **PARTIES**

8 **A. Plaintiff**

9 36. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
10 is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-
11 exempt employee. Plaintiff is informed and believes that Plaintiff worked for Defendants from
12 approximately December of 2017 through at least September of 2024.

13 **B. Defendants**

14 37. Plaintiff is informed and believes and based thereon alleges that defendant TACOS
15 EL GAVILAN is, and at all times relevant hereto was, a limited liability company organized and
16 existing under and by virtue of the laws of the State of California and doing business in the County
17 of Los Angeles, State of California.

18 38. Plaintiff is informed and believes and based thereon alleges that defendant
19 CINGULAR FOOD is, and at all times relevant hereto was, a corporation organized and existing
20 under and by virtue of the laws of the State of California and doing business in the County of Los
21 Angeles, State of California.

22 39. Plaintiff is informed and believes and based thereon alleges that defendant
23 CINGULAR HR, is, and at all times relevant hereto was, a limited liability company organized and
24 existing under and by virtue of the laws of the State of California and doing business in the County
25 of Los Angeles, State of California.

26 40. Plaintiff is informed and believes and based thereon alleges that defendant
27 CINGULAR GROCERS is, and at all times relevant hereto was, a limited liability company
28 organized and existing under and by virtue of the laws of the State of California and doing business

1 in the County of Los Angeles, State of California.

2 41. Plaintiff is informed and believes and based thereon alleges that defendant ALLI
3 WEST is, and at all times relevant hereto was, a limited liability company organized and existing
4 under and by virtue of the laws of the State of California and doing business in the County of Los
5 Angeles, State of California.

6 42. Plaintiff is informed and believes and based thereon alleges that defendant ALLI
7 NORTH is, and at all times relevant hereto was, a limited liability company organized and existing
8 under and by virtue of the laws of the State of California and doing business in the County of Los
9 Angeles, State of California.

10 43. 9. Plaintiff is informed and believes and based thereon alleges that defendant ALLI
11 EAST is, and at all times relevant hereto was, a limited liability company organized and existing
12 under and by virtue of the laws of the State of California and doing business in the County of Los
13 Angeles, State of California.

14 44. The true names and capacities, whether individual, corporate, associate, or otherwise,
15 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
16 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
17 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
18 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
19 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
20 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
21 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
22 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
23 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
24 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
25 include TACOS EL GAVILAN; CINGULAR FOOD; CINGULAR HR, CINGULAR GROCERS;
26 ALLI WEST; ALLI NORTH GROUP ONE, ALLI EAST, and any of their parent, subsidiary, or
27 affiliated companies within the State of California, as well as DOES 1 through 100 identified herein.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2
3
4
5
6

7
8
9
10
11
12
13
14
15

16
17
18
19
20
21

22

23

24

25

26

27

28

1 and through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego Defendants as
2 the funding source for the Individual Defendants' own personal expenditures;

3 c. Plaintiff is informed and believes, and thereon alleges, that the Individual
4 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
5 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
6 accomplishing some other wrongful or inequitable purpose;

7 d. Plaintiff is informed and believes, and thereon alleges, that the business affairs
8 of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned
9 herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same
10 are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein
11 were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of
12 their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
13 herein were, the alter egos of the Individual Defendants;

14 e. The recognition of the separate existence of the Individual Defendants from
15 the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to
16 insulate themselves from liability to Plaintiff for violations to the Civil Code, Government Code,
17 and other statutory violations. The corporate existence of these defendants should thus be
18 disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud
19 and injustice to Plaintiff herein;

20 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
21 Individual Defendants (and vice versa), and the fiction of their separate corporate existence must be
22 disregarded.

23 48. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
24 thereon alleges that Defendants, and each of them, are joint employers.

25 49. Moreover, Plaintiff is informed and believes, and based thereon alleges, that
26 Individual Defendants, and each of them, are liable for the civil penalties, or some of them, described
27 herein because Individual Defendants, and each of them, caused or are otherwise contributed to the
28 violations described herein, or some of them.

1 **FIRST AND ONLY CAUSE OF ACTION**

2 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

3 50. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
4 preceding paragraphs as though fully set forth hereat.

5 **Civil Penalties Under Labor Code § 210**

6 51. At all relevant times herein, Labor Code section 204, requires and required that:
7 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
8 between the 16th and 26th day of the month during which the labor was performed, and labor
9 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
10 between the 1st and 10th day of the following month.”

11 52. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
12 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
13 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
14 204, 204b, 204.1, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial
15 violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each
16 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
17 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

18 53. At all relevant times herein, Defendants have had a consistent policy or practice of
19 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
20 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
21 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
22 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
23 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
24 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
25 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
26 violation in connection with each payment that was made in violation of Labor Code section 204.

27 **Civil Penalties Under Labor Code § 226.3**

28 54. Defendants had and have a policy or practice of failing to comply with Labor Code

1 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
2 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
3 wages earned; the name and address of each employer with whom they have been placed to work;
4 all applicable hourly rates in effect during the pay period and the corresponding number of hours
5 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
6 entity securing the employer's services if the employer is a farm labor contractor; and other such
7 information as required by Labor Code section 226, subdivision (a) and/or Labor Code section 226.2
8 to the extent it does not include for piece-rate work the information required therein including,
9 without limitation, the quantity, rate and units worked per piece, as well as separately itemized non-
10 productive time and rest and recovery periods

11 55. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
12 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
13 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
14 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
15 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

16 56. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
17 this section are in addition to any other penalty provided by law."

18 57. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
19 and have a policy or practice of failing to furnish Aggrieved Employees with itemized wage
20 statements as set forth in the preceding paragraphs.

21 58. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
22 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
23 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
24 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
25 period for each subsequent violation.

26 Violation of Labor Code § 558

27 59. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
28 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating

1 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
2 penalty as follows:

3 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
4 pay period for which the employee was underpaid in addition to an amount sufficient
5 to recover underpaid wages;

6 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
7 employee for each pay period for which the employee was underpaid in addition to
8 an amount sufficient to recover underpaid wages;

9 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

10 60. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
11 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
12 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
13 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
14 regular payday designated by employer, the name of the employer, including any “doing business
15 as” names used, the name, address, and telephone number of the workers’ compensation insurance
16 carrier, information regarding paid sick leave, and other pertinent information.

17 61. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
19 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
20 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
21 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

22 Violation of Labor Code § 1174.5

23 62. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
24 every person employing labor in California to “[a]llow any member of the commission or the
25 employees of the Division of Labor Standards Enforcement free access to the place of business or
26 employment of the person to secure any information or make any investigation that they are
27 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
28 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,

1 or papers of the person.”

2 63. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
3 every person employing labor in California to “[k]eep a record showing the names and addresses of
4 all employees employed and the ages of all minors.”

5 64. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
6 every person employing labor in California to “[k]eep, at a central location in the state or at the
7 plants or establishments at which employees are employed, payroll records showing the hours
8 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
9 piece rate paid to, employees employed at the respective plants or establishments. These records
10 shall be kept in accordance with rules established for this purpose by the commission, but in any
11 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
12 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
13 earned.”

14 65. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
15 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
16 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
17 member of the commission or employees of the division to inspect records pursuant to subdivision
18 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

19 66. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
20 willfully failed to keep adequate or accurate time records including wage statements and similar
21 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
22 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
23 under Labor Code section 1174.

24 67. As a direct and proximate result of the herein-described Labor Code violations,
25 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
26 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
27 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

28 ///

Violation of Labor Code § 1197.1

68. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

69. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all hours worked or otherwise under Defendants’ control due to, without limitation, routinely failing to accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,

1 entitling Plaintiff and other Aggrieved Employees to actual and liquidated damages.

2 70. As a direct and proximate result of the herein-described Labor Code violations,
3 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
4 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of one
5 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
6 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
7 subsequent violation.

8 Civil Penalties Under Labor Code § 2699

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

15 72. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
16 each of them, violated the Labor Code sections described in the preceding paragraphs.

17 73. As such, Plaintiff and aggrieved employees are entitled to injunctive relief, one
18 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
19 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
20 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

21 74. Moreover, Plaintiff and other Aggrieved Employees within the State of California
22 whom he seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
23 connection with their herein-described claims for civil penalties.

24 **PRAYER**

25 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
26 judgment against Defendants as follows:

- 27 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
28 1174.5, 1197.1, and 2699;

- 1 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
2 210, 226.3, 558, 1174.5, 1197.1, and 2699;
3 C. For equitable, including, without limitation, injunctive relief;
4 D. Pre-judgment and post-judgment interest;
5 E. For costs of suit incurred herein; and
6 F. Such other and further relief as the Court deems just and proper.

7 Dated: May 20, 2025

BIBIYAN LAW GROUP, P.C.

8
9 BY: /s/ Rafael Yedoyan

10 DAVID D. BIBIYAN

11 SARAH H. COHEN

12 RAFAEL YEDOYAN

13 Attorneys for Plaintiff ALEJANDRO
14 HERNANDEZ, as an aggrieved employee,
15 and on behalf of all other aggrieved employees
16 under the Labor Code Private Attorneys'
17 General Act of 2004,
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28