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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 THE COUNTY OF SAN DIEGO

9 ANTHONY COLBOURNE, an) Case No.: 25CU016047C
10 individual, on behalf of himself, the State)
11 of California, and aggrieved employees) Judge: Hon. James Mangione
12 pursuant to the Private Attorneys General) Dept.: C-75
13 Act (PAGA))

14 Plaintiffs,

15 vs.

16 RAYNE DEALERSHIP)
17 CORPORATION, a Delaware)
18 corporation; and DOES 1 through 50,)
19 Defendants.)

FIRST AMENDED COMPLAINT:

- 14 **1. Failure to Pay**
15 **Minimum/Regular/Prevailing/**
16 **Vacation Wages;**
17 **2. Failure to Pay State Overtime;**
18 **3. Failure to Pay Wages Timely;**
19 **4. Failure to Comply with Meal and**
20 **Rest Break Laws;**
21 **5. Failure to Provide Accurate**
22 **Wage Statements;**
23 **6. Failure to Provide and Maintain**
24 **Records;**
25 **7. Failure to Reimburse Expenses;**
26 **8. Sick Pay Violations;**
27 **9. Violations of Additional Labor**
28 **Code Provisions via the PAGA;**
and
10. Violation of B.&P. Code §§
17200, et seq.

Compl. Filed: March 27, 2025

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9 Plaintiff ANTHONY COLBOURNE, individually, on behalf of the State of
10 California as its designated proxy, and on behalf of other current and former Aggrieved
11 Employees and putative class members (collectively, the “Plaintiffs”), alleges the
12 following:

13 **NATURE OF THE ACTION**

14 1. This individual, class, and representative action is brought under the
15 Private Attorneys General Act (PAGA) of 2004, as amended, Labor Code §§ 2698, *et*
16 *seq.* and Code of Civil Procedure § 382 against the named Defendant for violations of
17 California law.

18 2. By this action, Plaintiff seeks all remedies available on behalf of himself,
19 Aggrieved Employees, and the putative class.

20 **JURISDICTION AND VENUE**

21 3. Pursuant to Article VI, § 10 of the California Constitution, the Superior
22 Court of California, County of San Diego has subject matter jurisdiction because
23 Plaintiffs allege claims arising under California law.

24 4. This Court has jurisdiction over Defendants because each is an
25 association, corporation, business entity, or individual conducting substantial business
26 in the State of California.

27 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is
28

1 proper in the Superior Court of California for the County of San Diego because
2 Defendants are doing business in the County of San Diego, California, the misconduct
3 occurred in the County of San Diego, and because PAGA enforcement actions are not
4 limited to the county in which Aggrieved Employees performed work. *See Crestwood*
5 *Behavioral Health, Inc. v. Superior Court*, 60 Cal. App. 5th 1069, 1075 (2021) (in a
6 PAGA action, a plaintiff is not limited to the county in which he or she performed
7 work).

8 THE PARTIES

9 6. Plaintiff ANTHONY COLBOURNE is an individual and resident of the
10 County of San Diego, California.

11 7. Defendant RAYNE DEALERSHIP CORPORATION is a Delaware
12 corporation doing business in California.

13 8. The true names and capacities, whether individual, corporate, associate or
14 otherwise of the Defendants named herein as DOES 1 through 50, are unknown to
15 Plaintiffs at this time. Plaintiffs therefore sue said Defendants by such fictitious names
16 pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will seek leave
17 to amend this Complaint to allege the true names and capacities of DOES 1 through 50
18 when their names are ascertained. Plaintiffs are informed and believe, and based
19 thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiffs
20 for the events and actions alleged herein.

21 9. Unless otherwise specified by name, the named Defendants and DOES 1
22 through 50 will be collectively referred to as “Defendants.”

23 10. Plaintiffs are informed and believe, and based thereon allege, that each
24 Defendant acted as an agent, joint venturer, integrated enterprise, and/or alter ego of
25 the others, and was a co-conspirator with respect to the wrongful conduct alleged
26 herein, making each liable for the acts of the others.

27 11. Plaintiffs are informed and believe, and based thereon allege, that each
28 Defendant acted, at least in part, within the scope of their employment and did so with

1 the knowledge, consent, and ratification of the other Defendants.

2 12. Plaintiffs are informed and believe, and based thereon allege, that each
3 Defendant was an agent, managing general partner, managing member, owner, co-
4 owner, partner, employee, and/or representative of the others, and at all times acted
5 within the scope of such agency, employment, contract, and/or representation, and that
6 each of them is jointly and severally liable to Plaintiffs.

7 13. Plaintiffs are informed and believe, and based thereon allege, that each
8 of the Defendants is liable to Plaintiffs under legal theories and doctrines including but
9 not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter
10 ego, based in part, on the facts set forth below.

11 14. Plaintiffs are informed and believe, and based thereon allege, that each
12 of the named Defendants is part of an integrated enterprise and has acted, or currently
13 acts, as the employer and/or joint employer of the Plaintiffs, making each liable for the
14 wage and hour violations alleged herein.

15 15. Plaintiffs are informed and believe, and therefore allege, that one, more
16 than one, or each of the named Defendants is liable to the Plaintiffs under legal
17 theories and doctrines including but not limited to (1) the common law joint employer
18 doctrine and/or (2) Labor Code § 2810.3 because at least one of these named
19 Defendants worked as the central hub to an overall business operation by which the
20 interrelationship between these Defendants makes each of the Defendants liable for
21 the wage and hour violations alleged herein.

22 **GENERAL ALLEGATIONS**

23 16. Defendant Rayne Dealership Corporation is a company specializing in
24 water purification systems, including water softeners, whole-house conditioners,
25 hybrid softener-conditioners, and drinking water systems.

26 17. During all times relevant, Defendants hired and employed the named
27 Plaintiff as a nonexempt worker who worked as a route driver.

28 18. The named Plaintiff is an “aggrieved employee” within the meaning of

1 the PAGA because Defendants employed Plaintiff in California and Plaintiff
2 experienced one or more of the alleged Labor Code violations and, therefore, the
3 named Plaintiff is properly suited to act on behalf of the state and the Aggrieved
4 Employees, as defined by Labor Code § 2699(c).

5 19. California law provides that an Aggrieved Employee may file a
6 representative action under the PAGA against an employer for civil penalties in
7 connection with violations of the Labor Code and Wage Order.

8 20. On information and belief, current and former employees of Defendants
9 suffered from Defendants' Labor Code violations.

10 **Failure to Provide the Named Plaintiff's Payroll Records and Personnel File.**

11 21. Within the last 12 months, Plaintiff, through counsel, sent
12 correspondence to Defendants requesting access to Plaintiff's payroll records and
13 employee personnel file.

14 22. Defendants responded, providing only selected portions of Plaintiff's
15 records.

16 23. To date, the production is missing, among other things, employee
17 handbooks signed by Plaintiff, time records, and potentially other documents not yet
18 identified. *See Iljas v. Ripley Entm't Inc.*, 403 F. Supp. 3d 793, **19-20 (N.D. Cal.
19 2019) (held summary judgement granted to former plaintiff-employee for claims via
20 LC 226 and 1198.5 for failure to provide wage statements thus awarding penalties,
21 fees, and costs); *Harper v. Charter Communs., LLC*, 2021 U.S. Dist. LEXIS 28747,
22 *61-62 (E.D. Cal. 2021) (court denied defendant's MSJ where plaintiff-employee
23 showed evidence that defendant-employer failed to timely provide all wage
24 statements, corrective action reports, letters related to their termination, and
25 commission plan documents and receipts in its production); *County v. Cedars-Sinai*
26 *Med. Ctr.*, 2020 Cal. Super. LEXIS 52468, *5 (court denied defendant's demurrer to
27 plaintiff's LC 226 claim that defendant failed to produce time records and employee
28 handbooks).

1 **Minimum Wage/Regular/Prevailing Wage claims.**

2 24. During all relevant times, Plaintiffs are informed and believe, and
3 thereon allege, that pursuant to company policy, practice, and/or direction, Defendants
4 paid Aggrieved Employees and putative Class Members wages below the rate required
5 under state, federal, and local law.

6 25. This claim is premised, in part, on Defendants' failure to provide
7 Plaintiffs' time records.

8 26. This claim is also premised, in part, on the belief that Plaintiffs performed
9 work on public works projects, wherein that at various times Defendants failed to fully
10 compensate Aggrieved Employees and putative Class Members for their labor under
11 the prevailing wage laws of California. *See Kirby v. Immoos Fire Prot., Inc.*, 53 Cal.
12 4th 1244, 1252 (2012); *Road Sprinkler Fitters Local Union No. 669 v. G&G Fire*
13 *Sprinklers, Inc.*, 102 Cal. App. 4th 765, 770 (2002) (holding California's prevailing
14 wage is a minimum wage and workers may assert their rights to recover unpaid
15 prevailing wages under the minimum wage provisions of Labor Code § 1194).

16 27. Further, Plaintiffs are informed and believe, and thereon allege, that
17 Defendants, had a practice of calling Aggrieved Employees and putative Class
18 Members while they were off the clock and at home to ask work-related questions.

19 28. Plaintiffs are informed and believe, and thereon allege, that Defendants
20 also required Aggrieved Employees and putative Class Members to perform pre- and
21 post-shift work without compensation, thereby depriving them of wages for off-the-
22 clock labor.

23 29. Plaintiffs are informed and believe, and thereon allege, that Defendants
24 used a timekeeping system that rounded down Aggrieved Employees' and putative
25 Class Members' hours worked, resulting in lost wages to be determined at trial.

26 30. Plaintiffs are informed and believe, and thereon allege, that the named
27 Plaintiff and other Aggrieved Employees and putative Class Members worked long
28 enough to accrue vacation pay under Defendants' vacation policy.

1 31. Plaintiffs are informed and believe, and based thereupon allege, that
2 Defendants failed to pay Plaintiff and, upon information and belief, the Aggrieved
3 Employees/putative Class Members, accrued vacation pay.

4 32. By way of further example, Plaintiffs are informed and believe, and
5 based thereupon allege, that Defendants' managers required Plaintiff and other
6 Aggrieved Employees/putative Class Members to clock out for meal breaks, but
7 required them to remain "on duty" without pay.

8 33. As a result, Defendants failed to pay Aggrieved Employees and putative
9 Class Members for these hours at the applicable wage rate, in an amount to be
10 determined at trial.

11 34. Plaintiffs' unpaid wage claim is also premised on Plaintiffs' allegation
12 that Defendants failed to pay some Aggrieved Employees split shift pay as required
13 under § 4 of all applicable Industrial Wage Commission (IWC) Wage Orders, to wit,
14 "When an employee works a split shift, one (1) hour's pay at the minimum wage shall
15 be paid in addition to the minimum wage for that workday..." *See also* Cal. Code
16 Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the
17 minimum wage shall be paid in addition to the minimum wage for that workday,
18 except when the employee resides at the place of employment).

19 35. Plaintiffs are informed and believe, and therefore allege, that split shift
20 pay violations occurred when, for example, Defendants required its negatively affected
21 Aggrieved Employees/putative Class Members to work two separate shifts in the same
22 day.

23 36. In these cases, Plaintiffs are informed and believe, and therefore allege
24 that Defendants failed to pay Aggrieved Employees split shift compensation whenever
25 Aggrieved Employees'/putative Class Members' work schedules were interrupted by
26 unpaid nonworking periods established by Defendants, which resulted in a violation of
27 California law.

28 37. Plaintiffs' unpaid wage claim is also premised on Plaintiffs' allegations

1 that Defendants failed to pay reporting-time pay.

2 38. Section 5 of all applicable IWC Wage Orders, provides, “(A) Each
3 workday an employee is required to report for work and does report, but is not put to
4 work or is furnished less than half said employee’s usual or scheduled day’s work, the
5 employee shall be paid for half the usual or scheduled day’s work, but in no event for
6 less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of
7 pay, which shall not be less than the minimum wage. (B) If an employee is required to
8 report for work a second time in any one workday and is furnished less than two (2)
9 hours of work on the second reporting said employee shall be paid for two hours at the
10 employee's regular rate of pay, which shall not be less than the minimum wage.”

11 39. Plaintiffs are informed and believe, and therefore allege that some
12 Aggrieved Employees/putative Class Members reported to work for scheduled shifts
13 but were sent home and/or were not put to work and were not paid all reporting time
14 pay wages in accordance with California law.

15 40. These are examples of numerous instances in which Defendants failed to
16 pay wages to Aggrieved Employees and putative Class Members.

17 **Failure to Pay State Overtime.**

18 41. During all relevant times, Plaintiffs are informed and believe, and thereon
19 allege, that pursuant to company policy, practice, and/or direction, Defendants failed to
20 pay Aggrieved Employees and putative Class Members state overtime compensation
21 and/or the correct amount of overtime.

22 42. This claim is generally premised on the facts described above, but when
23 Aggrieved Employees/putative Class Members also had the right to overtime
24 compensation, Defendants failed to pay Aggrieved Employees/putative Class Members
25 overtime or the correct amount of overtime in an amount to be proven at trial.

26 43. According to § 49.1.1 of the California Division of Labor Standards and
27 Enforcement Policies and Interpretations Manual, “In California, as with the federal
28 FLSA, overtime is computed based on the regular rate of pay. The regular rate of pay

1 includes many different kinds of remuneration, for example: hourly earnings, salary,
2 piecework earnings, commissions, certain bonuses, and the value of meals and
3 lodging.”

4 44. Plaintiffs are informed and believe, and based thereon allege, that
5 Defendants failed to include all forms of remuneration—such as bonuses, shift
6 differentials, commissions, stipends, and incentive pay—when calculating Aggrieved
7 Employees’ and putative Class Members’ regular rate of pay for purposes of overtime,
8 resulting in underpayments to be proven at trial.

9 45. These are examples of numerous instances in which Defendants failed to
10 pay overtime to Aggrieved Employees and putative Class Members.

11 **Failure to Pay Sick Pay.**

12 46. During all relevant times, Plaintiffs are informed and believe, and thereon
13 allege, that pursuant to company policy, practice, and/or direction, Defendants failed to
14 pay Aggrieved Employees and putative Class Members sick pay and/or the correct
15 amount of sick pay.

16 47. Pursuant to Labor Code §§ 246(a), (b), “[a]n employee who, on or after
17 July 1, 2015, works in California for the same employer for 30 or more days within a
18 year from the commencement of employment is entitled to paid sick days. . . at the rate
19 of not less than one hour per every 30 hours worked, beginning at the commencement
20 of employment.”

21 48. Further, Labor Code § 246(l)(1) provides that paid sick time for non-
22 exempt employees must be “calculated in the same manner as the regular rate of pay
23 for the workweek in which the employee uses paid sick time, whether or not the
24 employee actually works overtime in that workweek.”

25 49. Additionally, Labor Code § 246(l)(2) states that the paid sick time must be
26 “calculated by dividing the employee’s total wages, not including overtime premium
27 pay, by the employee’s total hours worked in the full pay periods of the prior 90 days
28 of employment.”

1 50. Labor Code § 246(i) also requires employers to “provide an employee
2 with written notice that sets forth the amount of paid sick leave available, or paid time
3 off leave an employer provides in lieu of sick leave, for use on either the employee’s
4 itemized wage statement described in Section 226 or in a separate writing provided on
5 the designated pay date with the employee’s payment of wages.”

6 51. Plaintiffs are informed and believe, and therefore allege, that Defendants
7 failed to provide Aggrieved Employees and putative Class Members with legally
8 required paid sick leave at the correct rate, including all forms of compensation, as
9 required under Labor Code §§ 246(a) and (b).

10 52. Based thereon, Plaintiffs are informed and believe, and therefore allege,
11 that Defendants paid Aggrieved Employees and putative Class Members sick time at a
12 rate below the “regular rate of pay,” in violation of Labor Code §§ 246(l)(1)-(2).

13 **Meal and Rest Break Claims.**

14 53. During all relevant times, Plaintiffs are informed and believe, and thereon
15 allege, that pursuant to company policy, practice, and/or direction, Defendants failed to
16 authorize or permit Aggrieved Employees and putative Class Members to take legally
17 compliant off-duty meal and rest breaks within the required timeframes.

18 54. Defendants also failed to pay premium compensation for these violations,
19 in an amount to be proven at trial.

20 55. This claim is premised, in part, on Defendants’ failure to provide
21 Plaintiffs’ time records.

22 56. Plaintiffs are informed and believe, and thereon allege, that when
23 Aggrieved Employees/putative Class Members worked more than five and/or ten hours
24 in a workday, they were deprived of their right to take lawful meal breaks and
25 Defendants failed to pay them premium pay for the missed or noncompliant meal
26 breaks, in an amount to be proven at trial.

27 57. By way of example, Plaintiffs are informed and believe and thereon allege
28 that Aggrieved Employees/putative Class Members clocked out for meal breaks

1 frequently but continued working, thus unlawfully depriving them of uninterrupted
2 meal breaks in violation of law.

3 58. Further, Plaintiffs are informed and believe, and thereon allege, that
4 Defendants required Aggrieved Employees and putative Class Members to work more
5 than five hours without providing a meal break.

6 59. Plaintiffs are also informed and believe, and thereon allege, that
7 Defendants failed to provide a second meal break when Aggrieved Employees and
8 putative Class Members worked more than ten hours in a day.

9 60. Related to the extra forms of remuneration Defendants paid as alleged
10 above, for each missed or noncompliant meal period, Defendants failed—and continue
11 to fail—to maintain a mechanism for paying meal period premiums at the “regular rate
12 of pay,” as required by Labor Code § 226.7 and *Ferra v. Loews Hollywood Hotel,*
13 *LLC*, 11 Cal. 5th 858 (2021).

14 61. As for rest breaks, because of Defendants’ policy, practice, and work
15 demands, Defendants prevented Aggrieved Employees/putative Class Members from
16 taking all their uninterrupted rest breaks to which they had the right to enjoy, in an
17 amount to be proven at trial, and Defendants failed to pay them premium pay as
18 required under California law. *See Augustus v. ABM Security Services*, 2 Cal. 5th 257
19 (2016).

20 62. Plaintiffs are informed and believe and based thereupon allege that
21 Defendants violated the California “Day’s Rest” law.

22 63. Per Labor Code §§ 550, 551, and 552, every employee in California is
23 “entitled to one day's rest therefrom in seven”; and, no employer “shall cause his
24 employees to work more than six days in seven.”

25 64. Labor Code § 553 provides that a violation of the foregoing Labor Code
26 provisions is a misdemeanor. *Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017).

27 65. Plaintiffs are informed and believe, and thereon allege, that Aggrieved
28 Employees/putative Class Members worked seven days consecutively in a workweek

1 in violation of California law.

2 66. Plaintiffs also allege that Defendants violated the “cooldown recovery
3 period” provisions of the Labor Code.

4 67. California Code of Regulations (CCR), Title 8, § 3395 mandates that all
5 employers with “outdoor places of employment” implement a heat illness prevention
6 program that includes, among other requirements, providing workers “cool-down”
7 periods of at least five minutes in the shade.

8 68. Specifically, CCR § 3395 provides that “employees shall be allowed and
9 encouraged to take a cool-down rest in the shade for a period of no less than five
10 minutes at a time when they feel the need to do so to protect themselves from
11 overheating” and that “such access to shade shall be permitted at all times.”

12 69. Under California Labor Code § 226.7, if an employer fails to provide an
13 employee a recovery period, the employer shall pay the employee one additional hour
14 of pay at the employee’s regular rate of compensation for each workday that the meal
15 or rest or recovery period is not provided.

16 70. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and
17 other Aggrieved Employees and putative Class Members frequently performed
18 deliveries, warehouse duties, and other outdoor work during periods when the
19 temperature sometimes exceeded 80° Fahrenheit.

20 71. Plaintiffs are informed and believe, and thereon allege, that Defendants
21 failed to provide proper heat illness prevention training and/or heat illness
22 policies/practices/programs as required by California’s Heat Illness Prevention
23 Regulation, Title 8 § 3395(d).

24 72. Plaintiffs are informed and believe, and thereon allege, that Defendants
25 failed to provide adequate access to drinking water as required by California’s Heat
26 Illness Prevention Regulation, Title 8 § 3395(c).

27 73. Moreover, Plaintiffs are informed and believe, and thereon allege, that
28 Defendants maintained a policy and practice of not permitting necessary time for

1 cooldown recovery breaks, and as a result, Aggrieved Employees were required to
2 remain outdoors with little to no access to shade for extended periods.

3 74. In addition, Plaintiffs are informed and believe and based thereupon allege
4 that Defendants failed to pay Aggrieved Employees an additional hour of pay at their
5 regular rate of pay for each missed cooldown recovery period.

6 75. Plaintiffs also allege that Defendants violated Labor Code requirements to
7 provide “suitable resting facilities.”

8 76. Per § 13 of all applicable IWC Wage Orders, including but not limited to
9 Wage Order 4, employees shall be provided with suitable resting facilities.

10 77. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
11 shall be provided in an area separate from the toilet rooms and shall be available to
12 employees during work hours.”

13 78. Defendants’ work locations were—and continue to be—primarily
14 outdoors or on the road, with no designated space for employees to rest during meal or
15 rest periods.

16 79. Plaintiffs allege that Defendants could have provided Aggrieved
17 Employees/putative Class Members with a resting facility, such as a tent or similar
18 space, at all of Defendants’ work locations with reasonable or no modification, but
19 failed—and continue to fail—to deny, employees with suitable areas to rest (e.g. a
20 breakroom) in some cases.

21 80. As a result, Plaintiffs are informed and believe, and based thereon allege,
22 that Aggrieved Employees were forced to rest in unsuitable areas, such as leaning
23 against walls, sitting in personal vehicles, or using company trucks, due to the absence
24 of designated resting spaces.

25 81. Plaintiffs are informed and believe and based thereupon allege that
26 Defendants did not provide Aggrieved Employees with suitable resting facilities during
27 their hours of work, particularly during meal and/or rest periods.

28 82. Defendants’ failure to provide suitable resting facilities to Aggrieved

1 Employees violated and continue to violate the applicable Wage Order, § 13(B) and
2 the California Labor Code, including but not limited to § 1198.

3 83. The foregoing is a few of many examples of how Defendants violated
4 California rest and meal break policies.

5 **Failure to Reimburse.**

6 84. During all times relevant, Plaintiffs are informed and believe, and thereon
7 allege that pursuant to company policy and/or practice and/or direction, Defendants
8 required Aggrieved Employees/putative Class Members to incur various work-related
9 expenses which were never reimbursed.

10 85. Plaintiffs are informed and believe and based thereon allege the
11 unreimbursed purchases the named Plaintiff and Aggrieved Employees/putative Class
12 Members were required to make to perform their work include, but are not limited to
13 cell phone and cell phone data, mileage reimbursements, uniforms, and tools. *See*
14 *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137 (2014) ("We hold
15 that when employees must use their personal cell phones for work-related calls, Labor
16 Code section 2802 requires the employer to reimburse them. Whether the employees
17 have cell phone plans with unlimited minutes or limited minutes, the reimbursement
18 owed is a reasonable percentage of their cell phone bills.")

19 86. In particular, Defendants encouraged and required Aggrieved
20 Employees/putative Class Members to use their personal smartphones for navigation
21 purposes to perform deliveries, among other reasons.

22 **Erroneous Wage Statements in Violation of Labor Code § 226.**

23 87. During all times relevant, and pursuant to company policy and/or practice
24 and/or direction and continuing to the present, and pursuant to company policy and/or
25 practice and/or direction, Plaintiffs are informed and believe, and based thereon allege,
26 that Defendants issued confusing and inaccurate wage and earning statements to
27 Aggrieved Employees/putative Class Members in violation of Labor Code § 226.

28 88. Plaintiffs allege Aggrieved Employees'/putative Class Members' paystubs

1 were inaccurate because Defendants failed to pay them all wages, as alleged above,
2 supporting a derivative claim under Labor Code § 226.

3 **Facts Relating to Derivative Claims, such as Labor Code §§ 203, 204, 204b, 256,**
4 **etc.**

5 89. During all times relevant and pursuant to the above-mentioned policies,
6 Plaintiffs are informed and believe, and thereon allege, that Defendants failed to pay all
7 wages to which Aggrieved Employees/putative Class Members had the right to receive
8 under the law in a timely manner.

9 90. As to the named Plaintiff specifically, as alleged above Defendants failed
10 to timely pay Plaintiff wages in violation of the Labor Code including but not limited
11 to §§ 201-203, and 204.

12 **Failure to Maintain Records.**

13 91. Plaintiffs are informed and believe and based thereupon allege that at
14 various times Defendants also did not comply with Labor Code §§ 1174, 1776, or both
15 because Defendants did not maintain or retain records required to be maintained per
16 the Labor Code.

17 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

18 92. This is a PAGA enforcement action filed pursuant to Labor Code §§
19 2698, 2699 that generally consists of the following group:

20 **All persons Defendants employed in the State of California**
21 **from January 8, 2023 to the present.**

22 93. All members of the above group will be referred to as the “Aggrieved
23 Employees.”

24 94. The “PAGA Period” means from **January 8, 2023** to the present, the
25 timeframe where the scope of statute allows Plaintiffs to recover penalties.

26 95. California law provides that an employee may file an action against an
27 employer to recover penalties for violations of the Labor Code and Wage Orders
28 provided the aggrieved employee files an action on behalf of him/her or herself/himself

1 and similarly-situated current and former employees.

2 96. At all material times, Defendants and DOES 1 through 50 were and/or are
3 Aggrieved Employees' employers or persons acting on behalf of Aggrieved
4 Employees' employer, within the meaning of California Labor Code § 558, who
5 violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor
6 Code or any provision regulating hours and days of work in any Order of the Industrial
7 Welfare Commission and, as such, are subject to penalties for each underpaid
8 employee as set for in Labor Code § 558.

9 97. As set forth in further detail below, because of the analysis and
10 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent correspondence to the
11 California Labor and Workforce Development Agency (LWDA) and to Defendants
12 informing Defendants of their claims and their intent to pursue litigation.

13 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14 98. On or about **January 8, 2023**, Plaintiffs began to exhaust their
15 administrative remedies by sending correspondence to the LWDA and via certified
16 mail to Defendants indicating Plaintiffs are pursuing the claims alleged in this
17 Complaint pursuant to the PAGA.

18 99. The statutory period for Plaintiffs to exhaust administrative remedies has
19 expired, and the LWDA did not serve Plaintiffs with notice of intent to assume
20 jurisdiction over the applicable penalty claims and did not provide notice as set forth
21 in Labor Code § 2699.3(a)(2)(A) within the statutory period.

22 100. Therefore, Plaintiffs have exhausted all applicable administrative
23 remedies thus permitting Plaintiffs the ability to seek the penalty claims sought in this
24 Complaint.

25 **CLASS ACTION ALLEGATIONS.**

26 101. The named Plaintiff brings this action on behalf of himself and all
27 others similarly situated as a class action.

28 102. Plaintiff seeks to represent the class defined as follows:

1 **All persons Defendants employed from March 27, 2021 to**
2 **the present.**

3 103. Plaintiff also seeks to represent the following subclasses composed of
4 and defined as follows:

5 **Minimum/Regular/Prevailing Wage Subclass:** All Members of
6 the Class whose wages, during the relevant period, Defendants
7 failed to pay.

8 **Overtime Wage Subclass:** All Members of the Class whose
9 overtime, during the relevant period, Defendants failed to pay.

10 **Meal and Rest Break Subclass:** All Members of Class who,
11 during the applicable statute of limitations period (1) worked for
12 Defendants and were not provided compliant meal and/or rest
13 breaks; and (2) were not provided one hour of pay at their regular
14 rate of compensation in lieu thereof.

15 **Waiting Time Penalty Subclass:** All Members of the Class who
16 worked for Defendants during the relevant period, but were
17 terminated and/or resigned.

18 **Wage Statement Subclass:** All Members of the Class who, during
19 the relevant period, worked for Defendants and did not receive an
20 itemized wage statement.

21 **Failure to Maintain Record Subclass:** All Members of the Class
22 who worked for Defendants during the relevant period whose
23 records Defendants failed to maintain.

24 **Unreimbursed Expense Subclass:** All Members of the Class
25 who, during the relevant period, incurred work-related expenses
26 required by Defendants.

27 **UCL Subclass:** All Members of the Class, who, during the
28 relevant period, worked for Defendants and who seek restitution in

1 the form of (1) unreimbursed expenses as and/or (2) wages earned
2 and unpaid.

3 104. The above-mentioned class-members will collectively be referred to as
4 “Class Members.”

5 105. Plaintiffs reserve the right to amend or modify the class description with
6 greater specificity or further division into subclasses or limitation to particular issues.

7 106. This action has been brought and may properly be maintained as a class
8 action because there is a well-defined community of interest in the litigation and the
9 proposed classes are easily ascertainable.

10 **A. Numerosity.**

11 107. The potential members of the Class as defined are so numerous or
12 many, that joinder of all the members of the Class is impracticable.

13 108. While the precise number of Class Members is undetermined at this
14 time, Plaintiffs are informed and believe, and based thereon allege, that Defendants
15 currently employ, and during the relevant time periods employed, a sufficient number
16 of putative Class Members to make litigation of this case as a Class Action
17 reasonable.

18 109. Accounting for employee turnover during the relevant periods
19 necessarily increases this number substantially.

20 **B. Commonality.**

21 110. There are questions of law and fact common to the Class that
22 predominate over any questions affecting only individual Class Members.

23 111. Common questions of law and fact include, without limitation and
24 subject to possible further amendment, the following:

- 25 a. Whether Defendants violated state
- 26 minimum/regular/prevaling wage by law;
- 27 b. Whether Defendants violated state overtime law;
- 28 c. Whether Defendants violated Cal. Labor Code §§ 201,

201.3, 202, and/or 203 by paying Class Members in an untimely manner;

d. Whether Defendants violated meal and rest break laws;

e. Whether Defendants violated Cal. Labor Code § 226 by not providing accurate wage statements;

f. Whether Defendants violated Cal. Labor Code § 2802 by failing to reimburse Plaintiffs for business expenses;

g. Whether Defendants violated Cal. Labor Code §§ 1174, *et seq.* by failing to maintain Class Members records; and

h. Whether Plaintiffs and the members of the Class are entitled to remedies pursuant to Cal. Business & Professions Code §§ 17200, *et seq.*

C. Typicality.

112. The named Plaintiff's claims are typical of the claims of the Class because Plaintiff and all members of the Class sustained injuries and damages arising out of and caused by Defendants' common course of conduct and policies in violation of laws, regulations that have the force and effect of law and statutes as alleged herein.

D. Adequacy of Representation.

113. The named Plaintiff is a members of the putative Class, does not have any conflicts of interest with other Class Members, and will prosecute the case vigorously on behalf of the Class.

114. Counsel representing the putative Class are competent and experienced in litigating employment class actions.

115. The named Plaintiff will fairly and adequately represent and protect the interests of the Class Members.

E. Superiority of Class Action.

116. A class action is superior to other available means for the fair and

1 efficient adjudication of this controversy because individual joinder of all Class
2 Members is not practicable, and questions of law and fact common to the Class
3 predominate over any questions affecting only individual members of the Class.

4 117. Each Class Member was damaged or suffered injury and may recover
5 remedies by reasons of Defendants' illegal policies and/or practices.

6 118. Class Action treatment will allow those similarly situated persons to
7 litigate their claims in the manner that is most efficient and economical for the parties
8 and the judicial system.

9 119. Plaintiffs are unaware of any difficulties that are likely to be
10 encountered in the management of this action that would preclude maintenance as a
11 class action.

12 120. For the reasons alleged in this Complaint, this action should be certified
13 as a class action.

14 **FIRST CAUSE OF ACTION**

15 **Individual, Class, and Representative Claim for PAGA Penalties**

16 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

17 **Failure to Pay Local/State Minimum/Regular/Prevailing Wages**

18 **in Violation of California Labor Code §§ 227.3, 1194, 1197, 1197.1,**

19 **1771, 1774, 1776, 1811, and 1815, 1198, and the applicable Industrial Welfare**

20 **Commission (IWC) Wage Order via § 1198, and**

21 **where applicable the Local Min. Wage Ordinance**

22 **(Against all Defendants)**

23 121. Plaintiffs reallege and incorporate by reference the foregoing
24 allegations, as though set forth herein.

25 122. Pursuant to Labor Code §§ 1194, 1197, 1197.1, 1771, 1774, 1776, 1811,
26 1815, and 1198, it is unlawful for a California employer to suffer or permit an
27 employee to work without paying wages for all hours worked, as required by the
28 applicable IWC Wage Order and, where applicable on public works projects,

1 prevailing wage laws.

2 123. Labor Code § 227.3 provides, “[u]nless otherwise provided by a
3 collective bargaining agreement, whenever a contract of employment or employer
4 policy provides for vacation time, all vested vacation shall be paid to him as wages in
5 accordance with such contract or employment or employer policy respecting
6 eligibility or time served; provided, however, that an employment contract or
7 employer policy shall not provide for the forfeiture of vested vacation time upon
8 termination.”

9 124. During all times relevant, Defendants were required to pay Plaintiffs and
10 other Aggrieved Employees/putative Class Members their respective hourly rate for
11 all hours worked and/or minimum wages and/or prevailing wages per state law or
12 applicable local law.

13 125. During all times relevant, at least one of the IWC Wage Orders applied
14 to Plaintiffs’ employment with Defendants.

15 126. Pursuant to the applicable Wage Order, “hours worked” include the time
16 during which an employee is “suffered or permitted to work, whether or not required
17 to do so.”

18 127. Under state and, where appropriate, local law, every employer must pay
19 each nonexempt employee minimum wages. *See, e.g.*, Los Angeles County Minimum
20 Wage Ordinance; San Diego Minimum Wage Ordinance, and similar ordinances.

21 128. Labor Code § 1194 subdivision (a) permits an action to recover wages
22 because of the payment of a wage less than the minimum wage “applicable to the
23 employee” including attorneys’ fees, costs, and interest.

24 129. At all material times, Defendants were and/or are Aggrieved Employees’
25 employers or persons acting on behalf of Aggrieved Employees’ employer, within the
26 meaning of California Labor Code §§ 558 and 558.1, and, as such, are subject to civil
27 penalties for each underpaid employee as set for in Labor Code § 558.

28 130. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,

1 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
2 period for the initial violation and two hundred (\$200.00) for each aggrieved
3 employee per pay period for each subsequent violation in which Defendants violated
4 the minimum wage and/or regular wage provisions of the Labor Code, including but
5 not limited to §§ 216, 218, 218.5, 558, 1194, 1197, 1197.1, 1771, 1774, 1776, 1811,
6 1815, 1182.12, 1194.2, 1197, and 1198 the exact amount of the applicable penalty is
7 all in an amount to be shown according to proof at trial.

8 131. Pursuant to Labor Code § 2699, Plaintiffs on behalf of themselves, the
9 State of California, and Aggrieved Employees seek to recover from Defendants, and
10 each of them, penalties, attorneys' fees, and costs incurred herein all in an amount to
11 be shown according to proof at trial.

12 132. Plaintiffs further seek the recovery of all remedies available to the
13 putative Class under California law including but not limited to unpaid wages,
14 waiting time penalties, liquidated damages, attorneys' fees, interest, and costs in an
15 amount to be determined at trial.

16 **SECOND CAUSE OF ACTION**

17 **Individual, Class, and Representative Claim for PAGA Penalties**

18 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

19 **Failure to Pay State Overtime and/or Double-Time Compensation**

20 **in Violation of California Labor Code §§ 216, 218, 218.5, 225.5, §§ 351-356,** 21 **1182.12, 1194, 1194.2, 1197, 1197.1, 1771, 1774, 1776, 1811, 1815, 1198, and the** 22 **Applicable IWC Wage Order**

23 (Against all Defendants)

24 133. Plaintiffs reallege and incorporate by reference the foregoing
25 allegations as though set forth herein.

26 134. California law requires an employer to pay each employee for the actual
27 hours worked. *See* Cal. Labor Code §§ 200, 226.

28 135. During all times relevant, one or more of the IWC Wage Orders applied

1 to Plaintiffs' employment with Defendants.

2 136. Pursuant to § 2(K) of the applicable Wage Order(s), including Wage
3 Order 4, "hours worked" include the time during which an employee is "suffered or
4 permitted to work, whether or not required to do so."

5 137. Pursuant to Labor Code §§ 510, 1194, 1194.2, and § 3 of the applicable
6 Wage Order(s), for each hour (or fraction thereof) an employee works up to forty (40)
7 hours in a week and eight (8) hours in a day, the employer must pay the employee's
8 regular hourly wage.

9 138. For each hour (or fraction thereof) an employee works over forty (40)
10 hours in a week or more than eight (8) hours in a workday the employer must pay the
11 rate of one and a half times the employee's regular hourly wage.

12 139. For each hour (or fraction thereof) an employee works more than twelve
13 (12) hours in one day or more than eight (8) hours a day on the seventh consecutive
14 day of work, the employer must compensate the employee at the rate of no less than
15 twice the regular rate of pay for that employee.

16 140. At all material times, Defendants were and/or are Aggrieved Employees'
17 employers or persons acting on behalf of Aggrieved Employees' employer, within the
18 meaning of California Labor Code §§ 558 and 558.1, and, as such, are subject to
19 penalties for each underpaid employee as set for in Labor Code § 558.

20 141. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
21 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
22 period for the initial violation and two hundred (\$200.00) for each aggrieved
23 employee per pay period for each subsequent violation in which Defendants violated
24 the overtime provisions of the Labor Code, including but not limited to §§ 510, 558
25 and 1194, the exact amount of the penalties sought is in an amount to be shown
26 according to proof at trial.

27 142. Pursuant to Labor Code § 2699, Plaintiffs on behalf of themselves, the
28 State of California, and Aggrieved Employees seek to recover from Defendants, and

1 each of them, penalties, attorneys' fees, and costs incurred herein all in an amount to
2 be shown according to proof at trial.

3 143. Plaintiffs further seek the recovery of all remedies available to the
4 putative Class under California law including but not limited to unpaid wages,
5 waiting time penalties, liquidated damages, attorneys' fees, interest, and costs in an
6 amount to be determined at trial.

7 **THIRD CAUSE OF ACTION**

8 **Individual, Class, and Representative Claim for PAGA Penalties**

9 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

10 **Failure to Timely Pay Earned Wages in Violation of California**

11 **Labor Code §§ 201, 201.3, 202, 203, 204, 204b,**

12 **218.5, 218.6, 256, 1198, and the applicable Wage Order**

13 (Against all Defendants)

14 144. Plaintiffs reallege and incorporate by reference the foregoing allegations
15 as though set forth herein.

16 145. Pursuant to Labor Code § 201, "If an employer discharges an employee,
17 the wages earned and unpaid at the time of discharge are due and payable
18 immediately."

19 146. Pursuant to Labor Code § 201.3, temporary employment agencies must
20 pay temporary employees weekly.

21 147. Pursuant to Labor Code § 202, "If an employee not having a written
22 contract for a definite period quits his or her employment, his or her wages shall
23 become due and payable not later than 72 hours thereafter, unless the employee has
24 given 72 hours previous notice of his or her intention to quit, in which case the
25 employee is entitled to his or her wages at the time of quitting."

26 148. Labor Code § 203 provides, in pertinent part: "If an employer willfully
27 fails to pay, without abatement or reduction, ... any wages of an employee who is
28 discharged or who quits, the wages of the employee shall continue as a penalty from

1 the due date thereof at the same rate until paid or until an action therefore is
2 commenced; but the wages shall not continue for more than 30 days. ..."

3 149. Pursuant to Labor Code § 204, "all wages ... earned by any person in
4 any employment are due and payable twice during each calendar month, on days
5 designated in advance by the employer as the regular paydays."

6 150. Pursuant to Labor Code § 204b, "Labor performed by a weekly-paid
7 employee during any calendar week and prior to or on the regular payday shall be
8 paid for not later than the regular payday of the employer for such weekly-paid
9 employee falling during the following calendar week."

10 151. Defendants did not properly pay Plaintiff and potentially other
11 Aggrieved Employees/putative Class Members pursuant to the requirements of Labor
12 Code §§ 201, 202, 204 and/or 204b and thereby Plaintiffs seek the remedies sought in
13 this Complaint.

14 152. At all material times, Defendants and DOES 1 through 50 were and/or
15 are Aggrieved Employees'/putative Class Members' employers or persons acting on
16 behalf of Aggrieved Employees' employer, within the meaning of California Labor
17 Code § 558, and, as such, are subject to penalties for each underpaid employee as set
18 for in Labor Code § 558.

19 153. Plaintiffs seek to recover penalties pursuant to the PAGA from the
20 Defendants for any violations of the foregoing Labor laws during the proposed PAGA
21 Period.

22 154. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
23 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay
24 period for the initial violation and two hundred (\$200.00) for each aggrieved
25 employee per pay period for each subsequent violation in which Defendants violated
26 Labor Code §§ 201, 202, 203, 204, 204b, and 256.

27 155. Plaintiffs on behalf of themselves, Aggrieved Employees, and the
28 putative Class, seek all waiting time penalties, interest, attorneys' fees, costs,

1 damages, and other remedies pursuant to California law, including but not limited to
2 the PAGA, in an amount to be proven at trial.

3 **FOURTH CAUSE OF ACTION**

4 **Individual, Class, and Representative Claim for PAGA Penalties**

5 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

6 **Failure to Comply with the Meal and Rest Break Requirements Under Labor**
7 **Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order**

8 (Against all Defendants)

9 156. Plaintiffs reallege and incorporate by reference the foregoing allegations
10 as though set forth herein.

11 157. Based on the misconduct alleged in this Complaint, Defendants failed to
12 pay Plaintiffs, Aggrieved Employees, and the putative Class premium pay for all their
13 missed meal and rest breaks and failed to comply with Labor Code §§ 226.7, 512, and
14 1198.

15 158. Because of Defendants' illegal pay practices, Defendants are required to
16 pay Plaintiffs and Aggrieved Employees for rest break and/or meal break premium
17 wages.

18 159. Defendants also failed to provide Plaintiffs, Aggrieved Employees, and
19 the putative Class legally-compliant meal and rest periods, or compensation in lieu
20 thereof, during their employment by said Defendants.

21 160. At all material times, Defendants were and/or are Aggrieved
22 Employees' employers or persons acting on behalf of Aggrieved Employees'
23 employer, within the meaning of California Labor Code §§ 558 and 558.1, who
24 violated or caused to be violated, a section of Part 2, Chapter 1 of the California
25 Labor Code or any provision regulating hours and days of work in any Order of the
26 Industrial Welfare Commission and, as such, are subject to penalties for each
27 underpaid employee as set for in Labor Code § 558.

28 161. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a

1 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
2 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
3 pay period for each subsequent violation in which all culpable Defendants violated
4 Cal. Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in
5 an amount to be shown according to proof at trial.

6 162. Wherefore, Plaintiffs request all remedies available to them and to the
7 Aggrieved Employees/putative Class Members pursuant to California law, including
8 but not limited to the PAGA, all in an amount to be shown according to proof at trial.

9 **FIFTH CAUSE OF ACTION**

10 **Individual, Class, and Representative Claim for PAGA Penalties**

11 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

12 **Violations of California Labor Code §§ 226, 226.3, 226.6, 1198,**

13 **and the applicable IWC Wage Order**

14 (Against all Defendants)

15 163. Plaintiffs reallege and incorporate by reference the foregoing allegations
16 as though set forth herein.

17 164. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
18 pertinent part, that every employer shall, “semimonthly or at the time of each
19 payment of wages, shall furnish to his or her employees, either as a detachable part of
20 the check, draft, or voucher paying the employee's wages, or separately if wages are
21 paid by personal check or cash, an accurate itemized statement in writing showing (1)
22 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
23 piece-rate units earned and any applicable piece rate if the employee is paid on a
24 piece-rate basis, (4) all deductions, provided that all deductions made on written
25 orders of the employee may be aggregated and shown as one item, (5) net wages
26 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
27 name of the employee and only the last four digits of his or her social security
28 number..., (8) the name and address of the legal entity that is the employer. . . , and

1 (9) all applicable hourly rates in effect during the pay period and the corresponding
2 number of hours worked at each hourly rate by the employee and, beginning July 1,
3 2013, if the employer is a temporary services employer as defined in Section 201.3,
4 the rate of pay and the total hours worked for each temporary services assignment. . .”

5 165. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
6 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
7 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
8 pay period for each subsequent violation in which all culpable Defendants violated
9 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
10 of the applicable penalty is all in an amount to be shown according to proof at trial.

11 166. Pursuant to Labor Code § 2699, Plaintiffs and Aggrieved Employees
12 seek to recover from Defendants, and each of them, penalties, attorneys’ fees, and
13 costs incurred herein under §§ 226, 226.3, and 226.6 all in an amount to be shown
14 according to proof at trial.

15 167. Plaintiffs further seek the recovery of all remedies available to the
16 putative Class under California law including but not limited to penalties, damages,
17 attorneys’ fees, interest, and costs in an amount to be determined at trial.

18 **SIXTH CAUSE OF ACTION**

19 **Individual, Class, and Representative Claim for PAGA Penalties**

20 **For Failure to Maintain and Timey Provide Required**

21 **Records in Violation of California**

22 **Labor Code §§ 226, 432, 1198.5, 1174 and**

23 **the Applicable Wage Order and/or § 1198**

24 (Against All Defendants)

25 168. Plaintiffs reallege and incorporate by reference the foregoing allegations
26 as though set forth herein.

27 169. Section 7 of the typical Wage Order requires every employer to
28 maintain time and payroll records.

1 170. Plaintiffs seek to recover penalties pursuant to the PAGA from the
2 Defendants for any violations of Labor Code § 1174 for failing to maintain certain
3 records which employers are required to maintain, including but not limited to, an
4 prevailing wage records and accurate record indicating the number hours worked by
5 the Plaintiffs.

6 171. California Labor Code § 226, subdivision (b), requires employers doing
7 business in California to “afford current and former employees the right to inspect or
8 copy records pertaining to their employment, upon a reasonable request to the
9 employer...” and subdivision (c), requires employers to produce such records within
10 “21 calendar days from the date of the request.”

11 172. Plaintiff maintains the records requested fall within the meaning of
12 Labor Code § 226 because, among other reasons, the requested documents are
13 “records pertaining to [his] employment.”

14 173. California Labor Code § 432, subdivision (b), requires employers doing
15 business in California to provide current, former employees, and applicants copies of
16 all written instruments they sign upon request.

17 174. Plaintiff maintains the records requested fall within the meaning of
18 Labor Code § 432 because some of the records requested constitute written
19 instruments the Plaintiff signed.

20 175. California Labor Code § 1198.5, *et seq.*, similarly provides current and
21 former employees the right to inspect their employee personnel records and requires
22 the employer to provide the employee access to such records no later than 30 calendar
23 days from the date the employer receives a written request.

24 176. As it pertains to “records,” § 7 of Wage Order 5 provides:

25
26 (A) Every employer shall keep accurate information with
27 respect to each employee including the following:

28 (1) Full name, home address, occupation and social
 security number.

1 (2) Birth date, if under 18 years, and designation as a
2 minor.

3 (3) Time records showing when the employee begins and
4 ends each work period. Meal periods, split shift intervals and
5 total daily hours worked shall also be recorded. Meal periods
6 during which operations cease and authorized rest periods need
7 not be recorded.

8 (4) Total wages paid each payroll period, including value
9 of board, lodging, or other compensation actually furnished to
10 the employee.

11 (5) Total hours worked in the payroll period and
12 applicable rates of pay. **This information shall be made
13 readily available to the employee upon reasonable request.**

14 (6) When a piece rate or incentive plan is in operation,
15 piece rates or an explanation of the incentive plan formula shall
16 be provided to employees. An accurate production record shall
17 be maintained by the employer.

18 (B) Every employer shall semimonthly or at the time of each
19 payment of wages furnish each employee, either as a detachable
20 part of the check, draft, or voucher paying the employee's
21 wages, or separately, an itemized statement in writing showing:
22 (1) all deductions; (2) the inclusive dates of the period for
23 which the employee is paid; (3) the name of the employee or
24 the employee's social security number; and (4) the name of the
25 employer, provided all deductions made on written orders of
26 the employee may be aggregated and shown as one item.

27 (C) All required records shall be in the English language and in
28 ink or other indelible form, properly dated, showing month, day
and year, and shall be kept on file by the employer for at least
three years at the place of employment or at a central location
within the State of California. An employee's records shall be
available for inspection by the employee upon reasonable
request.

(D) Clocks shall be provided in all major work areas or within
reasonable distance thereto insofar as practicable.

Wage Order 5, § 7 (emphasis added).

177. Plaintiff maintains the records requested fall within the meaning of
Labor Code § 1198.5, *et seq.* because they were part of and/or related to Plaintiff's
personnel file within the meaning of Labor Code § 1198.5.

1 178. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
2 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
3 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
4 pay period for each subsequent violation in which all culpable Defendants violated
5 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
6 of the applicable penalty is all in an amount to be shown according to proof at trial.

7 179. For the reasons alleged herein, Plaintiffs seek all available remedies
8 pursuant to the PAGA all in an amount to be shown according to proof at trial.

9 180. Plaintiffs further seek the recovery of all remedies available to the
10 putative Class under California law including but not limited to penalties, damages,
11 attorneys' fees, interest, and costs in an amount to be determined at trial.

12 **SEVENTH CAUSE OF ACTION**

13 **Individual, Class, and Representative Claim for PAGA Penalties**

14 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

15 **Failure to Failure to Indemnify/Reimburse Business Expenses in Violation of**
16 **California Labor Code §§ 2802-2804, 1198, and the Applicable Wage Order**

17 (Against all Defendants)

18 181. Plaintiffs reallege and incorporate by reference the foregoing allegations
19 as though set forth herein.

20 182. California Labor Code § 2802 requires employers to indemnify their
21 employees for expenses and losses incurred while discharging their duties or
22 obedience to the directions of their employer.

23 183. California Labor Code § 2804 prohibits waiver of this statutory right.

24 184. Plaintiffs seek to recover penalties pursuant to the PAGA from the
25 Defendants for any violations of Labor Code § 2802 for failing to reimburse
26 employees for work-related expenses.

27 185. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
28 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period

1 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
2 pay period for each subsequent violation in which all culpable Defendants violated
3 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount
4 of the applicable penalty is all in an amount to be shown according to proof at trial.

5 186. For the reasons alleged herein, Plaintiffs on behalf of themselves, the
6 State of California, and Aggrieved Employees seek all available remedies pursuant to
7 the PAGA all in an amount to be shown according to proof at trial.

8 187. Plaintiffs further seek the recovery of all remedies available to the
9 putative Class under California law including but not limited to reimbursements,
10 damages, attorneys' fees, interest, and costs in an amount to be determined at trial.

11 **EIGHTH CAUSE OF ACTION**

12 **Individual and Representative Claim for Civil Penalties Under the PAGA for** 13 **Violations of Labor Code §§ 246 and 246(l) and** 14 **Municipal Paid Sick Leave Ordinances**

15 188. Plaintiffs reallege and incorporate by reference the foregoing allegations
16 as though set forth herein.

17 189. Under Labor Code §§ 246, 246(l), and in some jurisdictions local law,
18 employers in California must provide employees with paid sick leave to be paid at a
19 specified rate of pay which must factor in additional earnings during a given pay
20 period wherein such leave is used. *Wood v. Kaiser Foundation Hospitals*, 88 Cal.
21 App. 5th 742 (2023).

22 190. Plaintiffs are informed and believe and therefore allege that Defendants
23 did not pay sick leave to Aggrieved Employees in violation of California law.

24 191. Defendants have failed to (1) provide paid sick leave; (2) include
25 required information about paid sick leave in wage notices and/or wage statements,
26 including without limitation information on the amount of paid sick leave hours
27 accrued; (3) provide required information about paid sick leave to employees,
28 including without limitation at the time of hire; (4) at the time of hire, provide

1 employees with written notice of the employer's name, address, and telephone
2 number; (5) provide required information about paid sick leave in English, Spanish,
3 Chinese, and in all languages spoken by 5% or more of the employees; (6) post
4 required sick leave notices; (7) maintain payroll records; and/or (8) provide wage
5 statements, and therefore Defendants have violated one or more municipal sick leave
6 ordinances, including without limitation the sick leave ordinances of Berkeley,
7 Emeryville, Long Beach, Los Angeles, Oakland, San Diego, San Francisco, and Santa
8 Monica.

9 192. The PAGA imposes upon Defendants, and each of them, civil penalties
10 for violating Labor Code §§ 246 and 246(l).

11 193. Civil penalties under the PAGA are equitable in nature. *Nationwide*
12 *Biweekly Admin., Inc. v. Superior Ct. of Alameda Cty.*, 9 Cal. 5th 279 (2020).

13 194. At all material times, Defendants were and/or are Aggrieved Employees'
14 employers or persons acting on behalf of Aggrieved Employees' employer, within the
15 meaning of California Labor Code §§ 558 and 558.1, who violated or caused to be
16 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
17 regulating hours and days of work in any Order of the Industrial Welfare Commission
18 and, as such, are subject to penalties for each underpaid employee as set for in Labor
19 Code § 558.

20 195. Labor Code § 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for
22 initial violations, and two hundred dollars (\$200) per pay period, per aggrieved
23 employee for subsequent violations for all Labor Code provisions for which a civil
24 penalty is not specifically provided.

25 196. Pursuant to the PAGA, Labor Code § 2699(f), and/or any other
26 applicable statute, Plaintiffs are seeking civil penalties against Defendants in an
27 amount to be shown according to proof.

28 197. Pursuant to Labor Code § 248.5, if applicable herein, Plaintiffs seek to

1 recover attorneys' fees, costs, equitable relief in the form of civil penalties, in an
2 amount to be shown according to proof.

3 198. Wherefore, pursuant to Labor Code § 2699, Plaintiffs on behalf of
4 themselves, the State of California, and Aggrieved Employees seek to recover from
5 Defendants, and each of them, penalties, attorneys' fees, and costs incurred herein in
6 an amount to be determined at trial.

7 **NINTH CAUSE OF ACTION**

8 **Individual and Representative Claim for PAGA Penalties**

9 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

10 **for Violations of California Labor Code subdivision (k) of Section 96, Sections**
11 **98.6, 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209,**
12 **210, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224,**
13 **226.2, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision**
14 **(c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-251, §§**
15 **351-356, and 403, subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7,**
16 **435, 450, 511, 513, 516, 550, 552, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850,**
17 **851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1024.5, 1025, 1026,**
18 **1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision**
19 **(b) of Section 1198.3, 1199, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294,**
20 **1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391,**
21 **1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections**
22 **1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25,**
23 **1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2441, 2651, and 2673,**
24 **subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2806, and 2810,**
25 **subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, 6399.7, 6409.6**
26 **and/or 6432 and the Applicable Wage Order**

27 (Against all Defendants)

28 199. Plaintiffs reallege and incorporate by reference the foregoing allegations

1 as though set forth herein.

2 200. Pursuant to Labor Code § 2699, any provision of the Labor Code that
3 provides for a civil penalty to be assessed and collected by the LWDA or any of its
4 departments, divisions, commissions, boards, agencies or employees for violation of
5 the code may, as an alternative, be recovered through a civil action brought by an
6 aggrieved employee on behalf of himself or herself and other current or former
7 employees pursuant to the procedures specified in Labor Code § 2699.3.

8 201. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
9 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 132a,
10 201.5, 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, 210,
11 and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 226.2,
12 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of
13 Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 245-251, 351-356,
14 and 403, subdivision (b) of Section 404, Sections 432, 432.2, 432.5, 432.7, 435, 450,
15 511, 513, 516, 550, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5,
16 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1024.5, 1025, 1026, 1101, 1102,
17 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section
18 1198.3, 1198.5, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5,
19 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2,
20 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6,
21 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31,
22 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2441, 2651, and 2673, subdivision (a) of
23 Section 2673.1, Sections 2695.2, 2800, 2801, 2806, and 2810, subdivision (b) of
24 Section 2929, and Sections 3073.6, 6310, 6311, 6399.7, 6409.6 and/or 6432.

25 202. As to Labor Code §§ 96, 98.6, 132a, and 1102.5, *et seq.*, Plaintiff alleges
26 that Defendants discriminated and retaliated against the named Plaintiff because of
27 workplace complaints the named Plaintiff made about his manager just before his
28 termination and Defendants' fear that Plaintiff would report Defendants to

1 governmental authorities.

2 203. As to California Labor Code § 1776, *et seq.*, Plaintiff alleges Defendants
3 deprived the named Plaintiff of the right to inspect his employee prevailing wage
4 records.

5 204. As to Defendants' violations of Labor Code §§ 206 and 206.5, Plaintiffs
6 are informed and believe and therefore allege that Defendants required Aggrieved
7 Employees to sign an unlawful release agreement that included release provisions for
8 unpaid wages despite not having paid the wages previously.

9 205. As to Labor Code §§ 351 and 353, Plaintiffs are informed and believe
10 and based thereupon allege that Defendants failed to ensure that Aggrieved
11 Employees fully received the gratuities left for them by patrons because
12 Defendants' and its agents would collect and/or take a portion of the gratuities for
13 themselves, in violation of Labor Code § 351.

14 206. Based on further information and belief, Plaintiffs are informed and
15 believe and based thereupon allege that Defendants also failed to keep accurate
16 records of all tips received in violation of Labor Code § 353.

17 207. Plaintiffs are informed and believe and based thereupon allege that
18 Defendants failed to pay gratuities paid by customers using credit cards to Aggrieved
19 Employees by the next regular payday following the credit card payment in violation
20 of Labor Code § 351.

21 208. Plaintiffs are informed and believe and based thereupon allege that
22 Defendants charged an additional service charge to its customers and customers are
23 led to believe that the service charge will be paid to Defendants' Aggrieved
24 Employees.

25 209. Instead, Plaintiffs are informed and believe and based thereupon allege
26 that Defendants kept a majority (if not the entirety) of the service charge, thereby
27 depriving Aggrieved Employees of the service charge/gratuity that is left by the
28 patron/customer for the Aggrieved Employees. *See O'Grady v Merchant Exchanges*

1 *Production, Inc.*, 41 Cal. App. 5th 771, 790 (2019) (a mandatory service charge
2 can constitute a gratuity that is intended to the employees providing the service).

3 210. As to Labor Code § 227.3, Plaintiffs are informed and believe and based
4 thereupon allege that Defendants have and continue to have a uniform policy and
5 practice of failing to allow Aggrieved Employees to use their earned vacation/paid
6 time off during their employment and/or failing to pay all vested, accrued paid time
7 off (including but not limited to, all owed vacation pay/paid time off paid at the
8 final rate including non-discretionary compensation, including but not limited to, shift
9 differentials) to Aggrieved Employees upon separation of employment, in violation of
10 California law, including but not limited to Labor Code § 227.3.

11 211. As to Labor Code § 208, every employee who is discharged shall be
12 paid at the place of discharge, and every employee who quits shall be paid at the
13 office or agency of the employer in the county where the employee has been
14 performing labor.

15 212. Based on information and belief, Defendants have a policy and
16 practice of failing to provide Aggrieved Employees who are terminated with their
17 final paychecks at the place of discharge and/or of failing to provide Aggrieved
18 Employees with their final paychecks at the office or agency of Defendants in the
19 county where the work was performed in violation of Labor Code § 208.

20 213. As to Labor Code § 2441, § 2441(a) mandates that “[e]very employer of
21 labor in this state shall, without making a charge therefor, provide fresh and pure
22 drinking water to his or her employees during working hours. Access to the
23 drinking water shall be permitted at reasonable and convenient times and places.”

24 214. Plaintiffs are informed and believe and based thereupon allege that
25 Defendants maintain a policy and practice of failing to provide fresh and pure
26 drinking water to Aggrieved Employees during working hours at reasonable and
27 convenient times and places in violation of Labor Code § 2441.

28 215. As to Labor Code § 432.3, this statute provides, “(b) An employer shall

1 not, orally or in writing, personally or through an agent, seek salary history
2 information, including compensation and benefits, about an applicant for
3 employment.”

4 216. Plaintiffs are informed and believe and based thereupon allege that
5 Defendants have a policy and/or practice of unlawfully asking Aggrieved Employees
6 to reveal their salary history when applying for employment with Defendants.

7 217. Moreover, by requiring Aggrieved Employees to submit to pre-
8 employment investigations, Plaintiffs are informed and believe and therefore allege
9 that Defendants violated Labor Code § 432.5 by requiring Aggrieved Employees to
10 agree in writing to allow a third party (i.e., a credit reporting agency) to investigate
11 and ascertain their pre-employment salary history as a condition of obtaining
12 employment with Defendants in violation of California law.

13 218. As to Labor Code § 970, this statute generally prohibits an employer
14 from knowingly making false representations about the nature or existence of
15 work, continued employment and/or compensation to induce an employee to
16 move/relocate in reliance thereon.

17 219. Plaintiffs are informed and believe and based thereupon allege that
18 Defendants have a policy and practice of knowingly making false representations
19 to Aggrieved Employees regarding obtaining/continued employment, the nature of
20 work to be performed and/or the terms of their compensation to influence, persuade or
21 engage its employees to relocate/move for purposes of employment in violation of
22 Labor Code § 970.

23 220. As to Labor Code § 976, this statute provides, “No person shall publish
24 or cause to be published any advertisement, solicitation or communication in any
25 newspaper, poster, or letter, offering employment as a salesman, broker or agent
26 whether as an employee or independent contractor, which advertisement,
27 solicitation or communication (a) is willfully designed to mislead any person as to
28 compensation or commissions which may be earned; or (b) falsely represents the

1 compensation or commissions which may be earned.”

2 221. Plaintiffs are informed and believe and based thereupon allege that
3 Defendants have a policy and/or practice of offering prospective employees,
4 including Aggrieved Employees, a higher compensation and commission that is
5 misleading as it falsely represents the compensation or commission that will be
6 earned during employment, as the actual compensation or commission earned is
7 lower than that which is offered to induce employment or continued employment in
8 violation of Labor Code § 976.

9 222. Plaintiffs are informed and believe and based thereupon allege that
10 Defendants required Aggrieved Employees to agree in writing to unlawful
11 conditions of employment including but not limited to unlawful criminal and/or
12 financial checks as a condition of obtaining and/or continuing employment in
13 violation of Labor Code § 432.5

14 223. Plaintiffs are informed and believe and based thereupon allege that
15 Defendants ordered unlawful financial credit checks on Aggrieved Employees, in
16 violation of Labor Code § 1024.5, and required Aggrieved Employees to provide
17 ongoing written consent to the unlawful credit checks as a condition of
18 employment, in violation of California and Federal law, which results in a further
19 violation of Labor Code § 432.5.

20 224. Plaintiffs are informed and believe and based thereupon allege that
21 Defendants also required Aggrieved Employees to submit and/or agree to submit in
22 writing to unlawful criminal background checks as a condition of obtaining and/or
23 holding employment in violation of the Investigative Consumer Reporting
24 Agencies Act (ICRAA-CA Civil Code § 1786, *et seq.*) and the Fair Credit
25 Reporting Act (FCRA-15 U.S.C. § 1681, *et seq.*)

26 225. Plaintiffs are informed and believe and based thereupon allege that
27 Defendants failed and continue to fail to comply with the requirements of the
28 ICRAA and the FCRA when conducting background screenings for applicants,

1 including but not limited Aggrieved Employees that were subject to a background
2 check as a condition of employment during the application phase.

3 226. Plaintiffs are informed and believe and based thereupon allege that
4 Defendants required Aggrieved Employees to agree in writing to a background check
5 which failed to abide by the requirements set forth in CA Civil Code § 1786, *et seq.*
6 and 15 U.S.C. § 1681, *et seq.*, including but not limited to by failing to provide a clear
7 and conspicuous disclosure and/or failing to provide any disclosure at all, failing to
8 provide disclosures free of extraneous information, failing to provide a lawful purpose
9 for the background check, failing to provide a summary of rights under the ICRAA
10 and/or the FRCA, failing to provide a way by which the individual could request a
11 copy of the report, failing to disclose the name, address, and telephone number of the
12 third party preparing the report, and failing to properly obtain authorization or
13 consent to such a background check, and thus was an unlawful background check.

14 227. By requiring Aggrieved Employees to agree in writing to unlawful
15 criminal and/or financial checks not in conformance with the applicable laws,
16 Defendants violated Labor Code § 432.5.

17 228. As to Labor Code § 432.7, this statute prohibits an employer from
18 asking applicants about past arrest(s) unless they resulted in conviction(s) and even
19 then, certain limitations apply.

20 229. Based on information and belief, Defendants asked Aggrieved
21 Employees about arrests not resulting in convictions on its employment application,
22 in violation of California law.

23 230. Upon information and belief, Defendants, in violation of California
24 law, including but not limited to the Fair Chance Act/the California Fair Employment
25 and Housing Act, asked Aggrieved Employees about convictions before extending
26 an offer of employment and/or otherwise impermissibly inquired into criminal
27 history on its employment application in violation of California law, and in violation
28 of Labor Code § 432.5.

1 231. Defendants also unlawfully included an unlawful PAGA Waiver in its
2 arbitration agreements in violation of Labor Code § 432.5 by requiring the named
3 Plaintiffs and Aggrieved Employees to agree in writing to other unlawful
4 agreements, including but not limited to, an unlawful waiver of PAGA and or
5 representative actions as a condition of employment.

6 232. Notwithstanding California law, Defendants required the named
7 Plaintiffs and other Aggrieved Employees to agree in writing to waive their right to a
8 trial of PAGA claims in violation of California law by requiring the named Plaintiffs
9 and other Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver,
10 Defendants required written agreement to an unlawful provision as a condition of
11 employment which is a violation of Labor Code § 432.5.

12 233. As to Plaintiffs' Labor Code §§ 6409.6 and/or 6432 claims, Plaintiffs
13 are informed and believe and based thereupon allege that during the PAGA Period,
14 Defendants have had a policy and practice of failing, within one business day after
15 Defendants or a representative of Defendants received a notice of potential exposure
16 to COVID-19, to notify the named Plaintiffs and other Aggrieved Employees who were
17 on the premises at the same worksite as the qualifying individual within the
18 infectious period, and the employers of subcontracted employees who were on the
19 premises at the same worksite as the qualifying individual within the infectious period
20 and the exclusive representative, if any, of the cleaning and disinfection plan that the
21 employer is implementing per the guidelines of the COVID 10 prevention program per
22 the Cal-OSHA COVID-19 Emergency Temporary Standards, among other things in
23 violation of Labor Code §§ 6409.6 and/or 6432.

24 234. As to Plaintiffs Labor Code § 2810.5 claim, Plaintiffs are informed and
25 believe and based thereupon allege that the notice Defendants issued or failed to issue
26 to the named Plaintiff and Aggrieved Employees was inaccurate.

27 235. As to Plaintiffs' Labor Code § 221 claim, the statute provides that
28 employers may not require current or prospective employees to pay for medical or

1 physical examinations required for employment or required by federal, state or local
2 law.

3 236. As to Plaintiffs' Labor Code § 222.5 claim, the statute provides that
4 employers may not require current or prospective employees to pay for medical or
5 physical examinations required for employment or required by federal, state or local
6 law.

7 237. Plaintiffs are informed and believe and based thereupon allege that
8 Defendants maintain a policy and practice of requiring Aggrieved Employees to pay
9 for medical and/or physical examinations required for employment and/or required by
10 federal, state, or local law, including but not limited to, Covid-related medical and/or
11 physical testing/related examinations, in violation of, including but not limited to,
12 Labor Code § 222.5 and/or 2802.

13 238. As to Plaintiffs' Labor Code § 226.2, the statute requires an employer to
14 pay employees compensated on a piece-rate basis separately for rest and recovery
15 periods and nonproductive time, apart from any piece-rate pay.

16 239. This statute further requires an employer to include on the wage
17 statements for these employees the total hours of compensable rest and recovery
18 period, the total hours for other non-productive time, the rates of compensation for
19 these hours, and the gross wages paid for these hours.

20 240. In addition, the statute requires that employees shall be compensated for
21 rest and recovery periods at a regular hourly rate that is no less than the higher of: (i)
22 an average hourly rate determined by dividing the total compensation for the
23 workweek, exclusive of compensation for rest and recovery periods and any premium
24 compensation for overtime, by the total hours worked during the workweek, exclusive
25 of rest and recovery periods, or (ii) The applicable minimum wage.

26 241. Per case law, Labor Code § 226.2 also applies to employees
27 compensated on a commission basis.

28 242. Based on information and belief, Defendants failed to compensate

1 Aggrieved Employees who were paid solely on a piece rate and/or commission basis
2 separately for the rest periods and nonproductive time, and/or failed to pay them for
3 this time at the correct rates.

4 243. Based on information and belief, Defendants further failed to include
5 this information on Aggrieved Employees' wage statements.

6 244. As such, Defendants failed to comply with Labor Code § 226.2.

7 245. Based on further information and belief, Defendants pay Aggrieved
8 Employees via direct deposit without obtain voluntary authorization for paying
9 wages via direct deposit in violation of Labor Code § 213(d).

10 246. Based on further information and belief, Defendants have a policy and
11 practice of requiring Aggrieved Employees to incur fees to collect their paychecks in
12 violation of Labor Code § 212.

13 247. Labor Code § 558 establishes a civil penalty as follows: Any employer
14 or other person acting on behalf of an employer who violates, or causes to be violated,
15 a section of this chapter or any provision regulating hours and days of work in any
16 order of the Industrial Welfare Commission (including the "Hours and Days of Work"
17 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial
18 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
19 which the employee was underpaid in addition to an amount sufficient to recover
20 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for
21 each underpaid employee for each pay period for which the employee was underpaid
22 in addition to an amount sufficient to recover underpaid wages; and (3) wages
23 recovered pursuant to this section shall be paid to the affected employee.

24 248. Plaintiffs seek penalties for Defendants' conduct as alleged herein as
25 permitted by law for every Labor Code provision currently on the books, all statutes
26 of which are incorporated herein by reference as though set forth in full.

27 249. Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs on behalf of
28 themselves, the State of California, and Aggrieved Employees seek to recover

1 attorney's fees, costs, civil penalties, and wages on behalf of Plaintiff and other
2 current and former Represented Employees as alleged herein all in an amount to be
3 shown according to proof at trial.

4 **TENTH CAUSE OF ACTION**

5 **Individual and Class Claim for Remedies for Violations**

6 **of the California Unfair Business**

7 **Practices Code §§ 17200, *et seq.***

8 (Against all Defendants)

9 250. Plaintiffs reallege and incorporate by reference the foregoing allegations
10 as though set forth herein.

11 251. Defendants, and each of them, are "persons" as defined under Business
12 and Professions Code § 17021.

13 252. Plaintiffs are informed and believe and based thereon allege that
14 Defendants committed the unfair business practices, as defined by Cal. Bus. & Prof.
15 Code § 17200, *et seq.*, by violating the laws alleged to have been violated in this
16 Complaint and which allegations are incorporated herein by reference and which
17 allegations include, but are not limited to:

- 18 a. Failing to pay wages;
- 19 b. Failing to provide lawful meal and rest breaks;
- 20 c. Failing to make timely payments;
- 21 d. Failing to provide the Class and Plaintiffs accurate
- 22 itemized wage statements in violation of § 226 of the Labor
- 23 Code; and
- 24 e. Failure to reimburse employees for all employer incurred
- 25 expenses.

26 253. Defendants' conduct, as alleged above, constitutes unlawful, unfair,
27 and fraudulent activity prohibited by Business and Professions Code §§ 17200, *et seq.*

28 254. The unlawful and unfair business practices conducted by Defendants,

1 and each of them, are ongoing and present a threat and likelihood of continuing
2 against Plaintiffs and, accordingly, Plaintiffs seek injunctive relief where appropriate.

3 255. Plaintiffs have suffered injury in fact and lost money or property
4 because of the aforementioned unfair competition.

5 256. Because of their improper acts, Defendants, and each of them, have
6 reaped and continue to reap unfair benefits and illegal profits at the expense of
7 Plaintiffs and other employees and former employees of Defendants, and each of
8 them.

9 257. Defendants, and each of them, should be enjoined from this activity
10 and made to disgorge these ill-gotten gains and restore to Plaintiffs and the Class the
11 wrongfully withheld wages and/or penalties, pursuant to Business and Professions
12 Code §§ 17202 and/or 17203.

13 258. Plaintiffs and the Class have also incurred and continue to incur
14 attorneys' fees and legal expenses in an amount according to proof at the time of trial
15 and for which they seek compensation pursuant to law including but not limited to
16 Code of Civil Procedure § 1021.5.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 19 1. That Defendants be found liable to the Plaintiffs;
- 20 2. For an order certifying this action as a class action;
- 21 3. For appointment of the named Plaintiffs as the representatives of the
22 Class;
- 23 4. For appointment of counsel for Plaintiffs as Class counsel;
- 24 5. That the Court award to Plaintiffs and/or the Class damages in an amount
25 subject to proof at trial;
- 26 6. For payment of all unpaid reimbursements subject to proof at trial;
- 27 7. That Defendants, and each of them, be ordered and enjoined to pay
28 restitution to Plaintiffs and/or the California Class pursuant to Business and

1 Professions Code §§ 17200-05 and enjoined from misclassifying workers as
2 independent contractors;

3 8. That Defendants, and each of them, be required to issue to Plaintiffs
4 and/or the Class accurate wage and earning statements and for further injunctive relief
5 as alleged herein;

6 9. For all remedies available to the Plaintiffs under the applicable
7 provisions of the Labor Code via the PAGA, i.e., Labor Code § 2698, *et seq.*
8 including an award of attorneys' fees, costs, interest, liquidated damages, damages,
9 penalties and waiting time penalties according to proof to the extent permitted by law;

10 10. For maximum civil penalties available under the Labor Code and
11 applicable Wage Order as described more particularly in this Complaint, including
12 but not limited to penalties pursuant to Labor Code § 558;

13 11. That Plaintiffs be awarded reasonable attorneys' fees where available by
14 law, including but not limited to pursuant to Labor Code §§ 2698, *et seq.*, Code of
15 Civil Procedure § 1021.5, and/or other applicable laws; and

16 12. For any other relief the Court may deem just, proper, and equitable.

17 Dated: August 26, 2025

Law Office of Thomas D.
Rutledge

19 By: /s/Thomas Rutledge

20 Thomas D. Rutledge
21 Attorney for Plaintiffs

22 Dated: August 26, 2025

Pancer Law Corporation

24 By: /s/ Ian Pancer

25 Ian Pancer
26 Attorney for Plaintiffs
27
28