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7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF VENTURA**

10 **KEVIN GREEN, individually, and on behalf of**
11 **all others similarly situated,**

12 **Plaintiff,**

13 **vs.**

14 **DCOR, LLC, a limited liability company; and**
15 **DOES 1 through 10, inclusive,**

16 **Defendants**
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Case No.: 56-2022-00569980-CU-OE-VTA

**REPRESENTATIVE ACTION
COMPLAINT:**

1. Civil Penalties Under PAGA [Cal. Lab.
Code § 2699, et seq.].

By FAX

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1 Plaintiff Kevin Green (“Plaintiff”), based upon facts that either have evidentiary support
2 or are likely to have evidentiary support after a reasonable opportunity for further investigation
3 and discovery, alleges as follows:

4 **INTRODUCTION & PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action against Defendants DCOR, LLC, and Does 1 through
6 10 (collectively referred to as “Defendants”) for California Labor Code violations and unfair
7 business practices stemming from Defendants’ failure to pay minimum wages, failure to pay
8 overtime wages, failure to provide meal periods, failure to authorize and permit rest periods,
9 failure to maintain accurate records of hours worked and meal periods, failure to timely pay all
10 wages to terminated employees, failure to indemnify necessary business expenses, and failure to
11 furnish accurate wage statements.

12 2. For over 50 years, California’s courts and legislature have recognized that this
13 State’s wage-and-hour laws serve a compelling public interest of fostering a stable job market.
14 Wages are not ordinary debts. Because of the economic position of the average worker and his
15 or her family, it is essential to the public welfare that employers obey the wage-and-hour laws so
16 that employees are promptly paid the minimum/overtime wages that the Legislature has required
17 for employees. So fundamental are California’s wage-and-hour laws that the Legislature has
18 criminalized certain types of violations. In extending extra protection to deter violations of these
19 underlying statutes—since Plaintiff is not seeking general and/or special damages, restitution or
20 other damages other than civil penalties—California has enacted the PAGA to permit an
21 individual to bring an action on behalf of himself and on behalf of others for PAGA penalties
22 only, which is the precise and sole nature of this action.

23 3. All California past and present hourly-paid, non-exempt employees of Defendant
24 employed at any time within the applicable statutory period are “Aggrieved Employees” (also
25 referred to herein as “alleged aggrieved employees”).

26 4. Defendants own/owned and operate/operated an industry, business, and
27 establishment within the State of California, including Ventura County. As such, and based upon
28 all the facts and circumstances incident to Defendants’ business in California, Defendants are

1 subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission
2 (“IWC”), and the California Business & Professions Code.

3 5. Despite these requirements, throughout the statutory period Defendants
4 maintained a systematic, company-wide policy and practice of:

- 5 (a) Failing to pay employees for all hours worked, including all minimum
6 wages, and overtime wages in compliance with the California Labor Code
7 and IWC Wage Orders;
- 8 (b) Failing to provide employees with timely and duty-free meal periods in
9 compliance with the California Labor Code and IWC Wage Orders, failing
10 to maintain accurate records of all meal periods taken or missed, and
11 failing to pay an additional hour’s pay for each workday a meal period
12 violation occurred;
- 13 (c) Failing to authorize and permit employees to take timely and duty-free rest
14 periods in compliance with the California Labor Code and IWC Wage
15 Orders, and failing to pay an additional hour’s pay for each workday a rest
16 period violation occurred;
- 17 (d) Failing to indemnify employees for necessary business expenses incurred;
- 18 (e) Willfully failing to pay employees all minimum wages, overtime wages,
19 meal period premium wages, and rest period premium wages due within
20 the time period specified by California law when employment terminates;
21 and
- 22 (f) Failing to maintain accurate records of the hours that employees worked.
- 23 (g) Failing to provide employees with accurate, itemized wage statements
24 containing all the information required by the California Labor Code and
25 IWC Wage Orders.

26 6. On information and belief, Defendants, and each of them were on actual and
27 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
28

1 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
2 willful and deliberate.

3 7. At all relevant times, Defendants were and are legally responsible for all of the
4 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
5 foregoing paragraphs as the employer of Plaintiff and the Aggrieved Employees. Further,
6 Defendants are responsible for each of the unlawful acts or omissions complained of herein under
7 the doctrine of "respondeat superior".

8 **THE PARTIES**

9 **A. Plaintiff**

10 8. Plaintiff is a California resident that worked for Defendants in the County of
11 Ventura, State of California, as an operator safety technician, primarily in Ventura county, from
12 approximately March 2021 to January 2022.

13 9. Plaintiff reserves the right to seek leave to amend this complaint to add new
14 plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
15 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

16 **B. Defendants**

17 10. Plaintiff is informed and believes, and based upon that information and belief
18 alleges, that Defendant DCOR, LLC is:

- 19 (a) A limited liability company with their principal place of business in
20 Ventura, California;
- 21 (b) A business entity conducting business in numerous counties throughout the
22 State of California, including in Ventura County; and
- 23 (c) The former employer of Plaintiff, and the current and/or former employer
24 of the putative Aggrieved Employees. Defendants suffered and permitted
25 Plaintiff and the Aggrieved Employees to work, and/or controlled their
26 wages, hours, or working conditions.

27 11. Plaintiff does not currently know the true names or capacities of the persons or
28 entities sued herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious

1 names. Each of the Doe Defendants was in some manner legally responsible for the damages
2 suffered by Plaintiff and the Aggrieved Employees as alleged herein. Plaintiff will amend this
3 complaint to set forth the true names and capacities of these Defendants when they have been
4 ascertained, together with appropriate charging allegations, as may be necessary.

5 12. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
6 each of them, were residents of, doing business in, availed themselves of the jurisdiction of,
7 and/or injured a significant number of the Plaintiff and the Aggrieved Employees in the State of
8 California.

9 13. Plaintiff is informed and believes and thereon alleges that at all relevant times
10 each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and
11 the other employees described in the Aggrieved Employees definitions, and exercised control
12 over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon
13 alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer,
14 officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in
15 interest and/or predecessor in interest of some or all of the other Defendants, and was engaged
16 with some or all of the other Defendants in a joint enterprise for profit, and bore such other
17 relationships to some or all of the other Defendants so as to be liable for their conduct with
18 respect to the matters alleged below. Plaintiff is informed and believes and thereon alleges that
19 each Defendant acted pursuant to and within the scope of the relationships alleged above, that
20 each Defendant knew or should have known about, and authorized, ratified, adopted, approved,
21 controlled, aided and abetted the conduct of all other Defendants.

22 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

23 14. Plaintiff is a California resident who worked for Defendants in the County of
24 Ventura, State of California, as an operator safety technician from approximately March 2021 to
25 January 2022. During the statutory period, Defendants classified Plaintiff as non-exempt from
26 California's overtime requirements, and paid Plaintiff an hourly wage.

27 15. Throughout the statutory period, Defendants failed to pay Plaintiff for all hours
28 worked (including minimum wages and overtime wages), failed to provide Plaintiff with

1 uninterrupted meal periods, failed to authorize and permit Plaintiff to take uninterrupted rest
2 periods, failed to indemnify Plaintiff for necessary business expenses, failed to timely pay all
3 final wages to Plaintiff when Defendants terminated Plaintiff's employment, and failed to furnish
4 accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for
5 Defendants was typical and illustrative.

6 16. Throughout the statutory period, Defendants maintained a policy and practice of
7 not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime
8 wages. Plaintiff and the Aggrieved Employees received non-discretionary bonuses and other
9 remuneration. However, Defendants failed to incorporate all remuneration when calculating the
10 overtime rate of pay, meal and rest break rate of pay, and sick pay rate of pay. Throughout the
11 statutory period, Plaintiff and the Aggrieved Employees worked off the clock, and
12 uncompensated. For example, Plaintiff and the Aggrieved Employees performed off the clock
13 work, including performing paperwork while off the clock, uncompensated. Also Plaintiff and
14 the Aggrieved Employees were occasionally required to be on-call, but they were not properly
15 paid for this time. In maintaining a practice of not paying all wages owed, Defendants failed to
16 maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

17 17. Throughout the statutory period, Defendants have wrongfully failed to provide
18 Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants
19 sometimes, but not always, required Plaintiff and the Aggrieved Employees to work in excess of
20 five consecutive hours a day without providing 30-minute, continuous and uninterrupted, duty-
21 free meal period for every five hours of work, or without compensating Plaintiff and the
22 Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of
23 work or tenth hour of work. Defendants also did not adequately inform Plaintiff and the
24 Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or,
25 for shifts greater than 10 hours, by the end of the tenth hour of work. Defendants also failed to
26 accurately record meal periods. Accordingly, Defendants' policy and practice was to not provide
27 meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

1 18. Throughout the statutory period, Defendants have wrongfully failed to authorize
2 and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods.
3 Defendants sometimes, but not always, required Plaintiff and the Aggrieved Employees to work
4 in excess of four consecutive hours a day without Defendants authorizing and permitting them to
5 take a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or
6 major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees
7 for rest periods that were not authorized or permitted. Defendants also did not adequately inform
8 Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendants
9 did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and
10 the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the
11 timing of rest periods. Defendants also did not have adequate policies or practices to verify
12 whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further,
13 Defendants did not maintain accurate records of employee work periods, and therefore
14 Defendants cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods
15 during the middle of each work period. Accordingly, Defendants' policy and practice was to not
16 authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance
17 with California law.

18 19. Throughout the statutory period, Defendants wrongfully required Plaintiff and the
19 Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for
20 Defendants without reimbursement, including the purchase of masks, locker locks, towels, soap,
21 and sheets. Plaintiff and the Aggrieved Employees were also required to use their own personal
22 cellular telephones for work purposes, without full reimbursement.

23 20. Throughout the statutory period, Defendants willfully failed and refused to timely
24 pay Plaintiff and the Aggrieved Employees at the conclusion of their employment all wages for
25 all minimum wages, overtime wages, meal period premium wages, and rest period premium
26 wages.

27 21. Throughout the statutory period, Defendants failed to furnish Plaintiff and the
28 Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly

1 rates, and all gross and net wages earned (including correct hours worked, correct wages earned
2 for hours worked, correct overtime hours worked, correct wages for meal periods that were not
3 provided in accordance with California law, correct wages for rest periods that were not
4 authorized and permitted to take in accordance with California law, and Defendant's address).
5 Further, the wage statements do not show Defendant's address as required by California law. As
6 a result of these violations of California Labor Code § 226(a), the Plaintiff and the Aggrieved
7 Employees suffered injury because, among other things:

- 8 (a) the violations led them to believe that they were not entitled to be paid
9 minimum wages, overtime wages, meal period premium wages, and rest
10 period premium wages to which they were entitled, even though they were
11 entitled;
- 12 (b) the violations led them to believe that they had been paid the minimum,
13 overtime, meal period premium, and rest period premium wages, even
14 though they had not been;
- 15 (c) the violations led them to believe they were not entitled to be paid
16 minimum, overtime, meal period premium, and rest period premium wages
17 at the correct California rate even though they were;
- 18 (d) the violations led them to believe they had been paid minimum, overtime,
19 meal period premium, and rest period premium wages at the correct
20 California rate even though they had not been;
- 21 (e) the violations hindered them from determining the amounts of minimum,
22 overtime, meal period premium, and rest period premium owed to them;
- 23 (f) in connection with their employment before and during this action, and in
24 connection with prosecuting this action, the violations caused them to have
25 to perform mathematical computations to determine the amounts of wages
26 owed to them, computations they would not have to make if the wage
27 statements contained the required accurate information;

- 1 (g) by understating the wages truly due them, the violations caused them to
2 lose entitlement and/or accrual of the full amount of Social Security,
3 disability, unemployment, and other governmental benefits;
4 (h) the wage statements inaccurately understated the wages, hours, and wages
5 rates to which Plaintiff and the Aggrieved Employees were entitled, and
6 Plaintiff and the Aggrieved Employees were paid less than the wages and
7 wage rates to which they were entitled.

8 Thus, Plaintiff and the Aggrieved Employees are owed the amounts provided for in California
9 Labor Code § 226(e), including actual damages.

10 **FIRST CAUSE OF ACTION**

11 **(Against all Defendants for Civil Penalties Under the Private Attorneys General Act**
12 **of 2004, Cal. Lab. Code § 2698 et seq.)**

13 22. Plaintiff incorporates by reference and re-allege as if fully stated herein paragraphs
14 1 through 21 in this Complaint.

15 23. At all times herein mentioned, Defendants were subject to the Labor Code of the
16 State of California and the applicable Industrial Welfare Commission Orders.

17 24. California Labor Code § 2699(a) specifically provides for a private right of action
18 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of
19 law, any provision of this code that provides for a civil penalty to be assessed and collected by
20 the Labor and Workforce Development Agency or any of its departments, divisions,
21 commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative,
22 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
23 herself and other current or former employees pursuant to the procedures specified in Section
24 2699.3.”

25 25. Plaintiff has exhausted his administrative remedies pursuant to California Labor
26 Code § 2699.3. On July 4, 2022, Plaintiff gave written notice by online filing to the Labor and
27 Workforce Development Agency and by certified mail to Defendants of the specific provisions of
28 the Labor Code that Defendants have violated against Plaintiff and current and former aggrieved

employees, including the facts and theories to support the violations (See attached as **Exhibit A**). Plaintiff's PAGA case number is No. LWDA-CM-892787-22. At the time of this filing, 65 days has elapsed since Plaintiff provided notice, but the Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants' Labor Code violations discussed in the notice. Accordingly, Plaintiff may commence a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 558, 1197.1, and 2699(f)(2).

26. In addition, Plaintiff seeks penalties for Defendants' violation of California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods, and total hours worked daily shall also be recorded. Additionally, pursuant to the applicable IWC Order § 7(A)(5), every employer shall keep total hours worked in the payroll period and applicable rates of pay.

27. During the time period of employment for Plaintiff and the Aggrieved Employees, Defendants failed to maintain records pursuant to the Labor Code and IWC Orders by failing to maintain accurate records showing meal periods, and accurate records showing when employees begin and end each work period. Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking

1 to compel Defendants to fully perform its obligation under state law, all to their respective
2 damage in amounts according to proof at trial. Because of Defendants' knowing failure to
3 comply with the Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved
4 Employees have also suffered an injury in that they were prevented from knowing,
5 understanding, and disputing the wage payments paid to them.

6 28. Based on the conduct described in this Complaint, Plaintiff is entitled to an award
7 of civil penalties on behalf of themselves, the State of California, and similarly Aggrieved
8 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount
9 to be shown according to proof at trial. These penalties are in addition to all other remedies
10 permitted by law.

11 29. In addition, Plaintiffs seek an award of reasonable attorney's fees and costs
12 pursuant to California Labor Code § 2699(g)(1), which states, "Any employee who prevails in
13 any action shall be entitled to an award of reasonable attorney's fees and costs."
14

15 **PRAYER FOR RELIEF**

16 Plaintiff, on behalf of all similarly aggrieved employees, prays for relief and judgment
17 against Defendants, jointly and severally, as follows:

18 1. That the Court declare, adjudge and decree that Defendants violated the California
19 Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and
20 overtime wages), failing to provide meal periods, failing to authorize and permit rest periods,
21 failing to furnish accurate wage statements, failing to maintain accurate records of all hours
22 worked and meal periods, failed to reimburse necessary business expenses and, to the extent not
23 already described in this Paragraph, engaging in the acts set forth in Plaintiff's Notice to the Labor
24 and Workforce Development Agency;

25 2. An award of civil penalties on behalf of himself and all similarly aggrieved
26 employees pursuant to PAGA;

27 3. Attorneys' fees and costs reasonably incurred; and,

28 4. Such other and further relief that is allowed by PAGA and the Court deems proper.

1
2 Dated: September 9, 2022

Respectfully submitted,

3 MOON & YANG, APC

4
5 By: 
Kane Moon
6 Lilit Tunyan

7 Attorneys for Plaintiff Kevin Green