

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Jeffrey D. Klein, Esq. (SBN 297296)
Colin Mendoza, Esq. (SBN 359434)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
jklein@lelawfirm.com
cmendoza@lelawfirm.com

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Attorneys for Plaintiff JOSHUA HERRERA,
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES- CENTRAL DISTRICT**

JOSHUA HERRERA, on behalf of himself and
current and former aggrieved employees

Plaintiff,

vs.

CHEDRAUI USA, INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: **25STCV07992**

PAGA ACTION

**PLAINTIFF JOSHUA HERRERA'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff JOSHUA HERRERA ("Plaintiff"), who alleges and complains
against Defendants CHEDRAUI USA, INC.; and DOES 1 to 100, inclusive (collectively
"Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-exempt
employees in California during the relevant time period seeking civil penalties associated with
Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all hours

1 worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure to pay
2 overtime wages at the proper overtime rate of pay; failure to authorize or permit all legally required
3 and/or compliant meal periods or pay meal period premium wages; failure to authorize or permit
4 all legally required and/or compliant rest periods or pay rest period premium wages; failure to pay
5 wages for accrued paid sick time at the regular rate of pay; statutory penalties for failure to timely
6 pay earned wages during employment; statutory penalties for failure to provide accurate wage
7 statements; statutory waiting time penalties in the form of continuation wages for failure to timely
8 pay employees all wages due upon separation of employment. . Plaintiff experienced these
9 violations personally, as well as is informed and believes other aggrieved employees did as well.
10 Plaintiff seeks on a representative basis, following notice to the Labor and Workforce Development
11 Agency, civil penalties, reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and
12 costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

13 **II. JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
15 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
16 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
17 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
18 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
19 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
20 aggrieved California-based hourly non-exempt employees occurred in locations throughout
21 California, including but not limited to Los Angeles County, at 600 Citadel Drive, Commerce, CA
22 90040.

23 **III. PARTIES**

24 1. Plaintiff brings this action as a representative of the Labor and Workforce
25 Development Agency on behalf of himself and other current and former employees subject to
26 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
27 filed include current, former and/or future employees of Defendants who work, worked, or will work
28 for Defendants as direct employees as well as temporary employees employed through temp

1 agencies as hourly non-exempt employees in California. At all times mentioned herein, the currently
2 named Plaintiff is and was domiciled and a resident and citizen of California and was employed by
3 Defendants in an hourly position at Defendants' location in Los Angeles County from in or around
4 May 2024 until on or about currently.

5 2. Plaintiff is informed and believes and thereon alleges that Defendant CHEDRAUI
6 USA, INC. is authorized to do business within the State of California and is doing business in the
7 State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were
8 persons acting on behalf of Defendant CHEDRAUI USA, INC. in the establishment of, or
9 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
10 CHEDRAUI USA, INC. operates in Los Angeles County and employed Plaintiff and aggrieved
11 employees in Los Angeles County, including but not limited to, at 600 Citadel Drive, Commerce,
12 CA 90040.

13 3. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
14 through 50 are corporations, or are other business entities or organizations of a nature unknown to
15 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
16 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and working
17 conditions of employment of Plaintiff and aggrieved employees.

18 4. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
19 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
20 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
21 supervisor, independent contractor and/or employee of each defendant who violated or caused to be
22 violated the minimum wage and overtime provisions of the Labor Code and/or any provision of the
23 Industrial Welfare Commission's wage orders regulating hours and days of work.

24 5. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
25 sues said defendants by said fictitious names, and will amend this complaint when the true names
26 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
27 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
28 named defendants is in some manner responsible for the events and allegations set forth in this

1 complaint.

2 6. Plaintiff makes the allegations in this complaint without any admission that, as to
3 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff
4 reserves all of Plaintiff's right to plead in the alternative.

5 **FIRST CAUSE OF ACTION**

6 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
7 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

8 **(Against all Defendants by Plaintiff on behalf of Themselves, the State of California, and**
9 **Other Current and Former Aggrieved Employees)**

10 7. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11 8. During Plaintiff's employment and continuing through the present, Plaintiff alleges
12 Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 246, 510, 512, 1194,
13 1197, and the applicable Wage Orders.

14 9. Specifically, Defendants have committed the following violations of California
15 Labor Code:

16 10. **Failure to pay wages for all hours worked at the legal minimum wage:**
17 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
18 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
19 which includes all time that an employee is under control of the employer and all time the employee
20 is suffered and permitted to work. This includes the time an employee spends, either directly or
21 indirectly, performing services which inure to the benefit of the employer.

22 11. Labor Code sections 1194 and 1197 require an employer to compensate employees
23 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
24 Wage Orders.

25 12. In this case, Plaintiff and other current and former aggrieved California-based hourly
26 non-exempt employees worked more minutes per shift than Defendants credited them with having
27 worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved
28 California-based hourly non-exempt employees all wages at the applicable minimum wage for all

1 hours worked due to Defendants' policies, practices, and/or procedures including, but not limited
2 to:

3 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
4 non-exempt employees to remain on-duty during their off-the-clock meal breaks without being paid
5 for that time.

6 13. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
7 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
8 control without paying wages for that time. This resulted in Plaintiff and other current and former
9 aggrieved California-based hourly non-exempt employees working time for which they were not
10 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
11 Wage Order.

12 14. Employee is further informed and believes, and based thereon alleges, that
13 Employer's conduct above that gave rise to such violations was malicious, fraudulent, or oppressive.
14 Employer would further be liable for civil penalties pursuant to Labor Code section
15 2699(f)(2)(B)(ii).

16 15. **Failure to pay wages for overtime hours worked at the overtime rate of pay**
17 **and/or failure to pay overtime wages at the proper rate of pay:** Defendants employed many of
18 their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer
19 is required to pay hourly employees for all "hours worked," which includes all time that an employee
20 is under control of the employer and all time the employee is suffered and permitted to work. This
21 includes the time an employee spends, either directly or indirectly, performing services that inure to
22 the benefit of the employer.'

23 16. Labor Code sections 510 and 1194 require an employer to compensate employees a
24 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40)
25 hours in a workweek, and on any seventh consecutive day of work in a workweek:

26 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours
27 in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in
28 any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half
(1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours
in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay
for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a

workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

17. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to remain on-duty during their off-the-clock meal breaks without being paid for that time.

(b) Failure to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for the first eight hours worked on the seventh consecutive day in workweek; failure to pay double time wages for all hours worked in excess of twelve (12) hours in any workday; and failure to pay all hours worked in excess of eight (8) hours on the seventh consecutive day of the work in a workweek.

18. Employee is further informed and believes, and based thereon alleges, that Employer's conduct above that gave rise to such violations was malicious, fraudulent, or oppressive. Employer would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

19. Furthermore, overtime is based upon an employee's regular rate of pay. "The regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

20. In this case, Plaintiff alleges that when he and other current and former aggrieved California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay them overtime wages at the proper overtime rate of pay due to Defendants' failure to include all remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration such "incentive pay", "night premium pay" and "weekend premium pay", for example, when calculating Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' regular rate of pay

1 for the purpose of paying overtime.

2 21. The foregoing policies, practices, and/or procedures resulted in time during each
3 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
4 employees were under the control of Defendants but were not compensated. To the extent that the
5 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
7 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
8 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
9 sections 510, 1194 and 1198, and the applicable Wage Order.

10 22. **Failure to pay wages to hourly non-exempt employees for workdays that**
11 **Defendants failed to provide legally required and compliant meal periods and/or failure to**
12 **pay period premium wages:** Plaintiff and other current and former aggrieved California-based
13 hourly non-exempt employees regularly worked shifts of more than five (5) hours in length and
14 shifts of more than ten (10) hours in length.

15 23. California law requires an employer to authorize or permit an employee an
16 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
17 all duties and the employer relinquishes control over the employee's activities prior to the
18 employee's sixth hour of work. Labor Code sections 226.7, 512, and 1198; Wage Order 7 at §11;
19 *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ
20 an employee for a work period of more than ten (10) hours per day without providing the employee
21 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
22 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
23 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
24 period is only permitted when: (1) the nature of the work prevents an employee from being relieved
25 of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

26 24. If an employer fails to provide an employee a meal period in accordance with the
27 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
28 for each workday that a legally required and compliant meal period was not provided. Labor Code

1 sections 226.7 and 1198; Wage Order 7 at §11.

2 25. In this case, Defendants failed to authorize or permit legally required and compliant
3 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
4 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
5 limited to:

6 (a) Failing to provide Plaintiff and other current and former aggrieved California-based
7 hourly non-exempt employees timely, uninterrupted, duty-free meal breaks of at least 30 minutes
8 for every five hours.

9 (b) Failing to provide Plaintiff and other current and former aggrieved California-based
10 hourly non-exempt employees a second timely, uninterrupted, duty-free meal break of at least 30
11 minutes for each workday that Plaintiff and similarly situated employees work shifts of over ten
12 (10) hours.

13 26. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
14 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
15 hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each workday that
16 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees did
17 not receive legally required and compliant meal periods, in violation of Labor Code section 226.7.

18 27. Finally, on occasions when Defendants paid Plaintiff and other current and former
19 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed, short,
20 on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1) additional
21 hour of pay at Plaintiff's and other current and former aggrieved California-based hourly non-
22 exempt employees' regular rate of compensation. Specifically, Defendants maintained a policy,
23 practice, and/or procedure of failing to include all remuneration such as "incentive pay", "night
24 premium pay", and "weekend premium pay", for example, when calculating Plaintiff's and other
25 current and former aggrieved California-based hourly non-exempt employees' regular rate of pay
26 for the purpose of paying meal period premium wages.

27 28. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff and
28 other current and former aggrieved California-based hourly non-exempt employees not receiving

1 wages to compensate them for workdays during which Defendants did not provide them with meal
2 periods in compliance with California law.

3 29. Employee is further informed and believes, and based thereon alleges, that
4 Employer's conduct above that gave rise to such violations was malicious, fraudulent, or oppressive.
5 Employer would further be liable for civil penalties pursuant to Labor Code section
6 2699(f)(2)(B)(ii).

7 30. **Failure to pay wages to hourly non-exempt employees for workdays that**
8 **Defendants failed to provide legally required and compliant rest periods and/or failure to pay**
9 **rest period premium:** Plaintiff and other current and former aggrieved California-based hourly
10 non-exempt employees regularly worked shifts of more than three-and-a-half (3.5) hours.

11 31. California law requires every employer to authorize and permit an employee a rest
12 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code
13 section 226.7; Wage Order 7 at §12. Under California law, "[e]mployees are entitled to 10 minutes'
14 rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six
15 hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker*
16 *Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7;
17 Wage Order 7 at §12. Rest periods, insofar as practicable, shall be in the middle of each work period.
18 Wage Order 7 at §12. Additionally, the rest period requirement "obligates employers to permit –
19 and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.*,
20 (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all
21 duties and relinquish control over how employees spend their time. *Id.*

22 32. If the employer fails to authorize or permit a required rest period, the employer must
23 pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday the
24 employer did not authorize or permit a legally required rest period. Labor Code section 226.7; Wage
25 Order 7 at § 12.

26 33. In this case, Defendants failed to authorize or permit all legally required and
27 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
28 non-exempt employees due to Defendants' policies, practices, and/or procedures including, but not

1 limited to:

2 (a) Failing to provide Plaintiff and other current and former aggrieved California-based
3 hourly non-exempt employees with net ten (10) minute rest breaks for every four (4) hours worked
4 or major fraction thereof.

5 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
6 non-exempt employees to travel to a designated area away from their workstations during their rest
7 periods. Defendants did not elongate or otherwise extend Plaintiff and other current and former
8 aggrieved California-based hourly non-exempt employees rest period times to account for travel
9 time between their workstations and the designated break area resulting in rest periods less than a
10 net 10 minutes.

11 (c) Failing to provide Plaintiff and other current and former aggrieved California-based
12 hourly non-exempt employees a third timely, uninterrupted, duty-free rest break of no less than ten
13 (10) minutes on each workday that Plaintiff and other current and former aggrieved California-based
14 hourly non-exempt employees work shifts over ten (10) hours.

15 34. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
16 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
17 hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each workday
18 they did not receive legally required and compliant rest periods, in violation of Labor Code section
19 226.7.

20 35. Finally, on occasions when Defendants did pay Plaintiff and other current and former
21 aggrieved California-based hourly non-exempt employees a “premium” wage for late, missed, short,
22 on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the one (1) additional
23 hour of pay at Plaintiff’s and other current and former aggrieved California-based hourly non-
24 exempt employees’ regular rate of compensation. Specifically, Defendants maintained a policy,
25 practice, and/or procedure of failing to include all remuneration such “incentive pay”, “night
26 premium pay”, and “weekend premium pay”, for example, when calculating Plaintiff’s and other
27 current and former aggrieved California-based hourly non-exempt employees’ regular rate of pay
28 for the purpose of paying rest period premiums.

1 36. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff and
2 other current and former aggrieved California-based hourly non-exempt employees not receiving
3 wages to compensate them for workdays in which Defendants did not provide them with rest periods
4 in compliance with California law.

5 37. Employee is further informed and believes, and based thereon alleges, that
6 Employer's conduct above that gave rise to such violations was malicious, fraudulent, or oppressive.
7 Employer would further be liable for civil penalties pursuant to Labor Code section
8 2699(f)(2)(B)(ii).

9 38. **Failure to provide sick pay wages:** Defendants had a policy and/or procedure where
10 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
11 accrued paid sick time.

12 39. Labor Code section 246, subdivision (a), states in relevant part "[a]n employee
13 who...works in California for the same employer for 30 or more days within a year from the
14 commencement of employment is entitled to paid sick days." Additionally, an employee accrues
15 paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked, beginning
16 at the commencement of employment. Labor Code section 246(b).

17 40. Here, Plaintiff and other current and former aggrieved California-based hourly non-
18 exempt employees were employed by Defendants for 30 or more days and were entitled to paid sick
19 days. Defendants, however, lacked a policy, practice, and/or procedure whereby Plaintiffs and other
20 current and former aggrieved California-based hourly non-exempt employees who were employed
21 by Defendants for 30 days or more could accrue paid sick days at the rate of no-less-than one (1)
22 hour per every thirty (30) hours worked, beginning at the commencement of employment as required
23 by Labor Code section 246(b).

24 41. In this case, Plaintiff alleges that when he and other current and former aggrieved
25 California-based hourly non-exempt employees elected to use paid sick time, Defendants failed to
26 pay them sick time wages at the proper sick time rate of pay due to Defendants' failure to include
27 all remuneration when calculating the sick time rate of pay. Specifically, Defendants maintained a
28 policy, practice, and/or procedure of failing to include all remuneration including but not limited to

1 “incentive pay”, “night premium pay”, and “weekend premium pay”, for example, when calculating
2 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees’
3 regular rate of pay for the purpose of paying sick time.

4 42. Defendants’ foregoing policy, practice, and/or procedure resulted in Defendants
5 failing to provide Plaintiff and other current and former aggrieved California-based hourly non-
6 exempt employees’ paid sick days, in violation of Labor Code section 246.

7 43. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
8 Employer would further be liable for civil penalties pursuant to Labor Code section
9 2699(f)(2)(B)(ii).

10 44. **Failure to timely pay earned wages during employment:** In California, wages
11 must be paid at least twice during each calendar month on days designated in advance by the
12 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages earned
13 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and
14 the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any
15 calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll
16 periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7)
17 calendar days following the close of the payroll period in which wages were earned. Labor Code
18 section 204(d).

19 45. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed to
20 timely pay Plaintiff’s and other current and former aggrieved California-based hourly non-exempt
21 employees’ earned wages (including minimum wages, overtime wages, meal period premium wages
22 and/or rest period premium wages), in violation of Labor Code section 204. Defendants’
23 aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiff’s and
24 other current and former aggrieved California-based hourly non-exempt employees’ their earned
25 wages within the applicable time frames outlined in Labor Code section 204.

26 46. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
27 Employer would further be liable for civil penalties pursuant to Labor Code section
28 2699(f)(2)(B)(ii).

1 47. **Secret payment of lower wages than designated by statute:** Labor Code section
2 223 provides that, where any statute or contract requires an employer to maintain the designated
3 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage
4 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including by
5 failing to: pay overtime wages at the applicable legal overtime rate, meal break premiums and lawful
6 sick pay at the employees' regular rate of pay, as established by Labor Code sections 226.7, 246,
7 510, 1194 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by Labor
8 Code section 1198, the Defendant secretly paid a lower wage than designated by statute while
9 purporting to pay the wages designated by statute, in violation of Labor Code section 223.

10 48. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
11 Employer would further be liable for civil penalties pursuant to Labor Code section
12 2699(f)(2)(B)(ii).

13 49. **Failure to provide complete and accurate wage statements:** Labor Code section
14 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee
15 his or her wages, the employer must "furnish each of his or her employees ... an itemized statement
16 in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
17 employee whose compensation is solely based on a salary and who is exempt from payment of
18 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
19 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee
20 is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders
21 of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
22 dates of the pay period for which the employee is paid, (7) the name of the employee and his or her
23 social security number, (8) the name and address of the legal entity that is the employer, and (9) all
24 applicable hourly rates in effect during the pay period and the corresponding number of hours
25 worked at each hourly rate by the employee."

26 50. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
27 and other current and former aggrieved California-based hourly non-exempt employees all wages
28 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest period

1 premium wages) rendered Plaintiff's and other current and former aggrieved California-based
2 hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code section
3 226(a)(1, 2, 5 & 9).

4 51. Plaintiff believes these failures were willful and intentional.

5 52. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
6 Employer would further be liable for civil penalties pursuant to Labor Code section
7 2699(f)(2)(B)(ii).

8 53. **Failure to pay employees all wages due at time of termination/resignation:** An
9 employer is required to pay all unpaid wages timely after an employee's employment ends. The
10 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
11 hours of resignation (Labor Code section 202).

12 54. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
13 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all
14 their earned wages (including minimum wages, overtime wages, meal period premium wages,
15 and/or rest period premium wages), Defendants failed to pay those employees timely after each
16 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

17 55. Plaintiff believes these failures were willful and intentional.

18 56. Plaintiff also believes these failures were malicious, fraudulent, or oppressive.
19 Employer would further be liable for civil penalties pursuant to Labor Code section
20 2699(f)(2)(B)(ii).

21 57. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
22 section 2699.3. On January 20, 2025, Plaintiff filed a PAGA Claim Notice with the LWDA and
23 provided notice to Defendants by certified mail which provided notice of the specific provisions of
24 the Labor Code alleged to have been violated, including the facts and theories to support the
25 violations alleged.

26 58. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
27 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
28 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the

1 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
2 to investigate Plaintiff's claims.

3 59. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
4 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7,
5 246, 510, 512, and 1194, During Plaintiff's employment and continuing through the present,
6 preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the
7 following amounts:

8 a. For violations of Labor Code sections 201, 202, 203, 226(a), and 226.7; one
9 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
10 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation
11 [penalty amounts established by Labor Code section 2699(f)(2)].

12 b. For violations of Labor Code section 226(a), alternatively, two hundred fifty
13 dollars (\$250) for each employee for each pay period for the initial violation, and for each
14 subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period
15 [penalty amounts established by Labor Code section 226.3].

16 c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for each
17 employee for each pay period for the initial violation, and for each subsequent violation, one
18 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
19 established by Labor Code section 558].

20 d. For violations of Labor Code section 204, one hundred dollars (\$100) for
21 each failure to pay each employee in any initial violation, and for each subsequent violation, or any
22 willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee,
23 plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code
24 section 210].

25 e. For violations of Labor Code section 223, one hundred dollars (\$100) for
26 each failure to pay each employee in any initial violation, and for each subsequent violation, or any
27 willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee,
28 plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code

1 section 225.5].

2 60. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
3 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER AGGRIEVED**
6 **EMPLOYEES, PRAYS AS FOLLOWS:**

7 **ON THE FIRST CAUSE OF ACTION:**

8 1. That Defendants be found to have violated the provisions of the Labor Code and the
9 IWC Wages Orders as to the Plaintiff and aggrieved employees;

10 2. For any and all legally applicable penalties during the relevant statute of limitations
11 subject to any permissible tolling, including but not limited to those recoverable under the California
12 Labor Code, including but not limited to sections 210, 225.5, 226.3, 558, 2699(f);

13 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
14 under California Labor Code section 2699(g); and

15 4. For such and other further relief, in law and/or equity, as the Court deems just or
16 appropriate.

17
18 Dated: March 19, 2025

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

19
20 By:



Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Jeffrey D. Klein, Esq.
Colin Mendoza, Esq.
Attorneys for Plaintiff
JOSHUA HERRERA,
on behalf of himself and current and former
aggrieved employees