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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT**NOV 29 2022**BY: 
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

MARIA DEL MAR LOPEZ PALACIOS,
individually, and on behalf of all other
aggrieved employees,

Plaintiffs,

v.

BARONHR WEST, INC., a Delaware
corporation; COSMETIC INDUSTRIES,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO. **CV SB 2226929****COMPLAINT FOR VIOLATION OF THE
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
("PAGA")**[California Labor Code § 2698 *et seq.*]**By Fax**

1 This is a representative action brought by Maria Del Mar Lopez Palacios, individually and on
2 behalf of all other aggrieved employees ("Plaintiff"), relating to systemic violations of California
3 wage and hour laws by her employers BaronHR West, Inc. ("BaronHR" individually), and Cosmetic
4 Industries, Inc., ("Cosmetic Industries" individually, and collectively as "Defendants"). Plaintiff
5 makes the following allegations on information and belief, except as to allegations pertaining to
6 Plaintiff individually, which are based on her personal knowledge.

7 **INTRODUCTION**

8 1. BaronHR is a staffing company which provides temporary employees to Cosmetic
9 Industries and similar businesses to provide short and long term staffing needs. BaronHR is a
10 private, for-profit staffing business.

11 2. Cosmetic Industries operates a facility where it manufacturers nail polish and nail
12 treatments, from filling, labeling, storage, assembly and drop shipping to distribution centers.

13 3. As private, for-profit businesses, Defendants implemented common policies and
14 practices that have resulted in systemic violations of California's wage and hour laws. Defendants
15 have failed to implement adequate practices to protect the rights of its employees, particularly in
16 light the nature of its business, which is to maximize profits.

17 4. Defendants attempt to maximize profits by among other methods, understaffing of the
18 facility operated by Cosmetic Industries and denying employees the ability to take meal and rest
19 breaks.

20 5. Defendants have implemented unlawful written policies with respect to meal and rest
21 breaks. Defendants also require their non-exempt employees, who are informed that the needs of the
22 businesses take top priority, to work through meal and rest breaks, to take untimely meal periods and
23 to remain on call during such breaks. As a result, Plaintiff and other aggrieved employees have been
24 denied the ability to take the meal and rest breaks that they were and are legally entitled to take.

25 6. Moreover, Defendants have uniformly failed to pay Plaintiff and other aggrieved
26 employees proper overtime wages due to the fact that they improperly calculate the regular rate of
27 pay, and willfully turn a blind eye to off-the-clock work that Plaintiff and other non-exempt
28 employees perform as a direct consequence of Defendants' understaffing and imposition of an

1 unreasonable workload.

2 7. Defendants have also failed to provide Plaintiff and the other aggrieved employees
3 with accurate wage statements as the legal address for Defendants was left off the wage statements.
4 For instance, with regard to Plaintiff and the other aggrieved employees, the wage statements only
5 list "Cosmetic Industries" without providing an address and "BaronHR" does not include the legal
6 address of the company which is located in Anaheim, California as provided by the California
7 Secretary of State. BaronHR only lists a "PO BOX" on the wage statement.

8 8. Also, Defendants wage statements failed to provide for eighty (80) hours of available
9 California supplemental COVID-19 sick leave and the amount remaining if used by Plaintiff and the
10 other aggrieved employees.

11 **JURISDICTION AND VENUE**

12 9. The Superior Court of the State of California has jurisdiction in this matter because
13 Plaintiff is a citizen and resident of the State of California, and Defendants are citizens and residents
14 of, and/or regularly conduct business in, the State of California.

15 10. Venue is proper in this judicial district and the County of San Bernardino, California
16 because Plaintiff resides in the County of San Bernardino and Defendant Cosmetic Industries
17 conducts business and maintains facilities in the County of San Bernardino and many of Defendants
18 unlawful actions and omissions, as set alleged herein, occurred in the County of San Bernardino.

19 11. Defendants employed Plaintiff and other aggrieved employees within the State of
20 California and the unlawful acts alleged herein have a direct effect on Plaintiff and other aggrieved
21 employees.

22 12. The State of California, San Bernardino County, has jurisdiction in this matter because
23 the individual claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional
24 threshold and the five million dollar (\$5,000,000.00) aggregate jurisdictional threshold for federal
25 court diversity jurisdiction. Further, there is no federal question at issue as the issues herein are based
26 solely on the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil
27 Procedure and Rules of Court. Thus, the State of California, San Bernardino County Superior Court
28 maintains the appropriate jurisdiction to hear this matter.

THE PARTIES

13. During the statute of limitations period, Plaintiff was employed by Defendants as a Packer in Fontana, California.

14. Plaintiff is informed and believes, and thereon alleges, that Defendant BaronHR is, and at all times relevant hereto was, a corporation organized and existing under the laws of the State of Delaware and license to do business in the State of California.

15. Plaintiff is informed and believes, and thereon alleges, that Defendant Cosmetic Industries is, and at all times relevant hereto was, a corporation organized and existing under the laws of the State of California and licensed to do business in the State of California.

16. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE defendants when ascertained.

17. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and the other aggrieved employees.

18. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the acts mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the above co-Defendants. Plaintiff also alleges that the acts of each Defendant are legally attributable to the other Defendants.

1 19. Plaintiff is informed and believes, and based thereon alleges, that each of the
2 Defendants sued herein were, at all relevant times, the employers, owners, shareholders, principal,
3 joint ventures, alter-egos, employees, proxies, managing agents, and/or principals of the remaining
4 Defendants, and were acting, at least in part, within the course and scope of such employment and
5 agency, with the express and implied permission, consent and knowledge, approval and/or ratification
6 of the other Defendants. The above co-Defendants, managing agents, and supervisors, aided, abetted,
7 condoned, permitted, approved, authorized, and/or ratified the unlawful acts described herein.

8 20. As a direct and proximate result of the unlawful actions of Defendants, Plaintiff and
9 the other aggrieved employees have suffered and continue to suffer penalties in amounts as yet
10 unascertained but subject to proof at trial and within the jurisdiction of this Court.

11 **NOTICE PURSUANT TO CALIFORNIA LABOR CODE §2810.3(d)**

12 21. On June 13, 2022, Plaintiff provided Defendants with notice pursuant to California
13 Labor Code §2810.3(d) and Plaintiff's intent to file suit based upon the alleged violations of the
14 California Labor Code. In particular, Plaintiff notified Cosmetic Industries that in the event liability
15 is determined against Defendant, BaronHR, Defendant Cosmetic Industries shall share any and all
16 civil responsibility and civil liability for all workers supplied by Defendant, BaronHR to Defendant,
17 Cosmetic Industries, based upon the failure to pay wages.

18 22. More than thirty (30) days has expired since notice pursuant to Labor Code §2810.3(d)
19 and the alleged violations was provided to Defendants prior to filing this suit.

20 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

21 23. Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"),
22 California Labor Code §§ 2698-2699.5, Plaintiff brings this action on behalf of herself and all other
23 aggrieved employees, e.g., current and former non-exempt employees of Defendants who are
24 California citizens and performed work for Defendants in the State of California at any time within
25 the period beginning one (1) year prior to the filing of the Complaint in this action, or as otherwise
26 permitted under PAGA, and ending at the time this action settles or proceeds to final judgment
27 ("statute of limitations period").

28 24. On June 13, 2022, Plaintiff gave written notice by certified mail pursuant to

1 California Labor Code § 2699.3, to the California Labor and Workforce Development Agency
2 (“LWDA”) and Defendants, of the specific provisions of the California Labor Code and IWC Wage
3 Order alleged to have been violated, including the facts and theories to support the alleged
4 violations. Plaintiff has not received any response from the LWDA. As Plaintiff has waited more
5 than sixty-five (65) days from the June 13, 2022 postmark date of her written notice before filing this
6 action, Plaintiff has complied with all of the requirements set forth in California Labor Code §
7 2699.3 to commence a representative action under PAGA.

8 **FACTUAL ALLEGATIONS**

9 **Failure to Provide Required Meal Periods**

10 **[Cal. Lab. Code §§ 226.7, 512, 558; § 11 of the Applicable IWC Wage Order]**

11 25. During the statute of limitations period, as part of Defendants’ illegal policies and
12 practices to minimize labor costs and maximize corporate profits, Defendants have required,
13 permitted or otherwise suffered Plaintiff and aggrieved employees to perform work during their meal
14 periods, to completely skip their meal periods, to take late and short meal periods, and Defendants
15 have otherwise failed to provide the required meal periods to Plaintiff and aggrieved employees as
16 required under California Labor Code §§ 226.7, 512, 558 and § 11 of the applicable IWC Order.

17 26. Defendants have implemented several practices that have caused Plaintiff and
18 aggrieved employees to systematically miss and otherwise take non-compliant meal periods.
19 Defendants systematically understaff its warehouse such that its non-exempt employees are given so
20 much work to complete that they regularly miss or take non-compliant meal periods. As a direct
21 consequence of this understaffing, Plaintiff and aggrieved employees have so much work to
22 complete within their scheduled shifts that they are forced to skip their meal periods altogether, to
23 take them after working longer than five (5) hours, to perform work during their meal periods, or
24 return to work after taking less than a thirty (30) minute meal period.

25 27. There are also frequently occasions when Plaintiff and aggrieved employees need to
26 perform other duties immediately before the time during which they are legally entitled to take a
27 meal period. Pursuant to Defendants’ policies, Plaintiff and aggrieved employees cannot simply
28 drop their urgent job duties to take a meal period. Consequently, Plaintiff and aggrieved employees

1 regularly miss meal periods, take late meal periods, return early from meal periods, and even clock
2 out for meal periods but continue working.

3 28. Plaintiff and aggrieved employees need to first secure permission before taking a
4 meal period despite the fact they may be scheduled to take a meal period. Defendants also
5 implemented an "auto-deduct" meal period policy where thirty (30) minutes is deducted from the
6 time worked for shifts over five (5) hours each day regarding if Plaintiff and the other aggrieved
7 employees take their meal periods. Further, Plaintiff and aggrieved employees often cannot simply
8 stop working and take their meal period, which often causes them to regularly miss and otherwise
9 take non-compliant meal periods.

10 29. Despite the foregoing, Defendants have implemented a policy and practice of actively
11 discouraging the issuance of meal period premium payments, and in the process, Defendants have
12 also violated California Labor Code §§ 226.7, § 11 of the applicable IWC Wage Order, and the
13 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to
14 compensate Plaintiff and aggrieved employees who were not authorized and permitted to take a
15 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper
16 regular rate of pay for each workday that such a meal period was not authorized or permitted.

17 **Failure to Provide Required Rest Breaks**

18 **[Cal. Lab. Code §§ 226.7, 512; § 12 of the Applicable IWC Wage Order]**

19 30. During the statute of limitations period, as part of Defendants' illegal policies and
20 practices to minimize labor costs and maximize corporate profits, Defendants have failed to
21 authorize and permit Plaintiff and other aggrieved employees to take rest breaks as required under
22 California Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Order.

23 31. The same common policies and practices that deprive Plaintiff and other aggrieved
24 employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to
25 take their first and second and third rest breaks. As alleged herein, Defendants understaff their
26 facility which creates so much work for Plaintiff and other aggrieved employees that they are
27 frequently unable to take rest breaks. Moreover, Plaintiff and other aggrieved employees need to
28 secure permission before taking a rest break, which is often denied by supervisors.

1 32. Defendants also violated California Labor Code § 226.7, § 12 of the applicable IWC
2 Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by
3 failing to pay Plaintiff and other aggrieved employees who were not provided with a rest break, in
4 accordance with the applicable wage order, one additional hour of compensation at the proper
5 regular rate of pay for each workday that a rest break was not provided.

6 **Failure to Pay Overtime Wages**

7 **[Cal. Lab. Code §§ 510, 1194, 1198; § 3 of the Applicable IWC Wage Order]**

8 33. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC
9 Order, Defendants are required to compensate Plaintiff and other aggrieved employees for all
10 overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours
11 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight
12 (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of
13 twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the
14 seventh consecutive day of work in any workweek.

15 34. Plaintiff and other aggrieved employees are current and former non-exempt
16 employees entitled to the protections of California Labor Code §§ 510, 1194, and § 3 of the
17 applicable IWC Order. During the statute of limitations period, Defendants have failed to
18 compensate Plaintiff and other aggrieved employees for all overtime hours worked as required under
19 the foregoing provisions of the California Labor Code and IWC Wage Order by, among other
20 methods: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as
21 provided by California Labor Code §§ 510, 1194 and § 3 of the applicable IWC Order, requiring,
22 permitting or suffering Plaintiff and other aggrieved employees to work off-the-clock, and to work
23 through meal and rest breaks, but not compensating them for this time, improperly calculating the
24 regular rate of pay based on shift differential and other remuneration, rounding the hours worked in a
25 one sided manner in favor of Defendants resulting in the failure to pay all overtime wages; and other
26 methods to be discovered.

27 35. In a short-sighted attempt to maximize profits, Defendants understaff their facilities.
28 Not only has this practice resulted in widespread missed meal and rest breaks, but it has also caused

1 Plaintiff and other aggrieved employees to perform work while off-the-clock. Defendants have
2 actual or constructive knowledge of this off-the-clock work and subtly condone it. Plaintiff and other
3 aggrieved employees routinely arrive to work early to check so that they are prepared and ready to
4 begin performing their duties promptly at the start of their shifts, as they must be pursuant to
5 Defendants' requirements. Defendants know that Plaintiff and other aggrieved employees perform
6 this work off-the-clock work.

7 37. Plaintiff and other aggrieved employees must get to work by no later than the start of
8 their shifts – and usually earlier. Thus, they are not afforded the benefit of clocking in for work a few
9 minutes late. Likewise, Plaintiff and other aggrieved employees are in a rush to complete their
10 mandatory job duties, so they are rarely afforded the benefit of clocking out early at the end of their
11 shifts. This results in the widespread underpayment of time worked.

12 38. Defendants have knowingly and willfully refused to perform their obligations to
13 compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in
14 violation of California Labor Code §§ 510, 1194 and 1198 and § 3 of the applicable IWC Order.

15 **Failure to Pay Minimum Wages**

16 **[Cal. Lab. Code §§ 1194, 1197; § 4 of the IWC Wage Orders]**

17 39. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order,
18 payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
19 period is unlawful.

20 40. During the statute of limitations period, the hourly rates for Plaintiff and other
21 aggrieved employees were precisely at California minimum wage. Based on this common practice,
22 Defendant failed to pay Plaintiff and other aggrieved employees minimum wages for all hours worked
23 by requiring, permitting or suffering Plaintiff and other aggrieved employees to work off the clock,
24 such as requiring them to work through meal and rest breaks but not compensating them for this time,
25 rounding the hours worked by Plaintiff and the other aggrieved employees favorable to Defendants
26 resulting in the failure to pay all minimum wages to Plaintiff and the other aggrieved employees,
27 failing to include this time in all hours worked, and other methods to be discovered.

28 41. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4

1 of the applicable IWC Wage Order. As a proximate result of the aforementioned violations, Plaintiff
2 and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore,
3 pursuant to California Labor Code §§ 200, 203, 226, 1194, 1197.1, and any other applicable law,
4 Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to
5 them by Defendants, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

6 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

7 **[Cal. Lab. Code §§ 201 - 203]**

8 42. Pursuant to California Labor Code § 201, 202 and 203, Defendants are required to
9 pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201
10 mandates that if an employers discharges an employee, the employee's wages accrued and unpaid at
11 the time of discharge are due and payable immediately.

12 43. Furthermore, pursuant to California Labor Code § 202, Defendants are required to
13 pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her
14 employment, unless the employee provided 72 hours previous notice of his or her intention to quit,
15 in which case the employee is entitled to his or her wages at the time of quitting.

16 44. California Labor Code § 203 provides that if an employer willfully fails to pay, in
17 accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who
18 quits, the employers is liable for waiting time penalties in the form of continued compensation to the
19 employee at the same rate for up to 30 workdays.

20 45. During the statute of limitations period, Defendants have willfully failed to pay
21 accrued wages and other compensation to Plaintiff and other aggrieved employees in accordance
22 with California Labor Code §§ 201 and 202. Defendants do not have a sufficient policy to provide
23 Plaintiff and other aggrieved employees with their final paychecks within the timeframes required
24 under California law. In addition, because Defendants have failed and continue to fail to properly
25 compensate Plaintiff and other aggrieved employees for all hours worked when due, overtime
26 wages, and compensation for non-compliant meal and rest breaks, Defendants have also willfully
27 failed and continue to fail to pay accrued wages and other compensation to Plaintiff and other
28 aggrieved employees in accordance with California Labor Code §§ 201 and 202.

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Lab. Code §§ 226(a); 248.2, § 7 of the Applicable IWC Wage Order]

46. During the statute of limitations period, Defendants have routinely failed to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements. Defendants' pay stubs violate Labor Code § 226 on their face by, among other things, failing to state the name and address of the legal entity that was Plaintiff's and aggrieved employees' employers. For instance, the wage statements only list "Cosmetic Industries" without an address and BaronHR West only lists "PO BOX 28630" without providing the legal address of the business. Derivatively, Defendants were and are not providing Plaintiff and other aggrieved employees with proper meal periods and rest breaks but intentionally fail to include in their wage statements one (1) additional hour of compensation at their regular rates of pay for each non-compliant meal period or rest break, the applicable rate of pay for sick leave, failed to set forth the highest regular rate of pay for sick leave, and depict the amount of supplemental COVID-19 sick leave available and taken and other California Labor Code violations yet to be discovered.

47. In order to conceal its wage theft, Defendants knowingly and intentionally failed to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

48. Plaintiff and other aggrieved employees suffered injury as a result of Defendants' failure to provide timely and accurate itemized wage statements, which prevented them from discovering the scope and extent of Defendants' violations of California wage and hour laws, prevented them from being able to determine the gross wages earned, the total hours worked, all deductions made, the net wages earned, the legal name and address of the employers, all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, the accurate rate of pay, available supplemental COVID-19 sick leave and amount taken, and other violations yet to be discovered.

Failure to Maintain Required Records

[Cal. Lab. Code §§ 226(a), 248.2, 1174(d), 2810.5; § 7 of the Applicable IWC Wage Order]

49. During the statute of limitations period, as part of Defendants' illegal payroll policies

1 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,
2 Defendants knowingly and intentionally failed to maintain records as required under California
3 Labor Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Order, including but not limited
4 to the following records: total daily hours worked by each employee; applicable rates of pay; all
5 deductions; meal periods; time records showing when each employee begins and ends each work
6 period; and accurate itemized statements. Defendants had knowledge that it was not providing its
7 non-exempt employees with proper meal and rest periods, but knowingly failed to include in the
8 wage statements one (1) extra hour of compensation for each missed meal and rest period.
9 Defendants also illegally and inaccurately recorded the time in which Plaintiff and other aggrieved
10 employees worked. Defendants have also failed to maintain accurate, itemized wage statements,
11 failed maintained records relating to supplemental COVID-19 sick leave and amount taken as
12 alleged above, and other violations of the California Labor Code which have not been discovered.

13 **Failure to Pay COVID-19 Supplemental Sick Leave**

14 **[Cal. Lab. Code §§ 248.1, 248.2 and 248.6]**

15 50. During the Statute of Limitations Period, Plaintiff is informed and believes from
16 January 1, 2021 through the present, Defendants employed 26 or more aggrieved employees.

17 51. Defendants failed to provide 80 hours of COVID-19 Supplemental Paid Sick leave and
18 compensate Aggrieved Employees at their regular rate of pay for supplemental sick leave, i.e., their
19 highest regular rate of pay, taking into consideration non-discretionary bonuses, etc., in violation of
20 California Labor Code § 248.1(b)(3)(A) and §248.6. Defendants also failed to provide COVID-19
21 Supplemental Sick Leave to Aggrieved Employees in addition to regular sick leave, in violation of
22 California Labor Code § 248.1(b)(2)(D). Defendants also failed to accurately reflect any offset and/or
23 the current amount of COVID-19 Supplemental Sick Leave available to aggrieved employees on their
24 wage statements, in violation of California Labor Code §§ 248.1(b)(2)(D), 248.2, 248.6 and for the
25 reasons provided herein.

26 **Failure to Provide Suitable Seating**

27 **[IWC Wage Order No. 1-2001, Section 14]**

28 52. IWC Wage Order No. 1-2001, § 14 provides:

1 “(A) All working employees shall be provided with suitable seats when the nature
2 of the work reasonably permits the use of seats.

3 (B) When employees are not engaged in the active duties of their employment and
4 the nature of the work requires standing, an adequate number of suitable seats shall be
5 placed in reasonable proximity to the work area and employees shall be permitted to use
6 such seats when it does not interfere with the performance of their duties.”

7 53. Defendants fail to provide suitable seating by not providing any seats or stools for
8 Plaintiff and other aggrieved employees within close proximity of their work areas. The nature of the
9 work reasonably permits the use of seats by Plaintiff and the other aggrieved employees. To the
10 extent that the use of seats could interfere with their work duties, at all times herein it is and has been
11 reasonable for Defendants to place seats in reasonable proximity to the work areas to be used by
12 Plaintiff and other aggrieved employees when doing so would not interfere with their job duties.

13 **Failure to Indemnify Employees for Necessary Expenditures**

14 **[Cal. Lab. Code § 2802]**

15 54. California Labor Code § 2802(a) requires an employer to indemnify an employee for
16 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge
17 of his or her duties, or of his or her obedience to the directions of the employer.

18 55. Defendants, in violation of Labor Code § 2802, failed to indemnify Plaintiff and other
19 aggrieved employees for all business expenses and/or losses incurred in direct consequence of the
20 discharge of their duties, including but not limited to, expenses for their uniforms and uniform
21 maintenance. Plaintiff and other aggrieved employees were required to use their personal cellular
22 phones for work related purposes. In addition, Defendants required Plaintiff and other aggrieved
23 employees to purchase safety equipment and personal protective equipment at their own expense
24 during the COVID-19 pandemic and failed to properly indemnify Plaintiff and the other aggrieved
25 employees for these expenses.

26 **FIRST CAUSE OF ACTION**

27 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

28 **[Cal. Lab. Code § 2698 *et seq.*]**

(On Behalf of Plaintiff against Defendants)

1 56. Plaintiff incorporates herein by specific reference, as though fully set forth, the
2 allegations in paragraphs 1 through 55.

3 57. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code §
4 2699(c), and a proper representative to bring a civil action on behalf of herself and other current and
5 former non-exempt employees of Defendants pursuant to the procedures specified in Labor Code §
6 2699.3, because Plaintiff was employed by Defendants and one or more of the alleged California
7 Labor Code violations was committed against Plaintiff during the statute of limitations period.

8 58. Plaintiff seeks to recover civil penalties through a representative action permitted by
9 PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus,
10 class certification is not required.

11 59. A plaintiff has standing to represent all aggrieved employees for all of her
12 asserted violations of the California Labor Code under PAGA. See *Huff v. Securitas Security*
13 *Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757 (“For PAGA standing a plaintiff need
14 only have been employed by the violator and affected by ‘one or more’ of the alleged
15 violations. (Sec. 2699, subds. (a), (c)).). Here, Plaintiff was not provided with a legally
16 compliant wage statement pursuant to Labor Code §226 since the legal name and address of
17 the employer was not provided on Defendants wage statements, Plaintiff was not provided
18 with supplemental COVID-19 sick leave and COVID-19 supplemental sick leave was not
19 listed on her wage statement, in addition to the meal and rest period and other California
20 Labor Code violations as alleged herein.

21 60. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
22 penalties from Defendants in a representative action for the violations set forth above, including but
23 not limited to violations of California Labor Code §§ 201, 202, 203, 226(a), 226.7, 248.2, 248.6,
24 510, 512, 558, 1174(d), 1194, 1197, and 1198.

25 61. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties
26 for Defendants’ violations of California Labor Code provisions for which a civil penalty is
27 specifically provided, including but not limited to, the following:

28 a. Pursuant to California Labor Code § 210, for violations of California Labor

1 Code § 204, Defendants are subject to a civil penalty in the amount of one
2 hundred dollars (\$100) for the initial violation for each failure to pay each
3 employee, and two hundred dollars (\$200) per employee for violations in
4 subsequent pay periods.

5 b. Pursuant to California Labor Code § 226.3, for violations of California Labor
6 Code § 226(a), Defendants are subject to a civil penalty in the amount of two
7 hundred and fifty dollars (\$250) per aggrieved employee for the initial pay
8 period where a violation occurs and one thousand dollars (\$1,000) per
9 aggrieved employee for violations in subsequent pay periods.

10 c. Pursuant to California Labor Code § 1174.5, for violations of California Labor
11 Code § 1174(d), Defendants are subject to a civil penalty of five hundred
12 dollars (\$500).

13 d. Pursuant to California Labor Code § 1197.1, an employers who pays or causes
14 to be paid to any employee a wage less than the minimum fixed by an order of
15 the commission, shall be subject to a civil penalty as follows: for any initial
16 violation that is intentionally committed, one hundred dollars (\$100) for each
17 underpaid employee for each pay period for which the employee is underpaid;
18 and for each subsequent violation of the same offense, two hundred fifty
19 dollars (\$250) for each underpaid employee for each pay period for which the
20 employee is underpaid regardless of whether the initial violation was
21 intentionally committed.

22 62. California Labor Code § 2699(f) provides that for all California Labor Code
23 violations for which a civil penalty is not specifically provided, the following civil penalties are
24 established: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
25 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
26 subsequent violation.

27 63. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f)
28 for Defendants' violations of California Labor Code provisions for which a civil penalty is not

1 specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 226.7,
2 1194, 1197, 1198 and 2810.5.

3 64. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
4 Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
7 for relief against Defendants, as follows:

- 8 1. For civil penalties according to proof;
- 9 2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g),
10 California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for
11 attorneys' fees and costs; and
- 12 3. For such further relief that the Court may deem just and proper.

13 DATED: November 8, 2022

THE LAW OFFICE OF SCOTT ERNEST WHEELER

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16 SCOTT ERNEST WHEELER
JUSTIN A. WHEELER

17 *Attorneys for Plaintiff and the other Aggrieved*
18 *Employees*