

J. GILL LAW GROUP, P.C.
Jasmin K. Gill (Cal. Bar No. 315090)
jasmin@jkgilllaw.com
Yaffa Yermian (Cal. Bar No. 355221)
yaffa@jkgilllaw.com
515 South Flower Street, Suite 1800
Los Angeles, California 90071
Tel: (213) 459-6023; Fax: (310) 728-2137

Attorneys for Plaintiff, LEONEL ESPINOZA,
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

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

Plaintiff,

v.

CALIBER HOLDINGS L.L.C., doing
business as "Caliber Collision", a California
limited liability company; CALIBER
HOLDINGS OF CALIFORNIA LLC, doing
business as "Caliber Holdings LLC", a
Delaware limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **25STCV09715**

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**

DEMAND FOR JURY TRIAL

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

COMES NOW plaintiff LEONEL ESPINOZA (“Mr. Espinoza” or “Plaintiff”), as an aggrieved employee, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys’ General Act of 2004, and alleges as follows:

JURISDICTION AND VENUE

1. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), CALIBER HOLDINGS L.L.C., doing business as “Caliber Collision” (“Caliber Collision”), CALIBER HOLDINGS OF CALIFORNIA LLC, doing business as “Caliber Holdings LLC” (“Caliber Holdings LLC”), and any of its respective subsidiaries or affiliated companies within the State of California, (Caliber Collision and Caliber Holdings LLC, collectively with DOES 1 through 100, as further defined below, are collectively hereinafter referred to as “Defendants”), as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 6400, *et seq.*, Labor Code §§ 201-203, 204, 210, 226, 226.7, 245, *et seq.*, 432, 510, 512, 1194, 1197, 1198.5 1199, 2802, 2810.5, restraints on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

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 or do business. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved Employees in Los Angeles County, and because Defendants

1 employ numerous Aggrieved Employees in Los Angeles County.

2 4. Plaintiff is informed and believes and based thereon alleges that, pursuant to
3 California Code of Civil Procedure section 395.5, Venue is proper in this judicial district and the
4 County of Los Angeles because Defendants transact business within this judicial district and conduct
5 alleged by Plaintiff herein occurred in this judicial district. (*See also Crestwood Behavioral Health,*
6 *Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 [venue in a PAGA action is proper in any county
7 where the defendants committed Labor Code violations against some of its employees].)

8 5. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
9 Defendants during the applicable statutory period and suffered one or more of the Labor Code
10 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil
11 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
12 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
13 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former
14 employees of Defendants during the Civil Penalty Period.

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

19 7. During the period beginning one (1) year preceding the provision of notice to the
20 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
21 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210,
22 221, 223, 226, 226.2, 226.3, 226.7, 232, 232.5, 245, *et seq.*, 432, 432.3, 510, 512, 558, 558.1, 1102.5,
23 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.5 and 6400,
24 *et seq.*, among others.

25 8. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
26 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within
27 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
28 specified in Labor Code section 2699.3.

9. On or around January 23, 2025, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

10. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar days of the January 23, 2025 postmarked date of the herein-described notice sent by Plaintiff to the LWDA and Defendants.

PAGA REPRESENTATIVE ALLEGATIONS

11. At all relevant times mentioned herein, Defendants had and have a policy or practice of failing to pay overtime wages to Plaintiff and other Aggrieved Employees in the State of California in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes and hours actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock and/or be subject to Defendants' control, including, without limitation, by requiring employees: to come early to work and leave work late without being able to clock in for all that time, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to continue working on projects beyond their scheduled hours without compensation, to clock out for meal periods and continue working and/or suffering under Defendants' control, and to attend to walkie-talkies; for failing to include all forms of remuneration, including sales commissions and other incentive pay, 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; editing, altering and/or manipulation of time entries to show less hours than actually worked, all to the detriment of Plaintiff and other Aggrieved Employees.

12. At all relevant times mentioned herein, Defendants had and have a practice or policy of failing to compensate Plaintiff and other Aggrieved Employees with minimum wages for all hours

1 worked or otherwise under Defendants' control as a result of, without limitation, failing to
2 accurately track and/or pay for all minutes and hours actually worked at their regular rate of pay that
3 is above the minimum wage; engaging, suffering, or permitting employees to work off the clock
4 and/or be subject to Defendants' control, including, without limitation, by requiring employees: to
5 come early to work and leave work late without being able to clock in for all that time, to complete
6 pre-shift tasks before clocking in and post-shift tasks after clocking out, to continue working on
7 projects beyond their scheduled hours without compensation, to clock out for meal periods and
8 continue working and/or suffering under Defendants' control, and to attend to walkie-talkies; failing
9 to pay employees compensated on a piece-rate basis separately for rest and recovery periods and
10 nonproductive time separate from any piece-rate pay and comply with Labor Code 226.2 in full;
11 editing, altering, and/or manipulation of time entries to show less hours than actually worked, all to
12 the detriment of Plaintiff and other Aggrieved Employees.

13 13. At all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to provide Plaintiff and other Aggrieved Employees a full, timely thirty (30) minute
15 uninterrupted meal period for days on which they worked more than five (5) hours in a work day
16 and a second thirty (30) minute uninterrupted meal period for days on which they worked in excess
17 of ten (10) hours in a work day, including, without limitation: by interrupting meal periods; not
18 providing timely meal periods; failing to provide meal periods altogether; providing short meal
19 periods; otherwise requiring on-duty/on-call meal periods, which in turn prevented employees from
20 leaving the premises for meal periods; auto-deducting meal periods that could not be auto-deducted
21 by law or during which employees worked, and failing to provide compensation for such unprovided
22 meal periods as required by California wage and hour laws.

23 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
24 of failing to authorize and permit Plaintiff and other Aggrieved Employees to take rest periods of at
25 least ten (10) minutes per four (4) hours worked or major fraction thereof in which they are
26 completely relieved of all of their duties, including, without limitation: by failing to provide rest
27 periods all together; requiring that they be bundled together and/or with meal periods; interrupting
28 them; not providing them in a timely fashion; not permitting employees to leave the premises; and

1 otherwise requiring on-duty/on-call rest periods, and failed to provide compensation for such
2 unprovided rest periods as required by California wage and hour laws.

3 15. At all relevant times mentioned herein, Defendants had and have a policy or practice
4 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
5 Plaintiff and other Aggrieved Employees with itemized wage statements that accurately reflect gross
6 wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable
7 hourly rates in effect during the pay period and the corresponding number of hours worked at each
8 hourly rate by the employee; the legal name of the employer and/or the name and address of the legal
9 entity securing the employer's services; and other such information as required by Labor Code
10 section 226, subdivision (a) and also Labor Code section 226.2.

11 16. At all relevant times mentioned herein, Defendants had and have a policy or practice
12 of failing to comply with Labor Code section 226, subdivision (a) by failing to keep adequate or
13 accurate time records including wage statements and similar payroll documents under Labor Code
14 section 226, intentionally failing to furnish Plaintiff and other Aggrieved Employees with
15 documents signed to obtain or hold employment under Labor Code section 432, personnel records
16 under Labor Code section 1198.5, and time records under Labor Code section 1174, making it
17 difficult for Plaintiff and other Aggrieved Employees to calculate their unpaid wages and/or
18 premium payments, to the detriment of Plaintiff and other Aggrieved Employees.

19 17. At all relevant times mentioned herein, Defendants had and have a policy or practice
20 of failing to timely pay Plaintiff and other Aggrieved Employees, among other wages, all wages
21 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
22 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
23 Code sections 201, 202, and 203.

24 18. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
26 limitation, Plaintiff and other Aggrieved Employees, for the costs incurred in purchasing mandatory
27 work uniforms and necessary work tools, in direct consequence of the discharge of their duties, or
28 of their obedience to the directions of Defendants, as required by Labor Code section 2802.

1 19. At all relevant times mentioned herein, Defendants have had a policy or practice of
2 failing to pay Plaintiff and Aggrieved Employees their full amount of wages owed to them upon
3 termination, resignation and/or separation of employment as required by Labor Code sections 201
4 and 202, including for, without limitation, failing to pay overtime wages, minimum wages, and
5 premium wages.

6 20. At all relevant times mentioned herein, Defendants have had a policy or practice of
7 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code
8 Section 204, which requires that: “[l]abor performed between the 1st and 15th days, inclusive, of
9 any calendar month shall be paid for between the 16th and 26th day of the month during which the
10 labor was performed, and labor performed between the 16th and the last day, inclusive of any
11 calendar month, shall be paid for between the 1st and 10th day of the following month” and for
12 payroll periods such as those that are weekly, biweekly, or semimonthly, wages must be paid within
13 seven (7) calendar days following the close of the payroll period in which wages were earned.

14 21. At all relevant times mentioned herein, Defendants have had a policy or practice of
15 failing to pay Plaintiff and Aggrieved Employees their wages in accordance with Labor Code section
16 226.2, which requires an employer to pay employees compensated on a piece-rate basis separately
17 for rest and recovery periods and nonproductive time, apart from any piece-rate pay. This statute
18 further requires an employer to include on the wage statements for these employees the total hours
19 of compensable rest and recovery period, the total hours for other non-productive time, the rates of
20 compensation for these hours, and the gross wages paid for these hours. In addition, the statute
21 requires that employees shall be compensated for rest and recovery periods at a regular hourly rate
22 that is no less than the higher of: (i) an average hourly rate determined by dividing the total
23 compensation for the workweek, exclusive of compensation for rest and recovery periods and any
24 premium compensation for overtime, by the total hours worked during the workweek, exclusive of
25 rest and recovery periods, or (ii) the applicable minimum wage. Per California case law, Labor
26 Code section 226.2 also applies to employees compensated on a commission basis. Based on
27 information and belief, Defendants have had a policy or practice of failing to compensate Plaintiff
28 and Aggrieved Employees who were paid solely on a piece rate and/or commission basis separately

1 for the rest and recovery periods and nonproductive time, and/or failed to pay them for this time at
2 the correct rate(s) of pay. Defendants further failed to include this information on Plaintiff and
3 Aggrieved Employees' wage statements and therefore failed to comply with Labor Code section
4 226.2.

5 22. Defendants had and have a policy or practice of preventing Plaintiff and/or other
6 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
7 to their managers or outside to private attorneys or government officials, among others, in violation
8 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
9 1102.5. In addition, Plaintiff is informed and believes that Defendants' herein-described policies
10 and/or practices prevent Plaintiff and/or other Aggrieved Employees from disclosing information
11 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
12 of Labor Code section 232 and 232.5.

13 23. Defendants had and have a policy or practice of relying on the salary history
14 information of an applicant for employment as a factor in determining whether to offer employment
15 to an applicant or what salary to offer the applicant in violation of Labor Code section 432.3 by
16 including, on Defendants' application for employment, an inquiry regarding current and/or former
17 salary history information, including, without limitation, compensation and benefits of the applicant
18 for employment. As such, Plaintiff is informed and believes, and based thereon alleges, that
19 Defendants violated, without limitation, Labor Code section 432.3.

20 24. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
21 Code sections 210, 226.3, 558, 558.1, 1174.5, 1197.1, and 2699 for the herein-described acts, which
22 violate the California Labor Code as described above, including on behalf of Plaintiff and other
23 Aggrieved Employees pursuant to PAGA.

24 **PARTIES**

25 **A. Plaintiff**

26 25. Plaintiff is a resident of the State of California. At all relevant times herein, Plaintiff
27 is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-
28 exempt employee, with duties that included, but were not limited to, diagnosing and repairing

1 vehicles, replacing and servicing automobile parts, performing tasks related to the assembling and
2 disassembling of vehicle components, and ensuring vehicles were restored to proper working
3 condition. Plaintiff is informed and believes, and based thereon alleges that Plaintiff worked for
4 Defendants from approximately October of 2022 through approximately August of 2024.

5 **B. Defendants**

6 26. Plaintiff is informed and believes and based thereon alleges that defendant Caliber
7 Collision is, and at all times relevant hereto was, a limited liability company organized, authorized,
8 and licensed to do business in the County of Los Angeles, State of California and actually doing
9 business in California. At all relevant times herein, defendant Caliber Collision employed Plaintiff
10 and other Aggrieved Employees within the County of Los Angeles in the State of California.

11 27. Plaintiff is informed and believes and based thereon alleges that defendant Caliber
12 Holdings LLC is, and at all times relevant hereto was, a limited liability company organized in
13 Delaware, but authorized, and licensed to do business in the County of Los Angeles, State of
14 California and actually doing business in California. At all relevant times herein, defendant Caliber
15 Holdings LLC employed Plaintiff and other Aggrieved Employees within the County of Los
16 Angeles in the State of California

17 28. Plaintiff is informed and believes and based thereon alleges that defendants Caliber
18 Collision and Caliber Holdings LLC are, and at all times relevant hereto were, “person[s]” as defined
19 in Labor Code section 17 and Cal. Bus. & Prof. Code § 17201.

20 29. The true names and capacities, whether individual, corporate, associate, or otherwise,
21 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
22 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
23 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
24 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
25 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of
26 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is
27 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent
28 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or

1 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
2 other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall
3 include Caliber Collision, Caliber Holdings LLC, and any of their parents, subsidiaries, or affiliated
4 companies within the State of California, as well as DOES 1 through 100 identified herein.

5 **JOINT LIABILITY ALLEGATIONS**

6 30. Plaintiff is informed and believes, and based thereon alleges, that at all times
7 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
8 representative, joint venture or co-conspirator of each of the other defendants, either actually or
9 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
10 employment, joint venture, and conspiracy.

11 31. All of the acts and conduct described herein of each and every corporate and limited
12 liability company defendant was duly authorized, ordered, and directed by the respective and
13 collective defendant corporate and limited liability company employers, and the officers, officers,
14 members and management-level employees of said corporate and limited liability company
15 employers. In addition thereto, said corporate and limited liability company employers participated
16 in the aforementioned acts and conduct of their said employees, agents, and representatives, and
17 each of them; and upon completion of the aforesaid acts and conduct of said corporate and limited
18 liability company employees, agents, and representatives, the defendant corporation and limited
19 liability company respectively and collectively ratified, accepted the benefits of, condoned, lauded,
20 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
21 aforementioned corporate and limited liability company employees, agents and representatives.

22 32. Plaintiff is informed and believes, and based thereon allege, that there exists such a
23 unity of interest and ownership between Defendants, and each of them, that their individuality and
24 separateness have ceased to exist.

25 33. Plaintiff is informed and believes, and based thereon alleges that despite the
26 formation of the purported corporate and/or limited entity existence of Caliber Collision, Caliber
27 Holdings LLC, and DOES 1 through 50, inclusive (the “Alter Ego Defendants”), they, and each of
28 them, are one and the same with DOES 51 through 100 (“Individual Defendants”), and each of them,

1 due to, but not limited to, the following reasons:

- 2 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
3 Defendants who personally committed the wrongful and illegal acts and violated the
4 laws as set forth in this Complaint, and who have hidden and currently hide behind
5 the Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish
6 some other wrongful or inequitable purpose;
- 7 B. The Individual Defendants derive actual and significant monetary benefits by and
8 through the Alter Ego Defendants' unlawful conduct, and by using the Alter Ego
9 Defendants as the funding source for the Individual Defendants' own personal
10 expenditures;
- 11 C. Plaintiff is informed and believes and thereon alleges that the Individual Defendants
12 and the Alter Ego Defendants, while really one and the same, were segregated to
13 appear as though separate and distinct for purposes of perpetrating a fraud,
14 circumventing a statute, or accomplishing some other wrongful or inequitable
15 purpose;
- 16 D. Plaintiff is informed and believes and thereon alleges that the business affairs of the
17 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
18 mentioned herein were, so mixed and intermingled that the same cannot reasonably
19 be segregated, and the same are inextricable confusion. The Alter Ego Defendants
20 are, and at all relevant times mentioned herein were, used by the Individual
21 Defendants as mere shells and conduits for the conduct of certain of their, and each
22 of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned
23 herein were, the alter egos of the Individual Defendants;
- 24 E. The recognition of the separate existence of the Individual Defendants and the Alter
25 Ego Defendants would promote injustice insofar that it would permit defendants to
26 insulate themselves from liability to Plaintiff and Aggrieved Employees for
27 violations of the Civil Code, Labor Code, and other statutory violations. The
28 corporate and/or limited liability existence of these defendants should thus be

disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff and Aggrieved Employees herein;

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

34. As a result of the aforementioned facts, among others, Plaintiff is informed and believes, and based thereon alleges, that the Individual Defendants, the Alter Ego Defendants, and each of them, are joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of the Alter Ego Defendants and the Individual Defendants. Plaintiff performed services for each and every defendant, and to the mutual benefit of all defendants, and all defendants shared control of Plaintiff, either directly or indirectly, and in the manner in which defendants' business was and is conducted.

FIRST CAUSE OF ACTION

(Violation of PAGA – Against All Defendants)

35. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

Civil Penalties Under Labor Code § 210

36. At all relevant times herein, Labor Code section 204, requires and required that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month" and for payroll periods such as those that are weekly, biweekly, or semimonthly, wages must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned.

37. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any

1 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
2 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
3 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

4 38. At all relevant times herein, Defendants have had a consistent policy or practice of
5 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
6 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
7 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
8 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
9 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
10 for each subsequent violation in connection with each payment that was made in violation of Labor
11 Code section 204.

12 Civil Penalties Under Labor Code § 226.3

13 39. Defendants had and have a policy or practice of failing to comply with Labor Code
14 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
15 with itemized wage statements that accurately reflect: reflect gross wages earned; total hours
16 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
17 corresponding number of hours worked at each hourly rate; and other such information as required
18 by Labor Code section 226, subdivision (a).

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

24 41. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
25 this section are in addition to any other penalty provided by law.”

26 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
27 and have a policy or practice of failing to furnish non-exempt employees, including, without
28 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;

1 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and
2 the corresponding number of hours worked at each hourly rate; and other such information as
3 required by Labor Code section 226, subdivision (a).

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

9 Violation of Labor Code § 558

10 44. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
11 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
12 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
13 penalty as follows:

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

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

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

22 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
23 each of them, violated, or caused to be violated, the Labor Code sections described herein, including
24 causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages and minimum
25 wages, be paid in accordance with Labor Code section 226.2, receive meal and rest periods or
26 compensation in lieu thereof, be paid timely wages during their employment and after their
27 employment separation, receive accurate, itemized wage statements, to be provided with the
28 opportunity to inspect employment records, be provided with notice as required under Labor Code

1 section 2810.5, to be reimbursed for all necessary expenses incurred, be provided with the proper
2 accrual and use of paid sick leave, and/or be paid out all paid time off and/or vested vacation wages
3 owed at the proper rate of pay.

4 46. As a direct and proximate result of the herein-described Labor Code violations,
5 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
6 civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars
7 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
8 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

9 Violation of Labor Code § 1174.5

10 47. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required
11 every person employing labor in California to "[a]llow any member of the commission or the
12 employees of the Division of Labor Standards Enforcement free access to the place of business or
13 employment of the person to secure any information or make any investigation that they are
14 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
15 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
16 or papers of the person."

17 48. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
18 every person employing labor in California to "[k]eep a record showing the names and addresses of
19 all employees employed and the ages of all minors."

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

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

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

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

Violation of Labor Code § 1197.1

53. 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:

A. 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.

B. 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

1 addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section
2 1194.2, and any applicable penalties imposed pursuant to Section 203.

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

5 54. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
6 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
7 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ to pay minimum wages
8 for all hours worked or otherwise under Defendants’ control due to, without limitation, failing to
9 accurately track and/or pay for all minutes and hours actually worked at their regular rate of pay that
10 is above the minimum; engaging, suffering, or permitting employees to work off the clock and/or
11 be subject to Defendants’ control, including, without limitation, by requiring employees: to come
12 early to work and leave work late without being able to clock in for all that time, to complete pre-
13 shift tasks before clocking in and post-shift tasks after clocking out, to continue working on projects
14 beyond their scheduled hours without compensation, to clock out for meal periods and continue
15 working and/or suffering under Defendants’ control, and to attend to walkie-talkies; failing to pay
16 employees compensated on a piece-rate basis separately for rest and recovery periods and
17 nonproductive time separate from any piece-rate pay and comply with Labor Code 226.2 in full;
18 editing, altering and/or manipulation of time entries to show less hours than actually worked, all to
19 the detriment of Plaintiff and Aggrieved Employees.

20 55. As a direct and proximate result of the herein-described Labor Code violations,
21 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
22 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
23 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
24 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
25 subsequent violation.

26 Civil Penalties Under Labor Code § 2699

27 56. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
28 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed

1 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
2 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
3 action brought by an aggrieved employee on behalf of himself or herself and other current or former
4 employees pursuant to the procedures specified in Labor Code section 2699.3.

5 57. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
6 Code except those for which a civil penalty is specifically provided, the established civil penalty for
7 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
8 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
9 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
10 employee per pay period for each subsequent violation.

11 58. Moreover, Plaintiff and other Aggrieved Employees within the State of California
12 whom she seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
13 connection with their herein-described claims for civil penalties.

14 **REQUEST FOR JURY TRIAL**

15 A. Plaintiff hereby requests a trial by jury.

16 **PRAYER**

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

19 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
20 558.1, 1174.5, 1197.1, and 2699;

21 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
22 210, 226.3, 558, 558.1, 1174.5, 1197.1, and 2699;

23 C. Pre-judgment and post-judgment interest;

24 D. For costs of suit incurred herein; and

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1 E. Such other and further relief as the Court deems just and proper.

2 Dated: April 1, 2025

J. GILL LAW GROUP, P.C.

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BY: /s/ Jasmin K. Gill

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JASMIN K. GILL

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YAFFA YERMIAN

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Attorneys for Plaintiff LEONEL ESPINOZA,
as an aggrieved employee, and on behalf of all
other aggrieved employees under the Labor
Code Private Attorneys' General Act of 2004,

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