

1 JAMIE K. SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
2 BRANDON BROUILLETTE, ESQ. (SBN 273156)
bbrouillette@crosnerlegal.com
3 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
4 **CROSNER LEGAL, PC**
5 9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
6 Tel: (866) 276-7637
Fax: (310) 510-6429
7

8 Attorneys for Plaintiff JUAN R. MARTINEZ
on behalf of the State of California and all Aggrieved Employees

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 JUAN R. MARTINEZ, on behalf of the State
12 of California and all Aggrieved Employees,

13 Plaintiff,

14 v.

15
16 MITSUI-SOKO (U.S.A.)
INCORPORATED, a New York
17 Corporation; FAIRWAY STAFFING
SERVICES, a California Corporation; and
18 DOES 1-100, inclusive,

19 Defendants.

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Superior Court of California,
County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

Case No.: **25STCV07658**

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

1 Plaintiff, JUAN R. MARTINEZ, (“PLAINTIFF”), on behalf of the State of California and
2 all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 MITSUI-SOKO (U.S.A.) INCORPORATED, a New York Corporation; FAIRWAY STAFFING
4 SERVICES, a California Corporation; and DOES 1-100, inclusive, (collectively referred to herein
5 as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

6 **INTRODUCTION**

7 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
8 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
9 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
10 for DEFENDANTS’ violations of the California Labor Code as alleged below.

11 **JURISDICTION AND VENUE**

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

14 3. Venue is proper in this judicial district and the County of San Bernardino pursuant
15 to California Code of Civil Procedure section 395.5 because DEFENDANTS assigned PLAINTIFF
16 to work in this judicial district, DEFENDANTS transact business within this judicial district, and
17 conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
18 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
19 proper in any county where the defendants committed Labor Code violations against some of its
20 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
21 because the cause, or some part of the cause, arose in the County of Los Angeles.

22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California.

25 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
26 title(s) of order selector and/or similar title(s) and/or position(s) from in or around June 2024 through
27 in or around September 2024. PLAINTIFF was assigned by Defendant FAIRWAY STAFFING
28 SERVICES to work at including but not limited to, Defendant MITSUI-SOKO (U.S.A.)

1 INCORPORATED's warehouse distribution center(s), warehouse(s), manufacturing and/or
2 distribution center(s), facilities and/or other location(s) in Carson, California.

3 6. Defendant, MITSUI-SOKO (U.S.A.) INCORPORATED ("Mitsui-Soko"), is a New
4 York Corporation that, at all relevant times, was authorized to do business within the State of
5 California and is doing business in the State of California. Mitsui-Soko is a logistics company that
6 specializes in including but not limited to, warehousing and/or distribution services.

7 7. Defendant, FAIRWAY STAFFING SERVICES ("Fairway Staffing Services"), is a
8 California Corporation that, at all relevant times, was authorized to do business within the State of
9 California and is doing business in the State of California. Fairway Staffing Services is a staffing
10 company.

11 8. DEFENDANTS own, operate, manage and/or staff its employees to work at the
12 warehouse distribution centers, warehouses, manufacturing and/or distribution centers, facilities
13 and/or other location(s) in California, including but not limited to, in Carson, California.
14 DEFENDANTS, through its various locations, serve, including but not limited to, the warehousing
15 industry.¹

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

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

28 ¹ See <https://www.mitsui-soko-usa.com/> & <https://fairwaystaffing.com/locations.html>. Last visited on March 17, 2025.

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

5 **JOINT LIABILITY**

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

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

1 and Aggrieved Employees to work for them.

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

16 14. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
17 to this Complaint, DEFENDANTS, and each of them, were the joint employers of PLAINTIFF and
18 Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and cause of action,
19 in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
20 Employees' wages, hours and working conditions, and/or suffered or permitted them to work so as
21 to be considered the joint employers of PLAINTIFF and Aggrieved Employees.

22 15. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
23 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
24 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
25 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
26 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
27 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
28 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of

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

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

13 17. Moreover, based on information and belief, Fairway Staffing Services hired
14 PLAINTIFF and entered into a written employment agreement with PLAINTIFF. During
15 PLAINTIFF's employment, Fairway Staffing Services maintained control over many aspects of
16 PLAINTIFF's employment, including, among other things, having the authority to discipline
17 PLAINTIFF, change PLAINTIFF's job assignment, change PLAINTIFF's work hours, change
18 PLAINTIFF's rates of pay, and to terminate PLAINTIFF's employment.

19 18. Based on information and belief, when PLAINTIFF was first hired, Fairway Staffing
20 Services provided PLAINTIFF with orientation and training materials. Fairway Staffing Services
21 issued PLAINTIFF written policies concerning meal periods, rest breaks, timekeeping, hours
22 worked, and payment of PLAINTIFF's wages, with which PLAINTIFF was required to comply.
23 Based on information and belief, among other things, these policies provided that PLAINTIFF's
24 weekly time records be submitted to Fairway Staffing Services, and Fairway Staffing Services was
25 supposed to process PLAINTIFF's time records and pay PLAINTIFF for all hours worked. Fairway
26 Staffing Services exercised ultimate control over the payment of PLAINTIFF's wages, as Fairway
27 Staffing Services issued PLAINTIFF his paychecks. Finally, Fairway Staffing Services directed
28 PLAINTIFF to comply with Mitsui-Soko' policies and directions. PLAINTIFF is informed and

1 believes that Fairway Staffing Services exercised the same control over, applied the same policies
2 and practices, and engaged in the same acts and omissions with regard to the other Aggrieved
3 Employees.

4 19. Mitsui-Soko similarly suffered or permitted PLAINTIFF to work for them or
5 engaged PLAINTIFF to work for them. PLAINTIFF is informed and believes that Mitsui-Soko
6 entered into a written agreement with Fairway Staffing Services, pursuant to which Mitsui-Soko
7 paid Fairway Staffing Services to provide it with workers, including PLAINTIFF, to conduct Mitsui-
8 Soko's business operations – namely, to work in Mitsui-Soko's warehouse distribution centers,
9 warehouses and/or other facilities and/or other location(s). Mitsui-Soko suffered or permitted
10 PLAINTIFF to work at Mitsui-Soko for the entirety of PLAINTIFF's employment.

11 20. Mitsui-Soko further exercised control over PLAINTIFF's wages, hours and working
12 conditions. Mitsui-Soko also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
13 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
14 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
15 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
16 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)
17 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
18 employment; (7) required PLAINTIFF to record hours worked using Mitsui-Soko's timekeeping
19 system; (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks;
20 (9) subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was
21 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief, Mitsui-
22 Soko issued further written policies and practices and guidelines governing PLAINTIFF's working
23 conditions with which PLAINTIFF was required to comply.

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

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

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

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

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

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

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

20 **LIABILITY UNDER CALIFORNIA LABOR CODE SECTION 2810.3**

21 27. California Labor Code section 2810.3(b)(1) provides in pertinent part that “a client
22 employer shall share with the labor contractor” all civil liability for the payment of wages to the
23 workers supplied by the labor contractor.

24 28. Fairway Staffing Services is a “labor contractor” in that it supplies Mitsui-Soko with
25 workers to perform labor within Mitsui-Soko’s usual course of business. Lab. Code § 2810.3(a)(3).

26 29. Mitsui-Soko is a “client employer” in that it is a business entity that “obtains or is
27 provided workers to perform labor within its usual course of business” from labor contractor
28 Fairway Staffing Services. Lab. Code § 2810.3(a)(1)(A). Moreover, Mitsui-Soko has a workforce

1 of more than twenty-five workers and is supplied with at least five (5) workers from a labor
2 contractor at any given time. Lab. Code § 2810.3(a)(1)(B).

3 30. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
4 of wages to all workers supplied to Mitsui-Soko by Fairway Staffing Services.

5 31. PLAINTIFF complied with all administrative requirements by providing notice by
6 certified mail of the claims alleged herein to Mitsui-Soko. Lab. Code § 2810.3(d).

7 32. Any reference herein to any alleged act or omission by any DEFENDANT shall be
8 deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly
9 and severally.

10 **PAGA ALLEGATIONS**

11 33. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
12 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
13 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
14 following:

- 15 i. All non-exempt workers who were directly employed by Defendant FAIRWAY
16 STAFFING SERVICES - regardless of where those non-exempt workers were
17 assigned or a staffed to work – in California at any time from one year plus 65
18 days from the filing of the initial Complaint through the present (“PAGA
19 Period”).
- 20 ii. All non-exempt workers who were assigned/staffed to work at any one or more
21 of Defendant MITSUI-SOKO (U.S.A.) INCORPORATED’s location(s) in
22 California, by Defendant FAIRWAY STAFFING SERVICES and/or any other
23 staffing/temporary service agencies, at any time during the PAGA Period.
- 24 iii. All non-exempt workers who were directly employed by Defendant MITSUI-
25 SOKO (U.S.A.) INCORPORATED at any location in California at any time
26 during the PAGA Period.

27 34. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
28 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory

1 limitations period and personally suffered each of the Labor Code violations set forth herein.
2 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
3 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

4 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

5 35. PLAINTIFF, on January 9, 2025, through counsel, gave written notice by online
6 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that
7 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
8 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via
9 certified mail.

10 36. The PAGA Notice outlined PLAINTIFF's claims for violations of the California
11 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
12 Employees.

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

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

21 **FACTUAL ALLEGATIONS**

22 39. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
23 worked for DEFENDANTS in the State of California. At all times referenced herein,
24 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
25 permitted them to work.

26 40. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
27 title(s) of order selector and/or similar title(s) and/or position(s) from in or around June 2024 through
28 in or around September 2024.

1 41. PLAINTIFF was assigned by Fairway Staffing to work at including but not limited
2 to, Mitsui-Soko's warehouse distribution center(s), warehouse(s), manufacturing and/or distribution
3 center(s), facilities and/or other location(s) in Carson, California.

4 42. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
5 DEFENDANTS as hours worked.

6 43. Based on information and belief, at times, PLAINTIFF and other Aggrieved
7 Employees were also compensated with non-discretionary compensation, including but not limited
8 to, shift differential pay, bonus/incentive pay and/or other non-discretionary compensation.

9 44. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
10 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
11 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
12 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
13 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
14 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
15 below.

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

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

26 47. For example, DEFENDANTS' wage statements for PLAINTIFF for including but
27 not limited to the following pay periods/weeks, evidence rounding of PLAINTIFF's total hours
28 worked to at least the nearest quarter, half and/or whole hour, which resulted in DEFENDANTS'

1 failure to compensate PLAINTIFF for all hours worked and the underpayment of wages owed to
2 PLAINTIFF: week of June 23, 2024 listing precisely 34.00 regular hours worked and precisely 1.00
3 overtime hours worked.

4 48. Based on information and belief, DEFENDANTS rounded PLAINTIFF's and other
5 Aggrieved Employees' total hours worked during most if not all pay periods during their respective
6 employments, resulting in DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved
7 Employees for all work time and the underpayment of wages owed to PLAINTIFF.

8 49. Based on information and belief, at times, PLAINTIFF and other Aggrieved
9 Employees were pressured to complete work tasks off-the-clock, such as but not limited to,
10 gathering/returning work-related equipment/safety gear, make any necessary adjustments to
11 tools/equipment/their assigned vehicles, perform maintenance/cleaning tasks, donning/doffing work
12 clothing/uniforms/protective equipment, make/respond to work-related communications and/or
13 complete other work tasks off-the-clock, however, DEFENDANTS failed to compensate
14 PLAINTIFF and other Aggrieved Employees for all time spent completing these/other work-related
15 tasks, resulting in DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved
16 Employees for all hours worked and the underpayment of wages owed to PLAINTIFF and other
17 Aggrieved Employees.

18 50. Based on information and belief, at times, Aggrieved Employees were required to
19 stand in line behind other employees to access DEFENDANTS' time-keeping system and/or were
20 required to spend time logging into/booting up, initiating/reinitiating and/or troubleshooting
21 DEFENDANTS' electronic time-keeping system before they could clock in for the start of their
22 shifts and/or after completing a purported meal period but were not compensated for this time spent
23 under DEFENDANTS' control resulting in DEFENDANTS' failure to compensate Aggrieved
24 Employees for all hours worked and the underpayment of wages owed to Aggrieved Employees.

25 51. Based on information and belief, at times, DEFENDANTS failed to pay Aggrieved
26 Employees the applicable minimum wage for the county and/or city within which the Aggrieved
27 Employee worked in California and/or made unlawful deductions from Aggrieved Employees by
28 making them incur business expenses without reimbursement, which resulted in DEFENDANTS'

1 failure to pay Aggrieved Employees for all hours worked at legally mandated minimum wage rate
2 in effect for the State of California during the relevant period.

3 52. Based on further information and belief, DEFENDANTS implemented a time-
4 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
5 Employees of compensable time because the time-rounding system implemented by
6 DEFENDANTS would almost always, if not always, result in understating actual compensable work
7 time. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding practices
8 resulted in the underpayment of minimum wages owed to PLAINTIFF and Aggrieved Employees
9 as well as unpaid overtime wages for those Aggrieved Employees who worked more than eight (8)
10 hours in a day and/or more than forty (40) hours in a week.

11 53. For example, as explained herein, based on information and belief, DEFENDANTS'
12 wage statements and/or time records for PLAINTIFF and other Aggrieved Employees demonstrate
13 DEFENDANTS implemented a time-rounded system that rounded PLAINTIFF's and other
14 Aggrieved Employees' total hours worked to at least the nearest quarter, half and/or whole hour
15 during many if not all pay periods during their respective employments which resulted in
16 DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved Employees for all hours
17 worked and the underpayment of wages owed to PLAINTIFF and other Aggrieved Employees.

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

24 55. Based on information and belief, DEFENDANTS had actual and/or constructive
25 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
26 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
27 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
28 of California's minimum and overtime wage laws.

1 56. Based on information and belief, DEFENDANTS failed and continue to fail to pay
2 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
3 in a week.

4 57. Based on information and belief, DEFENDANTS failed and continue to fail to pay
5 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
6 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
7 a work week, in violation of California's overtime laws.

8 58. Based on information and belief, DEFENDANTS calculated the owed overtime
9 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
10 based on the minimum wage established for the cities and/or counties within which Aggrieved
11 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
12 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
13 above the California minimum wage rate.

14 59. Based on information and belief, DEFENDANTS failed to incorporate all non-
15 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple
16 base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the
17 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed
18 to PLAINTIFF and other Aggrieved Employees.

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

28 61. For example, based on information and belief, at times, PLAINTIFF and other

1 Aggrieved Employees were forced to take interrupted, late/shortened meal periods and/or remain
2 on-duty during unpaid meal periods due to the need to complete assigned job duties.

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

8 63. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
10 during unpaid meal periods.

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

15 65. Based on information and belief, despite DEFENDANTS' failure to provide lawful
16 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
17 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
18 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
19 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
20 Employees did not receive lawful meal periods.

21 66. Moreover, based on information and belief, Aggrieved Employees who worked shifts
22 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

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

27 68. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
28 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.

1 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
2 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
3 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
4 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

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

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

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

20 72. PLAINTIFF and other Aggrieved Employees were not adequately informed,
21 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
22 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
23 the taking or timing of duty-free rest periods.

24 73. Based on information and belief, DEFENDANTS did not have a have a compliant
25 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
26 practice.

27 74. For example, based on information and belief, PLAINTIFF and other Aggrieved
28 Employees were at times unable to take compliant rest periods due to their need to complete assigned

1 job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had
2 purported rest periods restricted to DEFENDANTS' premises/their workstations.

3 75. Based on information and belief, DEFENDANTS did not pay PLAINTIFF any rest
4 period premiums during PLAINTIFF's employment despite DEFENDANTS having actual and/or
5 constructive knowledge that PLAINTIFF was at times and/or typically not relieved of all duties and
6 DEFENDANTS' control during purported rest periods, in violation of California rest period law.

7 76. Based on information and belief, DEFENDANTS did not have a lawful policy,
8 instruction, or practice as to the taking, timing, or duty-free nature of rest periods. For example,
9 based on information and belief, DEFENDANTS failed to authorize and permit rest periods that
10 were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods were provided,
11 DEFENDANTS limited PLAINTIFF and other Aggrieved Employees to only ten-minute rest
12 periods, requiring them to be back at their workstations within ten minutes of leaving their work
13 stations , in violation of California rest period law.

14 77. Based on information and belief, DEFENDANTS did not pay PLAINTIFF any rest
15 period premiums during PLAINTIFF's employment despite DEFENDANTS having actual and/or
16 constructive knowledge that PLAINTIFF was at times and/or typically not relieved of all duties and
17 DEFENDANTS' control during purported rest periods, in violation of California rest period law.

18 78. Based on information and belief, any purported rest periods were interrupted, cut
19 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
20 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
21 completely and/or take non-compliant rest periods.

22 79. Moreover, based on information and belief, DEFENDANTS failed to provide
23 Aggrieved Employees with any form of a third rest period on shifts lasting longer than ten (10)
24 hours.

25 80. Based on information and belief, DEFENDANTS implemented policies and/or
26 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
27 DEFENDANTS' control during rest periods.

28 81. Based on information and belief, Aggrieved Employees were pressured to complete

1 their work duties according to a designated schedule such that rest periods were only taken once
2 tasks were completed, and/or as time permitted.

3 82. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
4 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
5 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
6 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
7 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
8 shift differential pay, and/or other non-discretionary compensation into the regular rate of
9 compensation for purposes of calculating the owed rest period premium.

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

18 84. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
19 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
20 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
21 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
22 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
23 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
24 other off-the-clock work policies and practices described above) which results in a violation of
25 Labor Code section 226(a).

26 85. Based on information and belief, DEFENDANTS issued wage statements to
27 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
28 226(a)(4).

1 86. For example, as described herein, DEFENDANTS regularly failed to reimburse
2 PLAINTIFF for business expenses thereby deducting business costs from PLAINTIFF's earned
3 wages each pay period, in violation of including but not limited to, Labor Code Section 221, and
4 further failing to itemize these deductions for business costs, on PLAINTIFF's wage statements. As
5 such, DEFENDANTS issued wage statements to PLAINTIFF that failed to accurately list all
6 deductions, in violation of Labor Code section 226(a)(4).

7 87. Based on information and belief, wage statements issued by DEFENDANTS failed
8 to list the inclusive dates and/or correct inclusive dates of the pay period for which the Aggrieved
9 Employee is being paid, in violation of Labor Code section 226(a)(2) and/or Labor Code section
10 (a)(6).

11 88. For example, based on information and belief, at times, DEFENDANTS issued wage
12 statements to Aggrieved Employees containing payment for hours worked during previous pay
13 periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate
14 pay period for pay, further failing to list the total hours worked for the pay period, including but not
15 limited to, the total hours worked for the pay period the pay corresponds with.

16 89. Moreover, based on information and belief, DEFENDANTS issued wage statements
17 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
18 other things, failing to list the correct name and/or address of the legal entity that is the employer,
19 in violation of Labor Code section 226(a)(8).

20 90. Based on information and belief, wage statements issued by DEFENDANTS failed
21 to list all applicable hourly rates in effect during the pay period and the corresponding number of
22 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
23 Code section 226(a)(9).

24 91. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
25 not include all of the statutorily required information, including but not limited to, the correct name
26 and/or address of the legal entity that is the employer.

27 92. Based on further information and belief, DEFENDANTS issued wage statements to
28 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential

1 wages were paid in violation of Labor Code section 226.

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

5 94. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
6 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
7 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
8 from Aggrieved Employees paychecks during the relevant period including without limitation,
9 deducting business costs, including without limitation, expenses/costs for data usage/ the cost of cell
10 phone use/other business expenses as described herein.

11 95. For example, DEFENDANTS regularly failed to reimburse PLAINTIFF for business
12 expenses thereby deducting business costs from PLAINTIFF’s earned wages each pay period, in
13 violation of including but not limited to, Labor Code Section 221

14 96. Such a practice is in violation of including but not limited to, Labor Code Sections
15 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

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

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

1 described herein.

2 99. By failing to record the true start and end times of PLAINTIFF's and other Aggrieved
3 Employees' shifts and the true start and end times of PLAINTIFF's and other Aggrieved
4 Employees' meal periods, DEFENDANTS failed to keep accurate records and issue accurate wage
5 statements.

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

12 101. Based on information and belief, DEFENDANTS shifted the costs of doing business
13 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
14 to, uniforms/work clothing/work shoes/personal protective/safety gear/hand tools/equipment and/or
15 the use of Aggrieved Employees' personal vehicles and/or personal cell phones/mobile devices,
16 internet and/or data usage for work-related purposes.

17 102. For example, DEFENDANTS required PLAINTIFF to provide his own steel-toed
18 boots, safety vest and/or other uniforms, work clothing, work shoes, protective and/or safety gear,
19 however, DEFENDANTS failed to provide PLAINTIFF with any and/or full reimbursement for the
20 business expenses PLAINTIFF incurred in connection with being required to purchase and/or
21 maintain DEFENDANTS' required uniforms, work clothing, work shoes, protective and/or safety
22 gear.

23 103. Based on information and belief, at times, Aggrieved Employees were required to
24 receive and respond to work-related calls and/or messages on their personal cell phones / mobile
25 devices from including but not limited to supervisors and/or other employees regarding scheduling
26 and/or other work tasks and/or were required to download and use work-related applications on their
27 personal cell phones/mobile devices but were not reimbursed by DEFENDANTS at all and/or in
28 full for these business expenses.

1 104. As explained above, Aggrieved Employees were not reimbursed for the cost of using
2 personal phone(s)/mobile device(s) for work-related purposes and/or the cost of purchasing and/or
3 maintaining uniforms/work clothing/work shoes, hand tools/work equipment.

4 105. Based on information and belief, Aggrieved Employees were improperly required to
5 pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

6 106. Based on information and belief, DEFENDANTS regularly failed to reimburse and
7 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
8 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
9 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
10 assigned by DEFENDANTS.

11 107. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
12 for all reasonable expenses associated with carrying out their duties required that Aggrieved
13 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
14 2802.

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

25 109. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
26 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
27 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
28 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to

1 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
2 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
3 used sick leave and the balance of paid sick leave.

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

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

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

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

24 114. Upon separation of employment, Aggrieved Employees' final paychecks were not
25 timely provided, were not timely provided with all owed vacation pay and/or paid time off and/or
26 did not include all wages owed as they were devoid of, including but not limited to, all owed
27 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
28 paid time off wages at the properly accrued rates (including but not limited to, all owed vacation

1 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
2 limited to, shift differentials).

3 115. Based on information and belief, DEFENDANTS failed to timely provide all owed
4 wages immediately upon discharge of employment. Based on information and belief, at times,
5 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
6 Aggrieved Employees would not be called in for work for longer than a single pay period due to
7 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
8 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
9 the end of such periods of employment, in violation of including but not limited to Labor Code
10 section 201-202.

11 116. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
12 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
13 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
14 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
15 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
16 limited to, shift differentials) to Aggrieved Employees upon separation of employment, in violation
17 of California law, including but not limited to, Labor Code section 227.3.

18 117. **Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
19 employee who is discharged shall be paid at the place of discharge, and every employee who quits
20 shall be paid at the office or agency of the employer in the county where the employee has been
21 performing labor. All payments shall be made in the manner provided by law.

22 118. Based on information and belief, DEFENDANTS have a policy and practice of
23 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
24 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
25 office or agency of DEFENDANTS in the county where the work was performed, in violation of
26 Labor Code Section 208.

27 119. **Unlawful Agreements.**

28 Unlawful Agreements.

1 120. Labor Code section 432.5 provides that “no employer...shall require any employee
2 or applicant for employment to agree, in writing, to any term or condition which is known by such
3 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
4 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
5 limited to, unlawful releases and/or waivers, including but not limited to, unlawful meal period
6 waivers, in violation of Labor Code section 432.5.

7 121. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
8 employment, continued employment, or the receipt of any employment-related benefit, require any
9 applicant for employment or any employee to waive any right...”Based on information and belief,
10 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
11 signed as a condition of employment, including but not limited to, during the onboarding process.
12 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
13 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
14 invalid waivers are otherwise unlawful under Labor Code section 432.6.

15 122. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
16 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
17 432.5.

18 **123. Violation of Labor Code Section 432.6.** Based on information and belief,
19 DEFENDANTS require/required Aggrieved Employees to waive their right to first and/or second
20 meal periods as a condition of working for DEFENDANTS in violation of California law. As such,
21 DEFENDANTS violated including but not limited to, Labor Code section 432.6 by virtue of
22 including but not limited to, requiring Aggrieved Employees to sign invalid meal period waivers as
23 a condition of employment and/or for threatening, retaliating and/or discriminating against and/or
24 terminating Aggrieved Employees because of their refusal to waive their meal period rights.

25 **124. Violation of Labor Code Sections 2100-2112.** Pursuant to Labor Code Sections
26 2100–2112, employers with one hundred (100) or more employees at a single warehouse
27 distribution center, or one thousand (1,000) or more employees at one or more warehouse
28 distribution centers in California are required to provide nonexempt employees, upon hire, with a

1 written description of each quota they are subject to (e.g., quantified number of tasks to be performed
2 or materials to be handled) within a defined period of time and any potential adverse employment
3 action that may result from failure to meet the quota. Labor Code Section 2102 (see below) prohibits
4 adverse employment actions against employees who fail to meet their quota if the quota was not
5 properly disclosed to the employee and prohibits quotas that prevent an employee from taking his
6 or her meal or rest breaks, use of restrooms, or that interfere with compliance with California's
7 occupational health and safety laws.

8 125. Labor Code Section 2101 provides:

9 126. Each employer shall provide to each employee, upon hire, or within 30 days of the
10 effective date of this part, a written description of each quota to which the employee is subject,
11 including the quantified number of tasks to be performed or materials to be produced or handled,
12 within the defined time period, and any potential adverse employment action that could result from
13 failure to meet the quota.

14 127. Labor Code Section 2102 provides:

15 128. An employee shall not be required to meet a quota that prevents compliance with
16 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
17 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
18 An employer shall not take adverse employment action against an employee for failure to meet a
19 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
20 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
21 disclosed to the employee pursuant to Section 2101.

22 129. Labor Code Section 2104 provides in pertinent part:

23 130. (a)(1) If a current or former employee believes that meeting a quota caused a
24 violation of their right to a meal or rest period or required them to violate any occupational health
25 and safety laws in the Labor Code or division standards, they have the right to request, and the
26 employer shall provide, a written description of each quota to which the employee is subject and a
27 copy of the most recent 90 days of the employee's own personal work speed data.

28 131. (2) If a former employee requests a written description of the quotas to which they

1 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
2 employer shall provide 90 days of the former employee's quotas and personal work speed data for
3 the 90 days prior to the date of the employee's separation from the employer.

4 132. (b) An employer that receives a written or oral request for information pursuant to
5 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
6 days from the date of the request.

7 133. Based on information and belief, during the relevant period, DEFENDANTS
8 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
9 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
10 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
11 relevant period.

12 134. Based on information and belief, DEFENDANTS had/have a policy and practice of
13 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
14 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
15 defined period of time and any potential adverse employment action that may result from failure to
16 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
17 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
18 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
19 compliance of California's occupational health and safety laws.

20 135. Based on further information and belief, DEFENDANTS have/had a policy and
21 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
22 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
23 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
24 Labor Code section 2102.

25 136. Based on information and belief, DEFENDANTS failed and continue to fail to timely
26 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
27 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
28 them to violate any occupational health and safety laws, a written description of each quota to which

1 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
2 personal work speed data.

3 137. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
4 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

5 138. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
6 engaged in these same herein described unlawful practices, which led to violations of the California
7 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
8 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

9 **FIRST CAUSE OF ACTION**
10 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
11 **2698, *ET SEQ.***
12 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
13 **Defendants)**

14 139. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

15 **Failure to Keep Accurate Records**

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

20 141. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
21 and complete records as required by law, including but not limited to the following records: total
22 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
23 Aggrieved Employees began and ended each work period, time records of meal periods, and
24 accurate itemized wage statements.

25 142. DEFENDANTS' failure to keep "accurate and complete" payroll records for
26 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
27 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
28 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay

1 period during which the referenced statutes and Wage Order provisions were violated.²

2 **Meal Period Violations**

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

8 144. Employers must also provide employees with a second duty-free, uninterrupted thirty
9 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
10 be provided before the end of the 10th hour of work. *Ibid.*

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

19 146. Employers must pay employees an additional hour of wages at the employees’
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
23 provide an employee a meal period in accordance with the applicable provision of this Order, the
24 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
25

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

1 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

2 147. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
3 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
4 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
5 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
6 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
7 periods completely.

8 148. Based on information and belief, DEFENDANTS had and continue to have a policy
9 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
10 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
11 Aggrieved Employees did not receive compliant meal periods.

12 149. Moreover, based on information and belief, Aggrieved Employees did not receive a
13 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

14 150. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
15 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
16 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
17 violation of California's meal period laws.

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

23 152. These unlawful meal period policies and practices result in violations of Labor Code
24 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
25 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
26 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
27 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

1 **Rest Period Violations**

2 153. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
3 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
4 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
5 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
6 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
7 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
8 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
9 1029). The rest period requirement obligates employers to permit and authorize employees to take
10 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
11 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
12 257. If the employer fails to provide any required rest period, the employer must pay the employee
13 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
14 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
15 applicable IWC Wage Order, §12(B).

16 154. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
17 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
18 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
19 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
20 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
21 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
22 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
23 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
24 “onus is on the employer to clearly communicate the authorization and permission [to take rest
25 periods] to its employees.”).

26 155. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
27 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
28 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject

1 to DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,
2 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
3 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

4 156. Based on information and belief, DEFENDANTS implemented policies and/or
5 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
6 employer control during rest periods. Based on further information and belief, Aggrieved
7 Employees were pressured to complete their work duties according to a designated schedule such
8 that rest periods were only taken once tasks were completed, and/or as time permitted.

9 157. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
10 first, second, or third rest periods as required by California law.

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

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

20 **Minimum and Overtime Wage Violations**

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

28 161. California law also provides that employees in California must be paid overtime,

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

6 162. As explained above, DEFENDANTS violated California's minimum and overtime
7 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
8 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
9 start and end times and meal period start and end times), payment according to scheduled hours
10 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
11 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
12 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

13 163. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
14 Aggrieved Employees for all hours worked.

15 164. Based on information and belief, DEFENDANTS had actual or constructive
16 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
17 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
18 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
19 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
20 Employees.

21 165. Based on information and belief, DEFENDANTS calculated the owed overtime
22 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
23 based on the minimum wage established for the cities and/or counties within which Aggrieved
24 Employees worked, resulting in the miscalculation and underpayment of overtime wages owed to
25 Aggrieved Employees who worked in cities and/or counties in California with minimum wage rates
26 above the California minimum wage rate.

27 166. Based on information and belief, DEFENDANTS failed and continue to fail to pay
28 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours

1 in a week.

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

6 168. Based on information and belief, DEFENDANTS further violated California's
7 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
8 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
9 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
10 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
11 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
12 other Aggrieved Employees.

13 169. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
14 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
15 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
16 Wage Orders, section 20.

17 **Statutory Wage Violations**

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

1 **Refusal to Make Payment**

2 171. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
3 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
4 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
5 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
6 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
7 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
8 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
9 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

10 **Standard Conditions of Labor Violations**

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

19 **Business Expense Violations**

20 173. California law requires employers to indemnify their employees for all necessary
21 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
22 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
23 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
24 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
25 incurred by the employee enforcing the rights granted by this section."

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

1 174. Among other things, under California law, when employees must use their personal
2 cellphones for work-related purposes, the employer must reimburse them for a reasonable
3 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
4 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
5 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
6 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
7 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
8 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

9 175. Further, "any contract or agreement, express or implied, made by any employee to
10 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
11 any employee or his personal representative of any right or remedy to which he is entitled to under
12 the laws of this State." *See* Cal. Lab. Code section 2804.

13 176. As described above, PLAINTIFF and the Aggrieved Employees were improperly
14 required to pay for business expenses that are legally the responsibility of the employer.

15 177. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
16 full reimbursement for all reasonable expenses associated with carrying out their duties required
17 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
18 expenses in violation of Labor Code section 2802.

19 178. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
20 Employees have suffered injury in that they were not completely reimbursed as mandated by
21 California law.

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

26 180. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
27 Employees have suffered injury in that they were not completely reimbursed as mandated by
28 California law.

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

5 **Wage Statement Violations**

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

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

23 184. Moreover, due to violations detailed above, including but not limited to,
24 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
25 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
26 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
27 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
28 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based

1 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
2 compensation earned during the pay period into the regular rate of pay for purposes of calculating
3 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
4 overtime worked by PLAINTIFF and other Aggrieved Employees.

5 185. As explained above, wage statements issued by DEFENDANTS failed to list the
6 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
7 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
8 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
9 described above), which results in a violation of Labor Code section 226(a).

10 186. Failure to list all hours worked on a wage statement, gives rise to an inference of
11 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
12 1308, 1337).

13 187. Based on information and belief, wage statements issued by DEFENDANTS failed
14 to list all applicable hourly rates in effect during the pay period and the corresponding number of
15 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
16 Code section 226(a)(9).

17 188. Separately, and independent from the above allegations, based on information and
18 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
19 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
20 entity that is the employer.

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

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

27 191. Moreover, as a result of DEFENDANTS’ failure to list the correct name and/or
28 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered

1 injury as they could not contact their employer regarding any question(s) they had about wages paid.

2 192. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
3 Aggrieved Employees with accurate, itemized wage statements.

4 193. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
5 Employees have suffered injury. The absence of accurate information on their wage statements has
6 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
7 mathematical computations to determine the amount of wages owed, and will cause difficulty and
8 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
9 submission of inaccurate information about wages and amounts deducted from wages to state and
10 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
11 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
12 and pay records than if DEFENDANT had complied with its legal obligations.

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

16 **Unlawful Deductions**

17 195. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
18 an employee any part of wages theretofore paid by said employer to said employee." Based on
19 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
20 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
21 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
22 Section 2699.

23 196. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
24 each pay period during which the statute provisions were violated. See Lab. Code §225.5
25 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
26 provided in this article, every person who unlawfully withholds wages due any employee in
27 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is \$9 per employee per violation").

1 to pay each employee”).

2 **Sick Leave Violations**

3 197. DEFENDANTS violated California’s paid sick leave laws including, Labor Code
4 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
5 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
6 DEFENDANTS’ failure to account for actual hours worked (as explained above), and/or failure to
7 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
8 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
9 compensation into the sick leave pay rate calculation.

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

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

19 200. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
20 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
21 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
22 were entitled to the maximum number of hours accruable.

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

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

1 203. On information and belief, PLAINTIFF alleges that all of these practices were
2 experienced and continue to be experienced by other Aggrieved Employees.

3 204. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
4 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
5 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

6 **Untimely Payment of Final Wages**

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

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

20 207. Based on information and belief, DEFENDANTS failed and continue to fail to timely
21 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
22 violation of Labor Code section 201-202. Moreover, final paychecks are not timely provided and/or
23 once provided to Aggrieved Employees did not include all wages owed as they are devoid of,
24 including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation
25 pay, and all owed sick leave and/or paid time off wages at the properly accrued rates.

26 208. Based on information and belief, DEFENDANTS failed to timely provide all owed
27 wages immediately upon discharge of employment. Based on information and belief, at times,
28 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby

1 Aggrieved Employees would not be called in for work for longer than a single pay period due to
2 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
3 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
4 the end of such periods of employment.

5 209. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
6 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
7 256.

8 **Failure to Pay Vested Vacation/Paid Time Off**

9 210. California Labor Code section 227.3 provides that when an employer policy provides
10 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
11 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
12 employee's final rate in accordance with such contract of employment or employer policy respecting
13 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
14 off upon termination.

15 211. Based on information and belief, DEFENDANTS had and continue to have a
16 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
17 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
18 to Aggrieved Employees upon separation of employment, in violation of California law, including
19 but not limited to, Labor Code section 227.3.

20 **Violation of Labor Code Section 208**

21 212. Labor Code Section 208 provides: Every employee who is discharged shall be paid
22 at the place of discharge, and every employee who quits shall be paid at the office or agency of the
23 employer in the county where the employee has been performing labor. All payments shall be made
24 in the manner provided by law.

25 213. Based on information and belief, DEFENDANTS have a policy and practice of
26 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
27 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
28 office or agency of DEFENDANTS in the county where the work was performed, in violation of

1 Labor Code Section 208.

2 **Unlawful Agreements**

3 *Unlawful Agreements.*

4 214. Labor Code section 432.5 provides that “no employer...shall require any employee
5 or applicant for employment to agree, in writing, to any term or condition which is known by such
6 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
7 Aggrieved Employees to agree in writing to unlawful conditions of employment including but not
8 limited to, unlawful meal period waivers, as a condition of obtaining and/or continuing employment
9 in violation of Labor Code section 432.5.

10 215. Labor Code section 432.6(a), provides that “a person shall not, as a condition of
11 employment, continued employment, or the receipt of any employment-related benefit, require any
12 applicant for employment or any employee to waive any right...”Based on information and belief,
13 DEFENDANTS required Aggrieved Employees to sign meal period waivers that were universally
14 signed as a condition of employment, including but not limited to, during the onboarding process.
15 By requiring Aggrieved Employees to sign unlawful meal period waivers as a condition of obtaining
16 and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these
17 invalid waivers are otherwise unlawful under Labor Code section 432.6.

18 216. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
19 condition of employment, DEFENDANTS violated including but not limited to, Labor Code section
20 432.5.

21 **Violation of Labor Code Section 432.6**

22 217. Based on information and belief, DEFENDANTS required Aggrieved Employees to
23 sign meal period waivers that were universally signed as a condition of employment, including but
24 not limited to, during the onboarding process. Further, these invalid waivers are otherwise unlawful
25 under Labor Code section 432.6.

26 218. Labor Code Section 432.6(a) provides: “[A] person shall not, as a condition of
27 employment, continued employment, or the receipt of any employment-related benefit, require any
28 applicant for employment or any employee to waive any right...”

1 219. Labor Code Section 432.6(b) provides in pertinent part:

2 220. “An employer shall not threaten, retaliate, or discriminate against, or terminate any
3 applicant for employment or any employee because of the refusal to the waiver of any right...”

4 221. Based on information and belief, DEFENDANTS require/required Aggrieved
5 Employees to waive their right to first and/or second meal periods as a condition of working for
6 DEFENDANTS in violation of California law. As such, DEFENDANTS violated including but not
7 limited to, Labor Code section 432.6 by virtue of including but not limited to, requiring Aggrieved
8 Employees to sign invalid meal period waivers as a condition of employment and/or for threatening,
9 retaliating and/or discriminating against and/or terminating Aggrieved Employees because of their
10 refusal to waive their meal period rights.

11 **Violation of Labor Code Sections 2100-2112**

12 222. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
13 more employees at a single warehouse distribution center, or one thousand (1,000) or more
14 employees at one or more warehouse distribution centers in California are required to provide
15 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
16 quantified number of tasks to be performed or materials to be handled) within a defined period of
17 time and any potential adverse employment action that may result from failure to meet the quota.
18 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
19 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
20 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
21 with compliance with California’s occupational health and safety laws.

22 223. Labor Code Section 2101 provides:

23 224. Each employer shall provide to each employee, upon hire, or within 30 days of the
24 effective date of this part, a written description of each quota to which the employee is subject,
25 including the quantified number of tasks to be performed or materials to be produced or handled,
26 within the defined time period, and any potential adverse employment action that could result from
27 failure to meet the quota.

28 225. Labor Code Section 2102 provides:

1 226. An employee shall not be required to meet a quota that prevents compliance with
2 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
3 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
4 An employer shall not take adverse employment action against an employee for failure to meet a
5 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
6 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
7 disclosed to the employee pursuant to Section 2101.

8 227. Labor Code Section 2104 provides in pertinent part:

9 228. (a)(1) If a current or former employee believes that meeting a quota caused a
10 violation of their right to a meal or rest period or required them to violate any occupational health
11 and safety laws in the Labor Code or division standards, they have the right to request, and the
12 employer shall provide, a written description of each quota to which the employee is subject and a
13 copy of the most recent 90 days of the employee's own personal work speed data.

14 229. (2) If a former employee requests a written description of the quotas to which they
15 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
16 employer shall provide 90 days of the former employee's quotas and personal work speed data for
17 the 90 days prior to the date of the employee's separation from the employer.

18 230. (b) An employer that receives a written or oral request for information pursuant to
19 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
20 days from the date of the request.

21 231. Based on information and belief, during the relevant period, DEFENDANTS
22 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
23 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
24 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
25 relevant period.

26 232. Based on information and belief, DEFENDANTS had/have a policy and practice of
27 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
28 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a

1 defined period of time and any potential adverse employment action that may result from failure to
2 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
3 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
4 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
5 compliance of California's occupational health and safety laws.

6 233. Based on further information and belief, DEFENDANTS have/had a policy and
7 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
8 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
9 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
10 Labor Code section 2102.

11 234. Based on information and belief, DEFENDANTS failed and continue to fail to timely
12 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
13 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
14 them to violate any occupational health and safety laws, a written description of each quota to which
15 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
16 personal work speed data.

17 235. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
18 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

19 236. Under the provisions of PAGA and the above mentioned Labor Code sections,
20 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221, 223, 225.5, 226,
21 226.7, 227.3, 245-248.6, 256, 432.5, 432.6, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1,
22 1198, 1199, 2100-2112, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
23 interpretations of these laws by California Courts and administrative bodies, as well as any other
24 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 25 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
26 relevant California Labor Code provisions listed herein only if permitted by the
27 PAGA statute, pursuant to Labor Code section 2699(a); and

- 28 b. Default PAGA penalties for any violation of the enumerated list of Labor Code

1 violations without a civil penalty recoverable under the PAGA, all in the default
2 amounts provided by Labor Code section 2699(f).

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

5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
7 PLAINTIFF, the State of California, and all Aggrieved Employees:

- 8 1. For civil penalties under Labor Code Section 2699;
9 2. For an order temporarily, preliminarily and permanently enjoining and
10 restraining DEFENDANTS from engaging in similar unlawful conduct as set
11 forth herein;
12 3. For reasonable attorney's fees and costs of suit; and
13 4. For such other and further relief that the Court deems just and proper.

14 Dated: March 17, 2025

CROSNER LEGAL, PC

15
16 By: 

17 Jamie K. Serb, Esq.
18 Brandon Brouillette, Esq.
19 Zachary M. Crosner, Esq.
20 Attorneys for Plaintiff
21 JUAN R. MARTINEZ
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