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DASHAWN DWAYNE on behalf of all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

DAMON HAYNES, an individual;
DASHAWN DWAYNE, an individual and on
behalf of all others similarly situated,

Plaintiffs,

v.

RICH DOSS, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 34-2022-00323987

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION.
10. COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5,
1197. And 2699

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

COMES NOW Plaintiffs, DAMON HAYNES and DASHAWN DWAYNE (collectively “Plaintiffs”), an individual and on behalf of all others similarly situated, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against RICH DOSS, INC. (“Rich Doss”) a California corporation and any of their respective subsidiaries or affiliated companies within the State of California (and, with DOES 1 through 100, as further defined below, “Defendants”) on behalf of Plaintiffs and all other current and former non-exempt California employees employed by or formerly employed by Defendants (“Class Members”).

2. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against RICH DOSS, INC., a California corporation, and any of its respective subsidiaries or affiliated companies within the State of California (“RICH DOSS”), and together with DOES 1 through 100, as further defined below, “Defendants”), as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiffs

3. Plaintiff DAMON HAYNES is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants employed Plaintiff, DAMON HAYNES as a non-exempt employee, with duties that included, but were not limited to, transporting Defendants’ products via vehicle. Plaintiff is informed and believes and based thereon alleges that Plaintiff DAMON HAYNES worked for Defendants from approximately June of 2020 to March 2, 2022.

1 4. Plaintiff DASHAWN DWAYNE is a resident of the State of California. At all
2 relevant times herein, Plaintiff is informed and believes, and based thereon alleges that Defendants
3 employed Plaintiff DASHAWN DWAYNE as a non-exempt employee, with duties that included,
4 but were not limited to, transporting Defendants' products via vehicle. Plaintiff is informed and
5 believes and based thereon alleges that Plaintiff DASHAWN DWAYNE worked for Defendants
6 from approximately March 2020 to April 25, 2022.

7 **B. Defendants**

8 5. Plaintiffs are informed and believe and based thereon allege that defendant RICH
9 DOSS is, and at all times relevant hereto was, a corporation organized and existing under and by
10 virtue of the laws of the State of California and doing business in the County of SACRAMENTO,
11 State of California. At all relevant times herein, Rich Doss employed Plaintiffs and similarly situated
12 employees within the State of California.

13 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiffs,
15 who therefore sue defendants by such fictitious names under Code of Civil Procedure section 474.
16 Plaintiffs are informed and believe and based thereon allege that each of the defendants designated
17 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
18 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities
19 of the defendants designated hereinafter as DOES when such identities become known. Plaintiffs
20 are informed and believe, and based thereon allege, that each defendant acted in all respects pertinent
21 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or
22 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the
23 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall
24 include Rich Doss, and any of their parent, subsidiary, or affiliated companies within the State of
25 California, as well as DOES 1 through 100 identified herein.

26 **JOINT LIABILITY ALLEGATIONS**

27 7. Plaintiffs are informed and believe and based thereon allege that all the times
28 mentioned herein, each of the Defendants was the agent, principal, employee, employer,

1 representative, joint venture or co-conspirator of each of the other defendants, either actually or
2 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
3 employment, joint venture, and conspiracy.

4 8. All of the acts and conduct described herein of each and every corporate defendant
5 was duly authorized, ordered, and directed by the respective and collective defendant corporate
6 employers, and the officers and management-level employees of said corporate employers. In
7 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
8 their said employees, agents, and representatives, and each of them; and upon completion of the
9 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
10 corporations respectively and collectively ratified, accepted the benefits of, condoned, lauded,
11 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
12 aforementioned corporate employees, agents and representatives.

13 9. Plaintiffs are informed and believe, and based thereon allege, that despite the
14 formation of the purported corporate existence of RICH DOSS, and DOES 1 through 50, inclusive
15 (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51 through
16 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following reasons:

17 a. The Alter Ego Defendants are completely dominated and controlled by the
18 Individual Defendants who personally committed the wrongful and illegal acts and violated the laws
19 as set forth in this Complaint, and who have hidden and currently hide behind the Alter Ego
20 Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or
21 inequitable purpose;

22 b. The Individual Defendants derive actual and significant monetary benefits
23 by and through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego Defendants
24 as the funding source for the Individual Defendants’ own personal expenditures;

25 c. Plaintiffs are informed and believes, and thereon alleges, that the Individual
26 Defendants and the Alter Ego Defendants, while really one and the same, were segregated to appear
27 as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
28

accomplishing some other wrongful or inequitable purpose;

d. Plaintiffs are informed and believe, and thereon allege, that the business affairs of the Individual Defendants and the Alter Ego Defendants are, and at all relevant times mentioned herein were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are inextricable confusion. The Alter Ego Defendants are, and at all relevant times mentioned herein were, used by the Individual Defendants as mere shells and conduits for the conduct of certain of their, and each of their affairs. The Alter Ego Defendants are, and at all relevant times mentioned herein were, the alter egos of the Individual Defendants;

e. The recognition of the separate existence of the Individual Defendants from the Alter Ego Defendants would promote injustice insofar that it would permit these defendants to insulate themselves from liability to Plaintiffs for violations to the Civil Code, Government Code, and other statutory violations. The corporate existence of these defendants should thus be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiffs herein;

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

10. As a result of the aforementioned facts, Plaintiffs are informed and believe, and based thereon allege that Defendants, and each of them, are joint employers.

JURISDICTION

11. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

12. Venue is proper in SACRAMENTO County, California pursuant to Code of Civil Procedure sections 392, et seq. because, among other things, SACRAMENTO County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiffs, or some of them, and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiffs, or some of them, and Defendants was actually performed;

1 and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged
2 herein have a direct effect on Plaintiffs and Class Members in SACRAMENTO County, and because
3 Defendants employ numerous Class Members in SACRAMENTO County.

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

11 14. Specifically, Plaintiffs seek to recover PAGA civil penalties through a representative
12 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior*
13 *Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA allegations
14 described herein is not required.

15 15. During the period beginning one (1) year preceding the March 9, 2023 filing of the PAGA
16 Action regarding the herein-described Labor Code violations (the “Civil Penalty Period”), Defendants violated,
17 *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 232, 232.5,
18 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, and
19 2810.5, among others.

20 16. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
21 such as Plaintiffs, on behalf of Plaintiffs and all other aggrieved current and former employees within
22 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
23 specified in Labor Code section 2699.3.

24 17. On or around July 20, 2022, Plaintiff Haynes provided written notice pursuant to
25 Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
26 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as
27 well as by certified mail, with return receipt requested to Defendants, and each of them

28 18. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not

1 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65) calendar
2 days of the July 20, 2022, postmarked date of the herein-described notice sent by Plaintiff to the LWDA
3 and Defendants.

4 **FACTUAL BACKGROUND**

5 19. For at least four (4) years prior to the filing of this action and continuing to the
6 present, Defendants have, at times, failed to pay overtime wages to Plaintiffs and Class Members,
7 or some of them, in violation of California state wage and hour laws as a result of, without limitation,
8 Plaintiffs and Class Members working over eight (8) hours per day, forty (40) hours per week, and
9 seven consecutive work days in a work week without being properly compensated for hours worked
10 in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
11 worked on the seventh consecutive work day in a work week by, among other things, failing to
12 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay;
13 engaging, suffering, or permitting employees to work off the clock, including, without limitation,
14 by requiring employees to complete pre-shift tasks before clocking in and post-shift tasks after
15 clocking out, to clock out for meal periods and continue working, to make phone calls off the clock;
16 failing to include all forms of remuneration, including piece rate compensation, non-discretionary
17 bonuses, incentive pay, meal allowances, and other forms of remuneration into the regular rate of
18 pay for the workweeks in which overtime was worked and the additional compensation was earned
19 for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time
20 entries, editing and/or manipulation of time entries to show less hours than actually worked, and for
21 paying straight pay instead of overtime pay to the detriment of Plaintiffs and Class Members.

22 20. For at least four (4) years prior to the filing of this Action and continuing to the
23 present, Defendants have, at times, failed to pay minimum wages to Plaintiffs and Class Members,
24 or some of them, in violation of California state wage and hour laws as a result of, among other
25 things, at times, failing to accurately track and/or pay for all hours actually worked at their regular
26 rate of pay that is above the minimum wage engaging, suffering, or permitting employees to work
27 off the clock, including, without limitation, by requiring employees to complete pre-shift tasks
28 before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue

1 working, to make phone calls off the clock; detrimental rounding of employee time entries, editing
2 and/or manipulation of time entries to show less hours than actually worked; failing to track and pay
3 for all nonproductive time and failing to accurately track and pay for rest and recovery periods that
4 is separate and apart from any piece-rate compensation, to the detriment of Plaintiffs and Class
5 Members.

6 21. For at least four (4) years prior to the filing of this Action and continuing to the
7 present, Defendants have, at times, failed to provide Plaintiffs and Class Members, or some of them,
8 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
9 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
10 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
11 for such unprovided meal periods as required by California wage and hour laws.

12 22. For at least four (4) years prior to the filing of this action and continuing to the
13 present, Defendants have, at times, failed to authorize and permit Plaintiffs and Class Members, or
14 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
15 fraction thereof and failed to provide compensation for such unprovided rest periods as required by
16 California wage and hour laws.

17 23. For at least three (3) years prior to the filing of this action and continuing to the
18 present, Defendants have, at times, failed to pay Plaintiffs and Class Members, or some of them, the
19 full amount of their wages owed to them upon termination and/or resignation as required by Labor
20 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
21 minimum wages, for withholding wages, and premium wages.

22 24. For at least one (1) year prior to the filing of this Action and continuing to the present,
23 Defendants have, at times, failed to furnish Plaintiffs and Class Members, or some of them, with
24 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
25 earned; all applicable hourly rates in effect during the pay period and the corresponding number of
26 hours worked at each hourly rate; applicable piece rates in effect during the pay period and the
27 corresponding number of pieces earned; the name and address of the legal entity that is the employer;
28 name and address of the entity securing the services of the farm labor contractor who employed

1 Plaintiffs and Class Members; the total hours of compensable rest and recovery periods; the total
2 hours of nonproductive time, and other such information as required by Labor Code sections 226,
3 subdivision (a) and 226.2. As a result thereof, Defendants have further failed to furnish employees
4 with an accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

5 25. For at least one (1) year prior to the filing of this action and continuing to the present,
6 Defendants have, at times, failed to pay Plaintiffs and Class Members, or some of them, the full
7 amount of their wages for labor performed in a timely fashion as required under Labor Code section
8 204.

9 26. For at least three (3) years prior to the filing of this action and continuing to the
10 present, Defendants have, at times, failed to indemnify Class Members, or some of them, for the
11 costs incurred in using cellular phones for work-related purposes necessary to perform work duties.

12 27. Plaintiffs, on their own behalf and on behalf of Class Members, bring this action
13 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.2,
14 226.7, 510, 512, 1194, 1194.2, 1197, 2802, 2810.3, *et seq.*, and California Code of Regulations,
15 Title 8, section 11040, seeking overtime wages, minimum wages, payment of premium wages for
16 missed meal and rest periods, failure to pay timely wages, waiting time penalties, wage statement
17 penalties, failure to indemnify work-related expenses, other such provisions of California law, and
18 reasonable attorneys' fees and costs.

19 28. Plaintiffs, on Plaintiffs' own behalf and on behalf of Class Members, pursuant to
20 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
21 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
22 appropriate and effective means to prevent further violations, as well as all monies owed but
23 withheld and retained by Defendants to which Plaintiffs and Class Members are entitled, as well as
24 restitution of amounts owed.

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26 **CLASS ACTION ALLEGATIONS**

27 29. Plaintiffs bring this action on behalf of Plaintiffs and Class Members as a class action
28 pursuant to Code of Civil Procedure section 382. Plaintiffs seek to represent a class of all current

1 and former non-exempt employees of Defendants within the State of California at any time
2 commencing four (4) years preceding the filing of Plaintiffs' complaint up until the time that notice
3 of the class action is provided to the class (collectively referred to as "Class Members").

4 30. Plaintiffs reserve the right under California Rule of Court rule 3.765, subdivision (b)
5 to amend or modify the class description with greater specificity, further divide the defined class
6 into subclasses, and to further specify or limit the issues for which certification is sought.

7 31. This action has been brought and may properly be maintained as a class action under
8 the provisions of Code of Civil Procedure section 382 because there is a well-defined community
9 of interest in the litigation and the proposed Class is easily ascertainable.

10 **A. Numerosity**

11 32. The potential Class Members as defined are so numerous that joinder of all the
12 members of the Class is impracticable. While the precise number of Class Members has not been
13 determined yet, Plaintiffs are informed and believe that there are over seventy-five (75) Class
14 Members employed by Defendants within the State of California.

15 33. Accounting for employee turnover during the relevant periods necessarily increases
16 this number. Plaintiffs allege Defendants' employment records would provide information as to the
17 number and location of all Class Members. Joinder of all members of the proposed Class is not
18 practicable.

19 **B. Commonality**

20 34. There are questions of law and fact common to Class Members. These common
21 questions include, but are not limited to:

- 22 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
23 worked at a proper overtime rate of pay?
- 24 B. Did Defendants violate Labor Code sections 226.2, 510 and 1194 by failing to
25 include piece rate compensation in calculation of the legal piece rate overtime rate?
- 26 C. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay
27 for all other time worked at the employee's regular rate of pay and a rate of pay that
28 is greater than the applicable minimum wage?

- 1 D. Did Defendants violate Labor Code section 226.2 by failing to track and pay for all
2 nonproductive time that is separate and apart from any piece rate compensation?
- 3 E. Did Defendants violate Labor Code section 226.2 by failing to track and pay for all
4 rest and recovery time that is separate and apart from any piece rate compensation?
- 5 F. Did Defendants violate Labor Code section 512 by not authorizing or permitting
6 Class Members to take compliant meal periods?
- 7 G. Did Defendants violate Labor Code section 226.7 by not providing Class Members
8 with additional wages for missed or interrupted meal periods?
- 9 H. Did Defendants violate applicable Wage Orders by not authorizing or permitting
10 Class Members to take compliant rest periods?
- 11 I. Did Defendants violate Labor Code section 226.7 by not providing Class Members
12 with additional wages for missed rest periods?
- 13 J. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
14 Members upon termination or resignation all wages earned?
- 15 K. Are Defendants liable to Class Members for waiting time penalties under Labor Code
16 section 203?
- 17 L. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
18 Class Members with accurate wage statements?
- 19 M. Did Defendants violate Labor Code sections 226 and 226.2 by failing to furnish
20 employees paid on a piece rate basis with an itemized statement that included the
21 total hours of compensable nonproductive time, the rate of compensation, and the
22 gross wages paid for those periods during the pay period?
- 23 N. Did Defendants violate Labor Code sections 226 and 226.2 by failing to furnish
24 employees paid on a piece rate basis with an itemized statement that included the
25 total hours of compensable rest and recovery periods, the rate of compensation, and
26 the gross wages paid for those periods during the pay period?
- 27 O. Did Defendants fail to pay Class Members in a timely fashion as required under
28 Labor Code section 204?

1 P. Did Defendants fail to indemnify Class Members for all necessary expenditures or
2 losses incurred in direct consequence of the discharge of their duties or by obedience
3 to the directions of Defendants as required under Labor Code section 2802?

4 Q. Did Defendants violate the Unfair Competition Law, Business and Professions Code
5 section 17200, *et seq.*, by their unlawful practices as alleged herein?

6 R. Are Class Members entitled to restitution of wages under Business and Professions
7 Code section 17203?

8 S. Are Class Members entitled to costs and attorneys' fees?

9 T. Are Class Members entitled to interest?

10 **C. Typicality**

11 35. The claims of Plaintiffs herein alleged are typical of those claims which could be
12 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
13 by each Class Member in separate actions. Plaintiffs and Class Members sustained injuries and
14 damages arising out of and caused by Defendants' common course of conduct in violation of laws
15 and regulations that have the force and effect of law and statutes as alleged herein.

16 **D. Adequacy of Representation**

17 36. Plaintiffs will fairly and adequately represent and protect the interest of Class
18 Members. Counsel who represents Plaintiffs is competent and experienced in litigating wage and
19 hour class actions.

20 **E. Superiority of Class Action**

21 37. A class action is superior to other available means for the fair and efficient
22 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
23 questions of law and fact common to Class Members predominate over any questions affecting only
24 individual Class Members. Class Members, as further described therein, have been damaged and
25 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the
26 violation of the Labor Code at times, as set out herein.

27 38. Class action treatment will allow Class Members to litigate their claims in a manner
28 that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware

1 of any difficulties that are likely to be encountered in the management of this action that would
2 preclude its maintenance as a class action.

3 **PAGA REPRESENTATIVE ALLEGATIONS**

4 39. At all relevant times mentioned herein, Defendants had and have a policy or practice
5 of failing to pay overtime wages to Plaintiffs, Class Members, and other Aggrieved Employees in the
6 State of California in violation of California state wage and hour laws as a result of, without limitation,
7 Plaintiffs, Class Members, and other Aggrieved Employees working over eight (8) hours per day,
8 forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them
9 proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all
10 minutes actually worked; engaging, suffering, or permitting employees to work off the clock,
11 including, without limitation, by requiring employees: to remain on-call, to suffer under Defendants'
12 control to complete pre-shift tasks before clocking in and post-shift tasks after clocking out (including
13 answering calls from dispatch and others), to clock out for meal periods and continue working, to don
14 and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to
15 make phone calls or drive off the clock; failing to include all forms of remuneration, including non-
16 discretionary bonuses, incentive pay, meal allowances, and other forms of remuneration into the
17 regular rate of pay for the pay periods where overtime was worked and the additional compensation
18 was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee
19 time entries, editing and/or manipulation of time entries to show less hours than actually worked, for
20 paying straight pay instead of overtime pay, and engaging, suffering, or permitting employees to go
21 through temperature checks off the clock to the detriment of Plaintiffs, Class Members and other
22 Aggrieved Employees.

23 40. At all relevant times mentioned herein, Defendants had and have a practice or policy
24 of failing to compensate Plaintiffs, Class Members, and other Aggrieved Employees with minimum
25 wages for all hours worked or otherwise under Defendants' control as a result of, without limitation,
26 failing to accurately track and/or pay for all minutes actually worked; by requiring employees: to
27 remain on- call; to suffer under Defendants' control to complete pre-shift tasks before clocking in and
28 post-shift asks after clocking out (including answering calls from Defendant and others), to clock out

1 for meal periods and continue working, to don and doff uniforms and/or safety equipment off the
2 clock, to attend company meetings off the clock, to make phone calls or drive off the clock; detrimental
3 rounding of employee time entries, editing and/or manipulation of time entries to show less hours than
4 actually worked; failing to pay reporting time pay; failing to pay split shift premiums; and engaging,
5 suffering, or permitting employees to go through temperature checks off the clock to the detriment of
6 Plaintiffs, Class Members, and other Aggrieved Employees.

7 41. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to provide Plaintiffs, Class Members, and other Aggrieved Employees a thirty (30) minute
9 uninterrupted, timely, and complete meal period for days on which the employee worked in excess of
10 five (5) and ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-
11 minute meal periods or compensation in lieu thereof including, without limitation, by interrupting
12 meal periods; not providing timely meal periods; failing to provide first and second meal periods.

13 42. At all relevant times mentioned herein, Defendants had and have a policy or practice
14 of failing to provide Plaintiffs, Class Members, and other Aggrieved Employees paid, uninterrupted,
15 timely, and complete rest periods of at least ten (10) minutes per four (4) hours worked or major
16 fractions thereof, or compensation in lieu thereof, including, without limitation, by failing to provide
17 rest periods all together; requiring that they be bundled together and/or with meal periods; interrupting
18 them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not
19 providing them in a timely fashion; and not permitting employees to leave the premises; and/or
20 otherwise requiring on-duty/on-call rest periods, as required by California wage and hour laws.

21 43. At all relevant times mentioned herein, Defendants had and have a policy or practice
22 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
23 Plaintiffs, Class Members, and other Aggrieved Employees with itemized wage statements that
24 accurately reflect gross wages earned; total hours worked by the employee; net wages earned; all
25 deductions; all applicable hourly rates in effect during the pay period and the corresponding number
26 of hours worked at each hourly rate by the employee; and other such information as required by Labor
27 Code section 226, subdivision (a).

28 44. At all relevant times mentioned herein, Defendants had and have a policy or practice

1 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
2 Plaintiffs, Class Members, and other Aggrieved Employees with documents signed to obtain or hold
3 employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and
4 time records under Labor Code section 1174, making it difficult for Plaintiffs, Class Members, and
5 other Aggrieved Employees to calculate their unpaid wages and/or premium payments, to the
6 detriment of Plaintiffs, Class Members, and other Aggrieved Employees.

7 45. At all relevant times mentioned herein, Defendants had and have a policy or practice
8 of failing to timely pay Plaintiffs, Class Members, and other Aggrieved Employees, among other
9 wages, all wages owed as a result of Defendants' practice or policy of failing to pay, among other
10 wages, overtime wages, minimum wages, premium wages, paid time off and vacation time owed as
11 required by Labor Code sections 201, 202, and 203.

12 46. At all relevant times herein, Defendants had and have a policy or practice of failing
13 to pay Plaintiffs, Class Members, and Aggrieved Employees their paid time off and vacation time
14 owed upon separation of employment as wages at their final rate of pay in violation of Labor Code
15 section 227.3 and applicable Wage Orders.

16 47. At all relevant times mentioned herein, Defendants have had a policy or practice of
17 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
18 limitation, Plaintiffs, Class Members, and other Aggrieved Employees, with their costs incurred for
19 driving personal vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other
20 deposits, separately laundering mandatory uniforms, for the purchase of tools and safety equipment
21 (including work boots to handle oil), for the purchase and maintenance of cellular phones and cellular
22 phone plans, in direct consequence of the discharge of their duties, or of their obedience to the directions
23 of Defendants, as required by Labor Code 2802.

24 48. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
26 Protection Act of 2011) by, among other things, failing to provide Plaintiffs, Class Members, and other
27 Aggrieved Employees with the rates of pay and overtime rates of pay applicable to their employment;
28 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the

1 name, address, and telephone number of the workers' compensation insurance carrier; information
2 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants under
3 Labor Code section 2810.5.

4 49. At all relevant times mentioned herein, Defendants failed to provide Plaintiffs, Class
5 Members and other Aggrieved Employees with the amount of paid sick leave required to be provided
6 pursuant to California law (including, without limitation Labor Code section 246, *et seq.*), and also did
7 not permit its use upon request as contemplated under California laws, to the detriment of Plaintiffs, Class
8 Members and all other Aggrieved Employees.

9 50. At all relevant times mentioned herein, Defendants have had a policy or practice of failing
10 to pay Plaintiffs, Class Members and Aggrieved Employees their wages in accordance with Labor Code
11 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any
12 calendar month shall be paid for between the 16th and 26th day of the month during which the labor was
13 performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall
14 be paid for between the 1st and 10th day of the following month."

15 51. At all relevant times mentioned herein, Defendants had and have a policy or practice of
16 preventing Plaintiffs, Class Members and/or Aggrieved Employees from using or disclosing the skills,
17 knowledge and experience they obtained at Defendants for purposes of competing with Defendants,
18 including, without limitation, preventing Employees from disclosing their wages in negotiating a new job
19 with a prospective employer, and from disclosing who else works at Defendants and under what
20 circumstances that they might be receptive to an offer from a rival employer. Plaintiffs are informed and
21 believes that this policy and/or practice violates Business and Professions Code sections 17200, 16600
22 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections
23 232, 232.5, and 1197.5, subdivision (k).

24 52. Defendants had and have a policy or practice of preventing Plaintiffs, Class Members
25 and/or other Aggrieved Employees from disclosing violations of state and federal law, either within
26 Defendants to their managers or outside to private attorneys or government officials, among others, in
27 violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
28 1102.5. In addition, Plaintiffs are informed and believes that Defendants' herein-described policies and/or

1 practices prevent Plaintiffs, Class Members and/or other Aggrieved Employees from disclosing
2 information about unsafe or discriminatory working conditions, or about wage and hour violations in
3 violation of Labor Code section 232 and 232.5.

4 53. Defendants have and have a policy or practice of preventing Plaintiffs, Class Members
5 and/or other Aggrieved Employees from engaging in lawful conduct during non-work hours, thus
6 violating state statutes entitling employees to disclose wages, working conditions, and illegal conduct,
7 including, without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
8 subdivision (k). Plaintiff is informed and believe that this lawful conduct includes the exercise of
9 Plaintiff's, Class Members and/or other Aggrieved Employee's constitutional rights of freedom of speech
10 and economic liberty.

11 54. Plaintiffs, in Plaintiff's representative capacity, seeks civil penalties under Labor Code
12 sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the
13 California Labor Code as described above, including on behalf of Plaintiffs, Class Members and other
14 Aggrieved Employees pursuant to PAGA.

15 **FIRST CAUSE OF ACTION**

16 **(Failure to Pay Overtime Wages – Against All Defendants)**

17 55. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
18 preceding paragraphs as though fully set forth hereat.

19 56. At all relevant times, Plaintiffs and Class Members were employees or former
20 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
21 Wage Orders.

22 57. At all times relevant to this Complaint, Labor Code section 510 was in effect and
23 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
24 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated
25 at the rate of no less than one and one-half times the regular rate of pay for an employee."

26 58. At all times relevant to this Complaint, Labor Code section 510 further provided that
27 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
28 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any

seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

59. Four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiffs and Class Members, at times, worked for Defendants during shifts that consisted of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to make phone calls off the clock; failing to include all forms of remuneration, including piece rate compensation, non-discretionary bonuses, incentive pay, meal allowances, and other forms of remuneration into the regular rate of pay for the workweeks in which overtime was worked and the additional compensation was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked, and for paying straight pay instead of overtime pay to the detriment of Employee and other aggrieved employees, to the detriment of Plaintiffs and Class Members.

60. Accordingly, by requiring Plaintiffs and Class Members to, at times, work greater than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and applicable IWC Wage Orders, and California law.

61. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus interest and penalties thereon, attorneys’ fees and costs, pursuant to Labor Code section 1194 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

1 62. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
2 preceding paragraphs as though fully set forth hereat.

3 63. At all relevant times, Plaintiffs and Class Members were employees or former
4 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

5 64. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiffs and
6 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
7 Defendants' control.

8 65. For four (4) years prior to the filing of the Complaint in this Action through the
9 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at
10 their regular rate of pay that is above the minimum wage; engaging, suffering, or permitting
11 employees to work off the clock, including, without limitation, by requiring employees to complete
12 pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods
13 and continue working, to make phone calls off the clock; detrimental rounding of employee time
14 entries, editing and/or manipulation of time entries to show less hours than actually worked; failing
15 to track and pay for all nonproductive time and failing to accurately track and pay for rest and
16 recovery periods that is separate and apart from any piece rare compensation, to the detriment of
17 Plaintiffs and Class Members.

18 66. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
19 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
20 for all hours worked or otherwise due.

21 67. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
22 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled
23 to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
24 damages, reasonable attorneys' fees and costs of suit.

25 ///

26
27 ///

28 **THIRD CAUSE OF ACTION**

(Failure to Provide Meal Periods – Against All Defendants)

68. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

69. At all relevant times, Plaintiffs and Class Members were employees or former employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

70. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall employ an employee for a work period of more than five (5) hours without a timely meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second timely meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.

71. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

72. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiffs and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

73. By their failure to provide Plaintiffs and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing, at times, to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 512 and applicable Wage Orders.

74. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

75. Plaintiffs and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

76. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

77. At all relevant times, Plaintiffs and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

78. California law and applicable Wage Orders require that employers “authorize and permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

79. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

80. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiffs and Class Members were, at times, not authorized or permitted to take complete, timely 10-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not authorized or permitted to take compliant rest periods.

81. By their failure, at times, to authorize and permit Plaintiffs and Class Members to

1 take rest periods contemplated by California law, and one (1) additional hour of pay at the
2 employee's regular rate of compensation for such unprovided rest periods, as alleged above,
3 Defendants willfully violated the provisions of Labor Code section 226.7 and applicable Wage
4 Orders.

5 82. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
6 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
7 owed for rest periods that they were not authorized or permitted to take.

8 83. Plaintiffs and Class Members are entitled to recover the full amount of their unpaid
9 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus
10 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,
11 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

12 **FIFTH CAUSE OF ACTION**

13 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

14 84. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
15 preceding paragraphs as though fully set forth hereat.

16 85. At all relevant times, Plaintiffs and Class Members were employees or former
17 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
18 Wage Orders.

19 86. Pursuant to Labor Code sections 201 and 202, Plaintiffs and Class Members were
20 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
21 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
22 discharge immediately upon termination. Class Members who resigned were entitled to payment
23 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation
24 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and
25 unpaid at the time of resignation.

26 87. Plaintiffs are informed and believe, and based thereon allege, that in the three (3)
27 years before the filing of the Complaint in this Action through the present, Defendants, due to the
28 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiffs and Class

1 Members all wages earned prior to resignation or termination in accordance with Labor Code
2 sections 201 or 202.

3 88. Plaintiffs are informed and believe Defendants' failure, at times, to pay Plaintiffs and
4 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
5 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiffs
6 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,
7 but intentionally adopted policies or practices incompatible with the requirements of Labor Code
8 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination
9 or resignation.

10 89. Pursuant to Labor Code section 203, Plaintiffs and Class Members are entitled to
11 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
12 resignation, until paid, up to a maximum of thirty (30) days.

13 90. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
14 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
15 prior to termination or resignation.

16 91. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
17 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
18 waiting time penalties, interest, and their costs of suit, as well.

19 **SIXTH CAUSE OF ACTION**

20 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

21 92. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
22 preceding paragraphs as though fully set forth hereat.

23 93. At all relevant times, Plaintiffs and Class Members were employees or former
24 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

25 94. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and Class Members
26 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
27 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
28 wages earned; all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate; and the name and address of the legal entity that is the
2 employer; and the name and address of the entity securing the services of the farm labor contractor
3 who employed Plaintiffs and Class Members, among other things. Further, Labor Code section
4 226.2 requires that wage statements also include the total compensation earned for piece rate work
5 performed, total compensation for nonproductive work performed, total compensation for rest and
6 recovery periods, the total hours of nonproductive time worked and the rate of pay therefore, the
7 total hours of rest and recovery periods taken and the rate of pay therefore, the total amount of
8 overtime wages earned, and the proper overtime rate(s) of pay.

9 95. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed
10 to provide Plaintiffs and Class Members accurate itemized wage statements pursuant to Labor Code
11 sections 226, subdivision (a) and 226.2, subdivisions (a)(2)(A-B) on each and every wage statement
12 that should have been provided, including by failing to itemize and/or pay all nonproductive time
13 and rest and recovery time for each.

14 96. Plaintiffs are informed and believe, and based thereon allege, that in the one (1) year
15 before the filing of the Complaint in this Action through the present, Defendants failed to comply
16 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
17 failure, at times, to furnish Plaintiffs and Class Members with accurate itemized statements that
18 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;
19 all applicable hourly rates in effect during the pay period and the corresponding number of hours
20 worked at each hourly rate; applicable piece rates in effect during the pay period and the
21 corresponding number of pieces earned; the name and address of the legal entity that is the employer;
22 name and address of the entity securing the services of the farm labor contractor who employed
23 Plaintiffs and Class Members; the total hours of compensable rest and recovery periods; the total
24 hours of nonproductive time, and other such information as required by Labor Code sections 226,
25 subdivision (a) and 226.2. Defendants' failure to, at times, provide Plaintiffs and Class Members
26 with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to
27 provide Plaintiffs and the other Class Members with accurate wage statements, but, at times,
28 willfully provided wage statements that Defendants knew were not accurate.

97. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have suffered injury. The absence of accurate information on Class Members' wage statements at times has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and mathematical computations to determine the amount of wages owed; causes difficulty and expense in attempting to reconstruct time and pay records; and led to submission of inaccurate information about wages and amounts deducted from wages to state and federal governmental agencies, among other things.

98. Pursuant to Labor Code section 226, subdivision (e), Plaintiffs and Class Members are entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay period, not to exceed an aggregate \$4,000.00 per employee.

99. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure section 1032, Civil Code section 3287, Plaintiffs and Class Members are entitled to recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

(Failure to Timely Pay Wages During Employment – Against All Defendants)

100. Plaintiffs reallege each and every allegation set forth in the preceding paragraphs and incorporate each by reference as though fully set forth hereat.

101. At all relevant times, Plaintiffs and Class Members were employees or former employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

102. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.”

103. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay

1 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
2 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
3 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
4 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25
5 percent of the amount unlawfully withheld.”

6 104. Plaintiffs are informed and believe, and based thereon allege, that in the one (1) year
7 before the filing of the Complaint in this Action through the present, Defendants employed policies
8 and practices that resulted in, at times, not paying Plaintiffs and Class Members in accordance with
9 Labor Code section 204.

10 105. Pursuant to Labor Code section 210, Plaintiffs and Class Members are entitled to
11 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one
12 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)
13 for each subsequent violation in connection with each payment that was made in violation of Labor
14 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

15 106. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
16 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recovery of
17 penalties, interest, and their costs of suit, as well.

18 **EIGHTH CAUSE OF ACTION**

19 **(Violation of Labor Code § 2802 – Against All Defendants)**

20 107. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
21 preceding paragraphs as though fully set forth hereat.

22 108. At all relevant times, Plaintiffs and Class Members were employees or former
23 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

24 109. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify
25 his or her employee for all necessary expenditures or losses incurred by the employee in direct
26 consequence of the discharge of his or her duties . . .”

27 110. For three (3) years prior to the filing of the Complaint in this Action through the
28 present, Defendants required Plaintiffs and Class Members, or some of them, to incur, at times,

1 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
2 obedience to the directions of Defendants that included, without limitation: purchasing and using
3 cellular phones for work-related purposes.

4 111. During that time period, Plaintiffs are informed and believe, and based thereon allege
5 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiffs and
6 Class Members for those losses and/or expenditures.

7 112. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
8 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
9 herein-described losses and/or expenditures.

10 113. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
11 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
12 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and
13 costs of suit.

14 **NINTH CAUSE OF ACTION**

15 **(Unfair Competition – Against All Defendants)**

16 114. Plaintiffs reallege and incorporates by reference all of the allegations contained in
17 the preceding paragraphs as though fully set forth hereat.

18 115. Plaintiffs are informed and believe, and based thereon allege that the unlawful
19 conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business
20 and Professions Code section 17200. Due to their unlawful business practices in violation of the
21 Labor Code, Defendants have gained a competitive advantage over other comparable companies
22 doing business in the State of California that comply with their obligations to compensate employees
23 in accordance with the Labor Code.

24 116. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and Class
25 Members have suffered injury in fact and lost money or property.

26 117. Pursuant to Business and Professions Code section 17203, Plaintiffs and Class
27 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
28 Code and requiring the establishment of appropriate and effective means to prevent further

1 violations, as well as restitution of all wages and other monies owed to them under the Labor Code,
2 including interest thereon, in which they had a property interest and which Defendants nevertheless
3 failed to pay them and instead withheld and retained for themselves. Restitution of the money owed
4 to Plaintiffs and Class Members is necessary to prevent Defendants from becoming unjustly
5 enriched by their failure to comply with the Labor Code.

6 118. Plaintiffs and Class Members are entitled to costs of suit under Code of Civil
7 Procedure section 1032 and interest under Civil Code section 3287.

8 **TENTH CAUSE OF ACTION**

9 **Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

10 119. Plaintiffs re-allege each and every allegation set forth in the preceding paragraphs
11 and incorporate each by reference as though fully set forth hereat.

12 **Civil Penalties Under Labor Code § 210**

13 120. At all relevant times herein, Labor Code section 204, requires and required that:
14 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
15 between the 16th and 26th day of the month during which the labor was performed, and labor
16 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
17 between the 1st and 10th day of the following month.”

18 121. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
19 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
20 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
21 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
22 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
23 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
24 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

25 122. At all relevant times herein, Defendants have had a consistent policy or practice of
26 failing to pay Plaintiffs and/or Aggrieved Employees during their employment on a timely basis as
27 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiffs, and other
28

1 Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of Labor
2 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
3 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
4 for each subsequent violation in connection with each payment that was made in violation of Labor
5 Code section 204.

6 Civil Penalties Under Labor Code § 226.3

7 123. Defendants had and have a policy or practice of failing to comply with Labor Code
8 section 226, subdivision (a) by intentionally failing to furnish Plaintiffs, and Aggrieved Employees
9 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
10 wages earned; the name and address of each employer with whom they have been placed to work;
11 all applicable hourly rates in effect during the pay period and the corresponding number of hours
12 worked at each hourly rate; the legal name of the employer and/or the name and address of the legal
13 entity securing the employer's services if the employer is a farm labor contractor; and other such
14 information as required by Labor Code section 226, subdivision (a).

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

20 125. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
21 this section are in addition to any other penalty provided by law."

22 126. Plaintiffs is informed and believe, and based thereon alleges, that Defendants had
23 and have a policy or practice of failing to furnish non-exempt employees, including, without limitation,
24 Plaintiffs, with itemized wage statements that accurately reflect gross wages earned; total hours worked;
25 net wages earned; all deductions; all applicable hourly rates in effect and the corresponding number of
26 hours worked at each hourly rate in effect during the pay period; the legal name of the employer and/or
27 the name and address of the legal entity securing the employer's services if the employer is a farm labor
28 contractor; and other such information as required by Labor Code section 226, subdivision (a).

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

6
7 Violation of Labor Code § 558

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

- 12 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
13 pay period for which the employee was underpaid in addition to an amount sufficient
14 to recover underpaid wages;
- 15 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
16 employee for each pay period for which the employee was underpaid in addition to
17 an amount sufficient to recover underpaid wages;
- 18 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

19 129. Plaintiffs are informed and believe, and based thereon allege, that Defendants, and each
20 of them, violated, or caused to be violated, the Labor Code sections described herein, including causing
21 Plaintiffs and other Aggrieved Employees not to: be paid overtime wages and minimum wages; receive
22 meal and rest periods or compensation in lieu thereof; be paid timely wages during their employment and
23 after their employment separation; receive accurate, itemized wage statements; be provided with the
24 opportunity to inspect employment records; be provided with notice as required under Labor Code section
25 2810.5; be provided with the proper accrual and use of paid sick leave; and/or be paid out all paid time
26 off and/or vacation wages owed at the proper rate of pay.

27 130. As a direct and proximate result of the herein-described Labor Code violations, pursuant
28

1 to Labor Code section 558, Plaintiffs and other Aggrieved Employees are entitled to recover civil
2 penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for
3 each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each
4 Aggrieved Employee per pay period for each subsequent violation.

5 Violation of Labor Code § 1174.5

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

12 132. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
13 every person employing labor in California to “[k]eep a record showing the names and addresses of
14 all employees employed and the ages of all minors.”

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

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

1 135. Plaintiffs are informed and believe, and based thereon alleges, that Defendants have
2 willfully failed keep adequate or accurate time records including wage statements and similar
3 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
4 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
5 under Labor Code section 1174.

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

10 Violation of Labor Code § 1197.1

11 137. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other person
12 acting either individually or as an officer, agent, or employee of another person, who pays or causes to be
13 paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an
14 order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages
15 payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:

16 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
17 for each underpaid employee for each pay period for which the employee is
18 underpaid. This amount shall be in addition to an amount sufficient to
19 recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
20 applicable penalties imposed pursuant to Section 203.

21 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
22 (\$250) for each underpaid employee for each pay period for which the employee is
23 underpaid regardless of whether the initial violation is intentionally committed.
24 This amount shall be in addition to an amount sufficient to recover underpaid
25 wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties
26 imposed pursuant to Section 203.
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(3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

138. Plaintiffs are informed and believe, and based thereon alleges, that Defendants caused Plaintiffs and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without limitation, routinely failing to pay Plaintiffs or other Aggrieved Employees to pay minimum wages for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated damages.

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

Civil Penalties Under Labor Code § 2699

140. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

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

142. Plaintiffs are informed and believe and based thereon alleges that Defendants, and

1 each of them, violated the Labor Code sections described herein, including, without limitation, for
2 the failure to: pay overtime wages and minimum wages; provide meal and rest periods or
3 compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during
4 employment and after employment separation; provide employees the opportunity to inspect
5 employment records; reimburse Aggrieved Employees for costs incurred in furtherance of their work
6 duties; provide notice as required under Labor Code section 2810.5; provide the proper accrual and
7 use of paid sick leave; paying employees all owed paid time off and vacation time owed by separation
8 at the proper rate of pay; and placing restraints on competition, whistleblowing and freedom of speech,
9 entitling Plaintiffs and other Aggrieved Employees to civil penalties for each of these Labor Code
10 violations in the amounts set forth in Labor Code section 2699, subdivision (f).

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

14 **DEMAND FOR JURY TRIAL**

15 144. Plaintiffs demand a trial by jury on all causes of action contained herein.

16 **PRAYER**

17 WHEREFORE, on behalf of Plaintiffs and Class Members, Plaintiffs pray for judgment
18 against Defendants as follows:

- 19 A. An order certifying this case as a Class Action;
20 B. An Order appointing Plaintiffs as Class representative and appointing Plaintiffs'
21 counsel as class counsel;
22 C. Damages for all wages earned and owed, including minimum and overtime wages,
23 under Labor Code sections 510, 1194, 1197 and 1199;
24 D. Liquidated damages pursuant to Labor Code section 1194.2;
25 E. Damages for unpaid premium wages from missed meal and rest periods under,
26 among other Labor Code sections, 512 and 226.7;
27 F. Penalties for inaccurate wage statements under Labor Code sections 226,
28 subdivision (e) and 226.2;

- 1 G. Waiting time penalties under Labor Code sections 203;
2 H. Penalties to timely pay wages under Labor Code section 210;
3 I. Damages under Labor Code sections 2802;
4 K. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
5 1174.5, 1197.1, 2699, and 2802, and all other applicable sections listed *infra*;
6 L. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
7 210, 226.3, 558, 1174.5, 1197.1, 2699, 2802, and all other applicable sections listed *infra*;
8 M. Preliminary and permanent injunctions prohibiting Defendants from further
9 violating the California Labor Code and requiring the establishment of appropriate
10 and effective means to prevent future violations;
11 N. Restitution of wages and benefits due which were acquired by means of any unfair
12 business practice, according to proof;
13 O. Prejudgment and post-judgment interest at the maximum rate allowed by law;
14 P. For attorneys' fees in prosecuting this action;
15 Q. For costs of suit incurred herein; and
16 R. For such other and further relief as the Court deems just and proper.

17
18 Dated: March 12, 2025

BIBIYAN LAW GROUP, P.C.

19
20 BY: /s/ Vedang J. Patel

21 VEDANG J. PATEL

22 Attorneys for Plaintiffs, DAMON HAYNES and
23 DASHAWN DWAYNE on behalf of all others
24 similarly situated
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