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and all others similarly situated and aggrieved

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

JAVIER APARICIO, an individual, on behalf
of himself and all others similarly situated and
aggrieved,

Plaintiff,

vs.

EARL ISING, INC. dba CULLIGAN
WATER, a California Corporation; and DOES
1 through 25, inclusive,

Defendants.

Case No.: **25CV126731**

**CLASS ACTION & PAGA REPRESENTATIVE
ACTION COMPLAINT**

- (1) FAILURE TO PROVIDE MEAL PERIODS;**
- (2) FAILURE TO PROVIDE REST BREAKS;**
- (3) FAILURE TO PAY MINIMUM WAGES;**
- (4) FAILURE TO PAY OVERTIME WAGES;**
- (5) FAILURE TO PAY ALL WAGES UPON
SEPARATION;**
- (6) FAILURE TO REIMBURSE ALL
NECESSARY, BUSINESS-RELATED
EXPENSES;**
- (7) FAILURE TO KEEP AND MAINTAIN
REQUIRED RECORDS;**
- (8) FAILURE TO FURNISH TIMELY AND
ACCURATE WAGE STATEMENTS;**
- (9) VIOLATION OF CALIFORNIA'S UNFAIR
COMPETITION LAW ("UCL"), CAL. BUS.
& PROF. CODE § 17200, *ET SEQ.*; AND**
- (10) CIVIL PENALTIES FOR VIOLATIONS
OF LABOR CODE, PURSUANT TO
CALIFORNIA'S PRIVATE ATTORNEYS
GENERAL ACT ("PAGA"), §§ 2698, *ET
SEQ.***

DEMAND FOR JURY TRIAL

1 **CLASS ACTION AND REPRESENTATIVE ACTION COMPLAINT**

2 Plaintiff JAVIER APARICIO (“Plaintiff” or “APARICIO”), on behalf of himself and all others
3 similarly situated and aggrieved, by and through his attorneys, Abramson Labor Group, hereby files this
4 Class Action and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Complaint
5 against Defendants EARL ISING, INC. doing business as CULLIGAN WATER, a California
6 Corporation; and DOES 1 through 25 inclusive, (collectively, “Defendants”), and states as follows:

7 **I. INTRODUCTION**

8 1. Plaintiff brings this class and representative action on behalf of himself, on behalf of a
9 class defined as all current and former hourly non-exempt employees of Defendants in California at any
10 time during the Class Period beginning four years prior to the filing of this Complaint through the present
11 (“Class Period”), and on behalf of all Aggrieved Persons who worked for Defendants as hourly, non-
12 exempt employees in California at any time during the period beginning one year prior to the PAGA
13 letter (defined below) through the present (“PAGA Period”).

14 2. This is also an enforcement action under the Labor Code Private Attorneys General Act
15 of 2004, California Labor Code section 2698 *et seq.* (“PAGA”) to recover civil penalties and any other
16 available relief on behalf of Plaintiff, the State of California, and other current and former employees
17 who work or worked for Defendants in California as non-exempt, hourly employees and who received at
18 least one wage statement during their employment, and against whom one or more violations of any
19 provision in Division 2, Part 2, Chapter 1 of the Labor Code or any provision regulating hours and days
20 of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order were committed, as set
21 forth in this complaint (“Aggrieved Employees”), at any time between one year and 65 days prior to the
22 filing of this amended complaint (i.e., March 25, 2024) until judgment (the “PAGA Period”). Plaintiff’s
23 share of civil penalties sought in this action does not exceed \$75,000.

24 3. Defendants’ business is operating throughout California as a water purification delivery
25 service provider to both commercial and residential customers, which includes delivery and repair of
26 water softeners and water dispensers and delivery of single-use water bottles and filters.

27 4. Defendants’ policy and practice is to deny earned wages, including premium and overtime
28 pay, to their nonexempt employees in California. Defendants do not provide their employees with legally

1 compliant meal periods and rest breaks nor premium pay in lieu thereof. Additionally, Defendants
2 require their employees to be present and to perform work uncompensated in excess of eight hours per
3 day and/or 40 hours per work week by mandating that these employees perform compensable work off-
4 the-clock including, but not limited to, driving (1) from Defendants' premises to customers' locations in
5 the required company truck full of necessary products, tools, and equipment and then back from
6 customers' locations to Defendants' premises and (2) from Plaintiff's and Class Members' homes in the
7 required company truck full of necessary products, tools, and equipment to customers' locations and then
8 back from customers' locations to Plaintiff's and Class Members' homes, leaving the company truck at
9 their homes, all of which Defendants require to be off the clock and unpaid. Likewise, Defendants do
10 not provide minimum wages and overtime pay for this off-the-clock time. These off-the-clock waiting
11 periods exist for the sole benefit of Defendants and occurred frequently and regularly at Defendants'
12 locations throughout California. This illegal practice has been in effect by Defendants since at least the
13 start of the Class Period.

14 5. Moreover, Defendants fail to timely compensate employees for all wages earned upon
15 separation and fail to properly and accurately calculate minimum wages and overtime wages and report
16 wages earned, hours worked, and wage rates. For these reasons, Plaintiff brings this action on behalf of
17 himself and other hourly, nonexempt employees of Defendants to recover unpaid wages, overtime
18 compensation, penalties, interest, injunctive relief, damages, and reasonable attorneys' fees and costs.

19 6. Defendants' deliberate failure to pay their hourly, nonexempt employees their earned
20 wages and overtime compensation violates the California Labor Code and California's Unfair
21 Competition Law, codified under California's Business & Professions Code.

22 7. Defendants fail to reimburse Plaintiff and Class Members for a variety of unreimbursed
23 business expenses for personal cell phones required to clock in and out on the ADP phone application
24 and to use GPS while driving to navigate to customers' locations. Defendants may have issued Plaintiff
25 and Class Members business cell phones, however, this was not for the entire Class Period and those
26 phones did not have the ADP smart phone application on them to allow Plaintiff and Class Members to
27 clock in and out, so Plaintiff and Class Members had to resort to using their personal cell phones to use
28 ADP.

8. Plaintiff brings a class action under the California Code of Civil Procedure section 382 against all Defendants on behalf of all hourly, nonexempt employees of Defendants in California for failing to provide compliant meal periods and rest breaks or premium pay in lieu thereof, for unpaid minimum wages including for work performed off the clock; unpaid overtime wages; failing to keep and maintain accurate, required records; failing to provide timely and accurate wage statements; failing to timely pay all wages owed at separation; failing to reimburse all necessary, business-related expenses; and other related penalties and damages under the California Labor Code and California Business & Professions Code.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over this matter because Defendants are licensed to do business in California, regularly conduct business in California, and committed and continue to commit the unlawful acts alleged herein in California.

10. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10. The statute under which this action is brought does not specify any other basis for jurisdiction.

11. This Court has jurisdiction over all Defendants because, on information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, and intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this action given that the State of California, as the real party in interest in this action, is not a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

12. Venue lies properly with this Court, as it is the place where at least one defendant resides, is incorporated or has its principal place of business, or a substantial amount of the events which gave rise to this suit occurred and/or a cause of action arose. Thus, venue is proper in this Court, because

Defendants employ persons in this county and employed at least one plaintiff in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

13. California Labor Code sections 2698 *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violating the California Labor Code.

III. PARTIES

14. Plaintiff JAVIER APARICIO (“Plaintiff” or “APARICIO”) is or was a resident of Livermore, California. Defendants employed Plaintiff APARICIO as an hourly-paid, non-exempt employee for about 1.4 years from approximately May 1, 2023 through the October 3, 2024. APARICIO held the position of Technician/Driver. During his employment, Plaintiff APARICIO worked at Defendants’ location in Stockton, California located at 1226 Enterprise Street, Stockton, California 95204. Plaintiff APARICIO typically worked five days per week for 7-10 or more hours per day and at least about forty (40) hours per week. At the time Plaintiff APARICIO’S employment ended, he was earning \$35.00 per hour.

15. Defendant EARL ISING, INC. doing business as CULLIGAN WATER (“CULLIGAN WATER”) is, on information and belief, a California Corporation doing business in California, listing its principal place of business at 487 Preston Court, Livermore, California 94551, and at all times hereinafter mentioned, is an employer whose employees are engaged throughout this county, in the State of California. CULLIGAN WATER is operating in California as a water purification delivery service provider to both commercial and residential customers, which includes delivery and repair of water softeners and water dispensers and delivery of single-use water bottles and filters.

16. Defendants created the policies and procedures described herein and, at all times during the Class Period, participated in, endorsed, implemented, and performed the conduct alleged herein.

17. The practices and policies complained of by way of this Complaint are enforced throughout the State of California, including in Livermore, California.

18. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendants sued as Does 1-25, inclusive, but is informed and believes that said Defendants are legally responsible for the conduct alleged herein and

1 therefore sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege
2 both the true names and capacities of the Doe Defendants when ascertained. Plaintiff is informed and
3 believes, and thereon alleges, that at all times mentioned herein, all Defendants, including Doe
4 Defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint
5 venturers of their co-Defendants and were, as such, acting within the course, scope, and authority of said
6 agency, employment, and/or venture, and with the consent of their co-Defendants, and/or said acts were
7 ratified by their co-Defendants, and that each and every Defendant, as aforesaid, when acting as a
8 principal, was negligent in the selection and hiring, training, and supervision of each and every other
9 Defendant as an agent, servant, employee, successor in interest, and/or joint venturer. Plaintiff is
10 informed and believes that each Defendant acted in all respects pertinent to this action as the agent of
11 the other Defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto,
12 and that the acts of each Defendant are legally attributable to each of the other Defendant.

13 **IV. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

14 19. At all times relevant herein, Defendants' business is operating throughout California as
15 a water purification delivery service provider to both commercial and residential customers, which
16 includes delivery and repair of water softeners and water dispensers and delivery of single-use water
17 bottles and filters.

18 20. Upon information and belief, Defendants are incorporated in California and maintain
19 their corporate operations headquarters, including Human Resources in Livermore, California. Upon
20 information and belief, Defendants maintain a single, centralized Human Resources ("HR")
21 department at their operations headquarters in Livermore, California, which is responsible for
22 conducting Defendants' recruiting and hiring of new employees, as well as communicating and
23 implementing Defendants' company-wide policies, including timekeeping policies, to employees
24 throughout California. In particular, Plaintiff and other Class Members, on information and belief,
25 received the same standardized documents and/or written policies upon hire. Upon information and
26 belief, the use of standardized documents and/or written policies, including new hire documents,
27 indicate that Defendants dictated policies at the corporate-level and implemented them company-wide,
28 regardless of their employees' assigned locations or positions. On information and belief, all

1 transactions regarding hiring, terminations, promotions, and pay increases, etc., relating to
2 Defendants' California employees were submitted to and processed by Defendants' HR department in
3 Livermore, California.

4 21. Upon information and belief, Defendants' corporate records, business records, data, and
5 other information related to Defendants, including, in particular, HR records pertaining to Defendants'
6 California employees, are also maintained at Defendants' operations headquarters in Livermore,
7 California.

8 22. At all relevant times, Defendants have been, and continue to be, a "person" as that term
9 is defined under California Business & Professions Code section 17021 and California Labor Code
10 sections 1-29.5.

11 23. At all times relevant herein, Plaintiff was employed by Defendants as an hourly,
12 nonexempt employee in the position of Technician/Driver in California during the Class Period.

13 24. At all times relevant herein, Plaintiff and Class Members were assigned to and required
14 and permitted to work without pay while performing tasks including, but not limited to: pre- and post-
15 trip inspections of company truck accompanied by logging the inspections; loading and unloading the
16 company truck with repair tools and products (5-gallon water jugs, filters, water bottles, and water
17 softener salts) to be delivered to customers of CULLIGAN WATER; driving the company truck from
18 CULLIGAN WATER'S facility to customers and back to CULLIGAN WATER'S facility or from
19 Plaintiff's and Class Members' homes to customers and back home; complying with CULLIGAN
20 WATER'S delivery window schedules; and fueling the company truck. Plaintiff and Class Members
21 were not properly compensated for some of this work.

22 25. At all times relevant herein, Plaintiff and Class Members worked a substantial amount of
23 time while off-the-clock—meaning they were not punched in for work—and therefore, those working
24 hours were not recorded and then compensated. This off-the-clock time primarily occurred due to
25 Defendants' driving policies, and Plaintiff's and Class Members' off-the-clock time was never
26 subsequently added and, therefore, remains uncompensated. Had this off-the-clock time been recorded,
27 some of those hours should have been compensated at straight time, while it is reasonable to conclude
28

1 most of that time should have been compensated at the overtime rate of 1.5 times Plaintiff's and Class
2 Members' regular rate of pay.

3 26. At all times relevant herein, Plaintiff and Class Members were required to perform work
4 during their shifts but off the clock in the form of (1) driving from Defendants' premises to customers'
5 locations in the required company truck full of necessary products, tools, and equipment and then back
6 from customers' locations to Defendants' premises and (2) driving from Plaintiff's and Class Members'
7 homes in the required company truck full of necessary products, tools, and equipment to customers'
8 locations and then back from customers' locations to Plaintiff's and Class Members' homes, leaving the
9 company truck at their homes. Defendants do not compensate Plaintiff and Class Members for this
10 compensable time worked off the clock and expressly communicated this policy, instructing Plaintiff
11 and Class Members to clock out on the cell phones before beginning their trips.

12 27. Under California law, all of this uncompensated drive time is compensable, because
13 Plaintiff and Class Members were required to drive Defendants' trucks full of necessary products, tools,
14 and equipment and Plaintiff and Class Members were under Defendants' control. It was not an option
15 to leave the company truck at a customers' location (sometimes two hours away) so that Plaintiff and
16 Class Members could get home an alternate way they preferred—they had to bring the company truck
17 back for use on the next business day.

18 28. At all times relevant herein, Defendants failed to establish a mechanism by which Class
19 Members could report missed, late, or short meal periods and rest breaks on a daily basis.

20 29. At all times relevant herein, Plaintiff and Class Members' meal periods were
21 noncompliant primarily because they were not timely (i.e., not taken before the end of the fifth hour),
22 because Plaintiff and Class Members were required to finish all of their assigned deliveries within the
23 specified timeframe delivery windows, meaning there was inadequate time to take a 30-minute cessation
24 in work. These noncompliant meal periods were not cured by premium compensation, and the meal
25 periods were also not compensated for purposes of Defendants' obligation to pay minimum wages for
26 all hours worked.

27 30. Likewise, at all times relevant herein, Plaintiff and Class Members' rest breaks were
28 noncompliant because they were not skipped entirely, because Plaintiff and Class Members were

1 required to finish all of their assigned deliveries within the specified timeframe delivery windows. These
2 noncompliant rest breaks were not cured by premium compensation, so these unpaid rest break
3 premiums owed constitute Defendants' failure to pay minimum wages for all hours worked.

4 31. At all times relevant herein, Plaintiff and Class Members were assigned to and required
5 to work for periods lasting in excess of five hours and were not authorized nor permitted to take timely,
6 full-length 30-minute, uninterrupted, off-duty meal periods. Accordingly, Plaintiff's and Class
7 Members' meal periods were on-duty for which Defendants failed to compensate Plaintiff and Class
8 Members with (1) premium pay for meal periods under 30 minutes and (2) the time worked that was on-
9 duty during these meal periods.

10 32. Moreover, Plaintiff and Class Members regularly worked in excess of 10 hours without
11 a second 30-minute meal period, despite not signing valid meal period waivers.

12 33. At all times relevant herein, Plaintiff and Class Members were assigned to and required
13 and permitted to work shifts lasting over four hours and were not authorized nor permitted to take full,
14 net 10-minute rest breaks during each shift or 4-hour work period.

15 34. At all times relevant herein, Defendants failed to authorize and permit Plaintiff and Class
16 Members to take full, net 10-minute rest breaks during the Class Period. At the direction of Defendants
17 and/or Defendants' knowledge and acquiescence, Plaintiff and Class Members routinely missed their
18 entire 10-minute rest breaks, at least once per shift. Accordingly, all rest breaks were noncompliant for
19 which Defendants should have compensated Plaintiff and Class Members with premium pay for
20 noncompliant rest breaks but failed to do so.

21 35. At all times relevant herein, Plaintiff and Class Members worked in excess of eight hours
22 per workday or 40 hours per work week. Defendants failed to pay for all hours worked in excess of
23 eight hours per day, and when compensated for overtime, failed to pay the correct amount of overtime
24 by under-recording and underreporting Plaintiff's and Class Members' total hours worked. Defendants
25 failed to pay current and former hourly, nonexempt employees one and one-half times (1½) their regular
26 rate of pay for hours worked in excess of eight hours per day or 40 hours per workweek. Defendants
27 also failed to pay their employees at a rate no less than twice the regular rate of pay for work in excess
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1 of 12 hours in one day or for all hours worked in excess of eight hours on the seventh consecutive day
2 of work in a workweek.

3 36. During the Class Period, Defendants require their hourly, nonexempt employees to
4 perform compensable work while off the clock, including (1) driving from Defendants' premises to
5 customers' locations in the required company truck full of necessary products, tools, and equipment and
6 then back from customers' locations to Defendants' premises and (2) driving from Plaintiff's and Class
7 Members' homes in the required company truck full of necessary products, tools, and equipment to
8 customers' locations and then back from customers' locations to Plaintiff's and Class Members' homes,
9 leaving the company truck at their homes. Accordingly, during the Class Period, Defendants did not
10 provide minimum wages and overtime pay for this time worked off-the-clock that Plaintiff and the Class
11 endured.

12 37. Defendants regularly failed to pay their hourly, nonexempt employees the correct amount
13 of and rate for overtime wages. Defendants fail to record all hours as overtime by failing to record all
14 hours worked in a workday. This work, done primarily for the employer's benefit, is time that hourly,
15 nonexempt employees should be, but were not compensated for, both straight hours and overtime hours
16 worked in excess of 40 hours in a week, hours worked in excess of eight hours in a day, and for the first
17 eight hours worked on the seventh consecutive day of work in a workweek.

18 38. Supervisors employed by Defendants, including at Plaintiff's location, had knowledge of
19 and required Plaintiff to perform compensable work during travel time spent driving. Supervisors
20 throughout California were aware that Plaintiff and others similarly situated were performing work
21 during these times without proper wages or overtime compensation, as this was Defendants' policy.

22 39. In light of Defendants' failure to record employees' off-the-clock time that employees
23 worked and Defendants' failure to acknowledge the noncompliant meal periods and rest breaks as
24 explained earlier, Defendants failed to properly calculate the hourly, nonexempt employees' hours and
25 therefore, employees' premium pay, minimum wages, and overtime wages due. Accordingly,
26 Defendants failed to provide accurate wage statements to their hourly, nonexempt employees identifying
27 all hours worked and all rates in effect during the pay period.
28

1 40. At all times relevant herein, Defendants’ wage statements issued to Plaintiff and Class
2 Members were also noncompliant because they did not list the correct, legal name of the employer entity.

3 41. At all times relevant herein, the same unlawful practices and procedures described above
4 affect hourly, nonexempt workers of Defendants employed in California.

5 42. At all times relevant herein, Defendants failed to pay Plaintiff and Class Members for all
6 hours worked. Thus, Defendants did not pay Plaintiff and Class Members minimum wages in
7 accordance with law in the form of drive time, so Class Members were not compensated for some time
8 worked during their shifts (minimum wages), for some hours worked in excess eight hours in duration
9 (overtime wages).

10 43. At all times relevant herein, Defendants failed to reimburse Plaintiff and Class Members
11 for expenses for personal cell phones required to clock in and out on the ADP phone application, to use
12 GPS while driving to navigate to customers’ locations. Defendants may have issued Plaintiff and Class
13 Members business cell phones, however, this was not for the entire Class Period and those phones did
14 not have the ADP smart phone application on them to allow Plaintiff and Class Members to clock in and
15 out, so Plaintiff and Class Members had to resort to using their personal cell phones to use ADP.

16 44. Defendants’ conduct, as alleged herein, has caused Plaintiff and Class Members damages
17 including, but not limited to, loss of wages and compensation. Defendants are liable to Plaintiff and the
18 Class for failing to pay minimum wages, failing to pay overtime wages, failing to pay all wages owed
19 every pay period, failing to provide legally compliant meal periods and rest breaks or premium
20 compensation in lieu thereof, failing to provide timely and accurate wage statements, failing to pay all
21 wages owed upon separation, failing to reimburse all necessary, business-related expenses, and unfair
22 competition.

23 45. Plaintiff has complied with the procedures for bringing suit specified in California Labor
24 Code section 2699.3. By letter dated March 25, 2025, Plaintiff gave written notice by certified mail to
25 the Labor and Workforce Development Agency (“LWDA”), and Defendants, of the specific provisions
26 of the Labor Code alleged to have been violated, including the facts and theories to support the alleged
27 violations.

28 ///

1 **V. CLASS ACTION AND REPRESENTATIVE ACTION ALLEGATIONS**

2 46. Plaintiff is a member of and seeks to be the representative for the Class of similarly
3 situated employees who all have been exposed to, have suffered, and/or were permitted to work under
4 Defendants' unlawful employment practices as alleged herein.

5 47. Plaintiff brings his first through ninth causes of action on behalf of himself and on behalf
6 of the following Class¹ of persons:

7 All current and former hourly non-exempt employees of EARL ISING,
8 INC. doing business as CULLIGAN WATER in California at any time
9 during the Class Period through the present.

10 48. This action is appropriately suited for a class action pursuant to Code of Civil Procedure
11 section 382 because there exists an ascertainable and sufficiently numerous Class, a well-defined
12 community of interest, and substantial benefits from certification that render proceeding as a class
13 superior to the alternatives.

14 49. Numerosity and Ascertainability. The size of the Class makes a class action both
15 necessary and efficient. On information and belief, the proposed Class includes hundreds of current and
16 former employees at Defendants' locations in California. Members of the Class are ascertainable through
17 Defendants' records but are so numerous that joinder of all individual Class Members would be
18 impractical.

19 50. Predominant Common Questions of Law and Fact. Pursuant to section 382, common
20 questions of law and fact exist as to all Class Members. These questions predominate over any
21 individualized issues. These common questions include but are not limited to:

- 22 a. Whether Defendants' policies and practices described in this Complaint were and are illegal;
23 b. Whether Plaintiff and each member of the Class were not paid minimum wage for each hour
24 worked or part thereof during which they were required to perform acts at the direction and
25 for the benefit of Defendants;

26
27
28 ¹ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class description
 with greater particularity or further division into subclasses or limitation to particular issues.

- 1 c. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and the
2 members of the Class who worked as hourly, nonexempt employees in California for the total
3 hours worked, namely, travel time from home to customer or Defendants' premises and back
4 while being required to drive the company vehicle to transport necessary products, tools, and
5 equipment during the Class Period;
- 6 d. Whether Defendants have engaged in a common course of requiring or permitting their
7 hourly, nonexempt employees to not report all hours worked during the Class Period;
- 8 e. Whether Defendants have engaged in a common course of failing to maintain true and
9 accurate time records for all hours worked by their nonexempt employees;
- 10 f. Whether Defendants violated Labor Code section 226.7 and/or section 512 and engaged in a
11 pattern or practice of failing to provide timely, off-duty, 30-minute meal periods to Plaintiff
12 and members of the Class who worked as hourly, nonexempt employees in California during
13 the Class Period;
- 14 g. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and Class Members
15 who worked as hourly, nonexempt employees in California during the Class Period from
16 taking full-length off-duty, 30-minute meal periods by imposing unreasonable time
17 windows/work schedules that required Plaintiff and Class Members to forgo meal periods to
18 complete their daily-assigned jobs on time;
- 19 h. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and the members
20 of the Class who worked as hourly, nonexempt employees in California during the Class
21 Period from taking full-length off-duty, 30-minute meal periods for their second meal periods
22 for shifts worked in excess of 10 hours but not more than 12 hours, where these second meal
23 periods were not waived by mutual consent;
- 24 i. Whether Defendants engaged in a pattern or practice of failing to properly record the duration
25 of time that Plaintiff and Class Members spent driving from Defendants' premises to
26 customers' locations and from customers' locations back to Defendants' premises;
- 27 j. Whether Defendants engaged in a pattern or practice of failing to properly compensate
28 Plaintiff and the members of the Class who worked as hourly, nonexempt employees in

- 1 California during the Class Period for missed, untimely, or on-duty meal periods as required
2 by California law;
- 3 k. Whether Defendants violated section 11 of the applicable California Industrial Welfare
4 Commission's ("IWC") Wage Order(s) by failing to provide Plaintiff and the members of the
5 Class who worked as hourly, nonexempt employees in California during the Class Period with
6 timely, off-duty, 30-minute meal periods;
- 7 l. Whether Defendants engaged in an unfair practice and violated California Business and
8 Professions Code, section 17200, *et seq.* by failing to provide Plaintiff and the members of
9 the Class who worked as hourly, nonexempt employees in California during the Class Period
10 with their statutory, off-duty, meal periods;
- 11 m. Whether Defendants maintained accurate time records of off-duty, 30-minute meal periods
12 taken by Plaintiff and members of the Class during the Class Period in accordance with section
13 7 of the applicable IWC Wage Order(s);
- 14 n. Whether Defendants engaged in a pattern or practice of failing to properly compensate
15 Plaintiff and the members of the Class who worked as hourly, nonexempt employees in
16 California during the Class Period for failing to provide full-length 10-minute rest breaks as
17 contemplated by California law for work periods in excess of four hours;
- 18 o. Whether Defendants failed to compensate, and therefore violated section 12 of the applicable
19 IWC Wage Order(s) and Labor Code section 226.7 by failing to provide 10-minute,
20 uninterrupted rest breaks as contemplated by California law for work periods in excess of four
21 hours;
- 22 p. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of
23 overtime pay to Plaintiff and the Class for hours worked in excess of eight hours in a day;
- 24 q. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of
25 double time for hours worked in excess of 12 hours in a day;
- 26 r. Whether Defendants violated section 510 of the Labor Code and/or section 3 of the applicable
27 IWC Wage Order(s) by failing to pay overtime pay to Plaintiff and the Class for hours worked
28 in excess of eight hours in a day;

- s. Whether Defendants violated section 510 of the Labor Code and/or section 3 of the applicable IWC Wage Order(s) by failing to pay overtime pay to Plaintiff and the Class for the first eight hours worked in a day on the seventh consecutive day in a workweek and double time for all hours worked in excess of eight hours on such days;
- t. Whether Defendants violated Labor Code sections 218.5, 204, 1197, and 1198 due to failure to compensate Plaintiff and the Class for those acts Defendants required Plaintiff and members of the Class to perform for the benefit of Defendants;
- u. Whether Defendants violated California Labor Code section 2802 by failing to reimburse Plaintiff and Class Members for all necessary business-related expenses they incurred;
- v. Whether Defendants violated Labor Code section 226(a) by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to include payments for missed, untimely, and/or on-duty meal periods among wages earned throughout the Class Period;
- w. Whether Defendants violated Labor Code section 226 by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to accurately state Defendants' legal name, to the detriment of Plaintiff and the Class;
- x. Whether Defendants violated Labor Code section 226 by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to accurately state the total hours worked and therefore, the total gross and net wages owed, to the detriment of Plaintiff and the Class;
- y. Whether Defendants have engaged in a common course of failing to timely pay nonexempt employees all wages due upon termination;
- z. Whether Defendants have engaged in unfair competition by the above-listed conduct; and
- aa. The nature and extent of class-wide injury and the measure of damages for the injury.

51. Typicality. Plaintiff's claims are typical of the members of the Class. Plaintiff, like other members of the Class working for Defendants in California, was subjected to Defendants' policy and practice of refusing to properly and fully pay minimum wages, overtime wages, meal period and rest break premiums, failing to reimburse necessary, business-related expenses, and failing to timely pay all wages upon separation in violation of California wage and hour laws. Plaintiff's job duties were and are typical of those of other class members who worked for Defendants in California.

1 52. Adequacy of Representation. Plaintiff will fairly and adequately represent the interests of
2 the Class because his individual interests are consistent with and not antagonistic to the interests of the
3 Class, and because Plaintiff has selected counsel who has the requisite resources and ability to prosecute
4 this case as a class action and are experienced labor and employment attorneys who have successfully
5 litigated other cases involving similar issues.

6 53. Superiority of Class Mechanism. The class action mechanism is superior to any
7 alternatives that might exist for the fair and efficient adjudication of these claims. Proceeding as a class
8 action would permit the large number of injured parties to prosecute their common claims in a single
9 forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort and judicial
10 resources. A class action is the only practical way to avoid the potentially inconsistent results that
11 numerous individual trials are likely to generate. Moreover, class treatment is the only realistic means
12 by which Plaintiff can effectively litigate against a large, well-represented corporate defendant like
13 Defendants. In the absence of a class action, Defendants would be unjustly enriched because they would
14 be able to retain the benefits and fruits of the many wrongful violations of the California state laws.
15 Numerous repetitive individual actions would also place an enormous burden on the courts as they are
16 forced to take duplicative evidence and decide the same issues relating to Defendants' conduct over and
17 over again.

18 **VI. FIRST CAUSE OF ACTION**

19 **Failure to Provide Meal Periods**

20 **in Violation of Cal. Labor Code §§ 512 and 226.7; IWC Wage Order No. 7-2001, § 11**

21 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

22 54. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
23 as if fully set forth herein.

24 55. California Labor Code section 226.7(a) provides, "No employer shall require any
25 employee to work during any meal or rest period mandated by an applicable order of the Industrial
26 Welfare Commission."

27 56. IWC Wage Order No. 7-2001 (11)(A) provides, in pertinent part: "No employer shall
28 employ any person for a work period of more than five (5) hours without a meal period of not less than

30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

57. Section 512(k) of the California Labor Code provides, in pertinent part, that: "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived."

58. Defendants did not provide Plaintiff and Class Members with legally compliant, timely meal periods, because Plaintiff and other Class Members were required to begin their meal periods at the end of their shifts, which was well after the end of the fifth hour, because Plaintiff and Class Members were required to complete all of their jobs and deliveries within pre-set timeframes specified by Defendants.

59. Those timeframes did not permit meal periods to occur earlier. Plaintiff and Class Members recorded their noncompliant, late meal periods, but Defendants neither paid Plaintiff and Class Members meal period premiums nor improved their policies to provide Plaintiff and Class Members timely meal periods.

60. Defendants also did not schedule second meal periods and had no policy for permitting and authorizing Plaintiff and other employees to take second 30-minute meal periods on days they worked in excess of 10 hours in one day. Because of Defendants' companywide practice of denying hourly, nonexempt employees second 30-minute meal periods, Plaintiff and other Class Members were not relieved of all duties such that they could take full-length second 30-minute meal periods and instead had to work during a portion of that time allotted for meal periods. Accordingly, Defendants failed to provide all meal periods in violation of California Labor Code sections 226.7 and 512. Defendants knew or should have known that their companywide adoption of the requirement that employees skip their meal period without executing waivers to do so would result in a failure to provide Plaintiff and other

1 Class Members with full and timely meal periods as required by the applicable IWC Wage Order(s) and
2 Labor Code sections 226.7 and 512(a). Furthermore, Plaintiff and other Class Members did not sign
3 valid meal period waivers on days that they were entitled to meal periods but were not relieved of all
4 duties.

5 61. Moreover, Defendants engaged in a systematic, companywide policy to not pay meal
6 period premiums. Alternatively, to the extent that Defendants did pay Plaintiff and other Class Members
7 one additional hour of premium pay for missed meal periods, Defendants did not pay Plaintiff and other
8 Class Members at the correct rate of pay for premium wages because Defendants failed to include all
9 forms of compensation, such as commissions, incentive pay, and/or nondiscretionary bonuses, in the
10 regular rate of pay. As a result, to the extent Defendants paid Plaintiff and other Class Members premium
11 pay for noncompliant meal periods, it did so at a lower rate than required by law. As a result, Defendants
12 failed to provide Plaintiff and other Class Members compliant meal periods and failed to pay the full
13 meal period premiums due, in accordance with California Labor Code sections 204, 210, 226.7, and 512.

14 62. By their actions in requiring their employees to work during a portion of their meal periods
15 and/or their failure to relieve nonexempt, hourly, nonexempt employees of their duties for their off-duty
16 meal periods, Defendants have violated California Labor Code section 226.7 and section 11 of IWC
17 Wage Order No. 7-2001 and is liable to Plaintiff and the Class.

18 63. As a result of the unlawful acts of Defendants, Plaintiff and the Class have been deprived
19 of timely off-duty meal periods and are entitled to recovery under Labor Code section 226.7(b) and
20 section 11 of IWC Wage Order No. 7-2001, in the amount of one additional hour of pay at the employee's
21 regular rate of pay for each work period during each day in which Defendants failed to provide their
22 hourly, nonexempt employees with timely, statutory, off-duty meal periods.

23 **VII. SECOND CAUSE OF ACTION**

24 **Failure to Provide Rest Breaks**

25 **in Violation of Cal. Labor Code §§ 226.7, 512, and 1194;**

26 **IWC Wage Order No. 7-2001, § 12**

27 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

28 64. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint

as if fully set forth herein.

65. California Labor Code section 226.7(a) provides, “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

66. IWC Wage Order No. 7-2001, section (12)(A) provides, in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work times is less than three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.”

67. IWC Wage Order No. 7-2001, section (12)(B) provides, “If an employer fails to provide an employee with a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

68. As alleged herein, Defendants failed to authorize and permit compliant rest breaks during the Class Period. Plaintiff and members of the Class were routinely required to work during their entire rest breaks at the direction of Defendants and/or with Defendants’ knowledge and acquiescence.

69. Furthermore, as with meal periods, Defendants’ staffing and job-assignment policies required employees to forgo their 10-minute rest breaks, entirely preventing Plaintiff and Class Members from being relieved of all duty in order to take compliant rest breaks; these practices forced Plaintiff and other Class Members to remain on duty for the entirety of both of their rest breaks each shift. As a result, Plaintiff and Class Members would work shifts in excess of 3.5 hours without the net 10-minute rest breaks to which they were entitled. More specifically, throughout his employment, during 8-hour or longer shifts, Plaintiff and Class Members regularly worked during the entirety of both of their 10-minute rest breaks by using that time to continue performing work for Defendants to meet Defendants’ standards and delivery timeframe expectations.

70. At the same time, Defendants implemented a companywide policy to not pay rest break

premiums. Alternatively, to the extent that Defendants did pay Plaintiff and other Class Members one additional hour of premium pay for missed rest breaks, Defendants did not pay Plaintiff and other Class Members at the correct rate of pay for premium wages because Defendants failed to include all forms of compensation, such as commissions, incentive pay, and/or nondiscretionary bonuses, in the regular rate of pay. As a result, to the extent Defendants paid Plaintiff and other Class Members premium pay for missed rest breaks, it did so at a lower rate than required by law. As a result, Plaintiff and other Class Members were denied compliant rest breaks and Defendants failed to pay the full rest break premiums due, in violation of Labor Code section 226.7 and the applicable IWC Wage Order(s).

71. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiff and all others similarly situated and such conduct has continued through the filing of the initial Complaint.

72. As a direct and proximate result of Defendants' unlawful action, Plaintiff and the Class have been deprived of full-length 10-minute rest breaks and/or were not paid for rest breaks taken during the Class Period and are entitled to recovery under Labor Code section 226.7(b) in the amount of one additional hour of pay at the employee's regular rate of compensation for each work period during each day in which Defendants failed to provide employees with compliant and/or paid rest breaks.

VIII. THIRD CAUSE OF ACTION

Failure to Pay Minimum Wages

Upon Payment of Wages in Violation of Cal. Labor Code §§ 510, 1194, 1194.2,

and 1197; IWC Wage Order No. 7-2001, § 4

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

73. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

74. Labor Code section 510 provides in relevant part: "[e]ight hours of labor constitutes a day's work. Any work in excess of eight hours in one work day and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than

twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

75. Labor Code section 1197 provides: “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

76. Labor Code section 1182.12 establishes the right of employees to be paid minimum wages for all hours worked in amounts set by state law.

77. Labor Code section 1194, subdivision (a) provides: “Notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

78. Labor Code section 1194.2 provides in pertinent part: “In any action under Section 1193.6 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

79. Pursuant to IWC Wage Order No. 7-2001, section (2)(H), at all times material hereto, “hours worked” includes “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

80. At all times relevant during the liability period, under the provisions of IWC Wage Order No. 7-2001, Plaintiff and each Class Member should have received not less than the minimum wage in a sum according to proof for the time worked, but not compensated.

81. For all hours that Plaintiff and Class Members worked, they are entitled to not less than the California minimum wage and, pursuant to Labor Code section 1194.2(a) liquidated damages in an amount equal to the unpaid minimum wages and interest thereon.

82. Pursuant to Labor Code section 1194, Plaintiff and Class Members are also entitled to

1 their attorneys' fees, costs, and interest according to proof.

2 83. At all times relevant during the liability period, Defendants willfully failed and refused,
3 and continue to willfully fail and refuse, to pay Plaintiff and Class Members the amounts owed.

4 84. As described above, Plaintiff and other Class Members were required to perform
5 compensable work during their shifts but off the clock in the form of (1) driving from Defendants'
6 premises to customers' locations in the required company truck full of necessary products, tools, and
7 equipment and then back from customers' locations to Defendants' premises and (2) driving from
8 Plaintiff's and Class Members' homes in the required company truck full of necessary products, tools,
9 and equipment to customers' locations and then back from customers' locations to Plaintiff's and Class
10 Members' homes, leaving the company truck at their homes. Defendants do not compensate Plaintiff
11 and Class Members for this compensable time worked off the clock and expressly communicated this
12 policy, instructing Plaintiff and Class Members to clock out on the cell phones before beginning their
13 trips.

14 85. During these trips, Plaintiff and Class Members were required to drive Defendants' trucks
15 full of necessary products, tools, and equipment and Plaintiff and Class Members were under Defendants'
16 control. Plaintiff and Class Members did not have the option to leave the company truck at a customers'
17 location (sometimes two hours away) to allow Plaintiff and Class Members to get home an alternate way
18 that they preferred—they had to bring the company truck back for use on the next business day. Plaintiff
19 and Class Members did not have the option to drive the company truck anywhere they wanted—they had
20 to drive straight home or back to Defendants' premises.

21 86. As such, under California law, all of this uncompensated drive time is compensable.

22 87. Defendants did not pay at least minimum wages for off-the-clock hours that should have
23 been compensated as straight time nor did Defendants pay for some of those hours that qualified for
24 overtime premium payment.

25 88. Defendants' unlawful conduct alleged herein occurred in the course of employment of
26 Plaintiff and all other similarly situated nonexempt, hourly, nonexempt employees, and Defendants have
27 done so continuously throughout the filing of this complaint.

28 89. As a direct and proximate result of Defendants' violation of Labor Code sections 510 and

1 1197, Plaintiff and other Class Members have suffered irreparable harm and money damages entitling
2 them to damages, injunctive relief or restitution. Plaintiff, on behalf of himself and on behalf of the Class,
3 seeks damages and all other relief allowable including all wages due while working as Defendants'
4 hourly, nonexempt employees, attorneys' fees, liquidated damages, prejudgment interest, and as to those
5 employees no longer employed by Defendants, waiting time penalties pursuant to Labor Code sections
6 200, *et seq.*

7 90. Plaintiff and Class Members are entitled to the unpaid amount of minimum wages, pre-
8 judgment interest, liquidated damages, statutory penalties, attorneys' fees, and costs according to Labor
9 Code sections 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure 1021.5.

10 **IX. FOURTH CAUSE OF ACTION**

11 **Failure to Pay Overtime Wages**

12 **in Violation of Cal. Labor Code §§ 510 and 1194, IWC Wage Order No. 7-2001, § 3**

13 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

14 91. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
15 as if fully set forth herein.

16 92. Pursuant to section 3 of IWC Wage Order No. 7-2001; California Code of Regulations,
17 Title 8, Chapter 5, section 11040, section 12; and Labor Code sections 200, 204, 226, 500, 510, 512,
18 1194, and 1198, Defendants were required to compensate Plaintiff and members of the Class for all
19 overtime hours worked, which is calculated at one and one-half (1½) times the regular rate of pay for
20 hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on
21 the seventh consecutive work day, with double time after eight hours on the seventh day of any work
22 week, or after 12 hours in any work day.

23 93. Plaintiff and members of the Class were and are nonexempt employees entitled to the
24 protections of IWC Wage Order No. 7-2001; California Code of Regulations, Title 8, section 11040,
25 section 12; and Labor Code sections 200, 226, 500, 510, 512, 1194, and 1198. In addition, during the
26 Class Period, Plaintiff and other members of the Class consistently worked five days per week for shifts
27 of eight hours or more. During the course of Plaintiff's employment, and during the course of the
28 employment of the members of the Class, Defendants failed to compensate Plaintiff and the Class for

overtime hours worked as required under the aforementioned Labor Codes and Regulations.

94. Under the aforementioned Wage Orders, statutes, and regulations, Plaintiff and members of the Class are entitled to one and one-half (1½) times and/or double their regular rate of pay for overtime work performed during the four years preceding the filing of this Complaint, based on appropriate calculations of the “total remuneration” for each workweek.

95. In violation of state law, Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As a direct result, Plaintiff and the Class 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 attorneys’ fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

96. Defendants committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the Class, from improper motives amounting to malice, and in conscious disregard of Plaintiff’s rights and the rights of the Class. Plaintiff and the Class are thus entitled to recover nominal, actual, compensatory, punitive, and exemplary damages in amounts according to proof a time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

97. Defendants’ conduct described herein violates IWC Wage Order No. 7-2001; California Code of Regulations, Title 8, section 11040, section 12; and Labor Code sections 200, 226, 500, 510, 512, and 1198. Therefore, pursuant to Labor Code sections 200, 203, 204, 226, 226.7, 512, 558, and 1194, Plaintiff and the Class are entitled to recover the unpaid balance of overtime compensation Defendants owes Plaintiff and the Class, plus interest, penalties, attorneys’ fees, expenses, and costs of suit.

X. FIFTH CAUSE OF ACTION

Failure to Pay All Wages Owed Upon Separation

in Violation of Cal. Labor Code §§ 201–203

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

98. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint

1 as if fully set forth herein.

2 99. Labor Code section 201 provides, in relevant part, “[I]f an employer discharges an
3 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

4 100. Labor Code section 202 provides, in relevant part, “[I]f an employee not having a written
5 contract for a definite period quits his or her employment, his or her wages shall become due and payable
6 not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her
7 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

8 101. Section 203 of the California Labor Code provides that if an employer willfully fails to
9 pay compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the
10 employer is liable for penalties in the form of continued compensation up to 30 workdays.

11 102. At all times relevant during the liability period, Plaintiff and the other members of the
12 Class were employees of Defendants covered by Labor Code section 203. Pursuant to Labor Code
13 section 201, upon Plaintiff’s and the Class Members’ separation dates, Defendants were required to pay
14 Plaintiff and the Class Members all wages earned. Plaintiff was terminated, but Defendants did not pay
15 Plaintiff all wages owed at that time or since his termination, in violation of Labor Code section 201.

16 103. On October 2, 2024, Plaintiff APARICIO gave notice of his resignation effective that
17 same day. As such, Plaintiff APARICIO’S wages became due and payable no later than October 5, 2024,
18 which is 72 hours after his notice of resignation. However, Defendants paid Plaintiff APARICIO his final
19 wages—albeit still not in full—on October 23, 2024, which is three weeks following Plaintiff
20 APARICIO’S separation, in violation of Labor Code section 202.

21 104. At the time of Plaintiff’s and the Class Members’ respective separation dates, Plaintiff and
22 Class Members had unpaid wages. Defendants willfully failed to pay Plaintiff and other members of the
23 Class who are no longer employed by Defendants for their uncompensated hours, uncompensated
24 overtime, and missed, untimely, or on-duty meal periods and rest breaks upon their termination or
25 separation from employment with Defendants as required by California Labor Code sections 201 and
26 202. Thus, in violation of Labor Code section 201, Defendants failed to pay Plaintiff and Class Members
27 the full amount of wages due and owing them, in amounts to be proven at the time of trial, but in excess
28 of the jurisdictional minimum of this Court.

1 105. Defendants' failure to pay Plaintiff's and the Class's respective wages due and owed to
2 them was willful, and done with the wrongful and deliberate intention of injuring Plaintiff and Class
3 Members and in conscious disregard of their rights.

4 106. Defendants' willful failure to pay former employee Plaintiff and the Class all of the wages
5 due and owing them constitutes violations of Labor Code sections 201 and 203, which provide that an
6 employee's wages will continue as a penalty up to 30 days from the time the wages were due. Therefore,
7 former employee Plaintiff and Class Members are each entitled to penalties pursuant to Labor Code
8 section 203.

9 **XI. SIXTH CAUSE OF ACTION**

10 **Failure to Reimburse All Necessary, Business-Related Expenses**

11 **in Violation of Cal. Labor Code § 2802**

12 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

13 107. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
14 as if fully set forth herein.

15 108. California Labor Code section 2802 provides that "An employer shall indemnify his or
16 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
17 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
18 unlawful unless the employee, at the time of obeying the directions, believed them to be unlawful."

19 109. During the applicable statutory period, Plaintiff and Class Members incurred necessary
20 expenditures and losses in direct consequence of the discharge of their employment duties and their
21 obedience to the directions of Defendants, Defendants did not reimburse Plaintiff and Class Members for
22 these expenditures or losses. Such expenses include, but are not limited to, expenses for personal cell
23 phones required to clock in and out on the ADP phone application and to use GPS while driving to
24 navigate to customers' locations.

25 110. While Defendants may have issued Plaintiff and Class Members business cell phones, this
26 was not for the entire Class Period and those phones did not have the ADP smart phone application on
27 them to allow Plaintiff and Class Members to clock in and out, so Plaintiff and Class Members had to
28 resort to using their personal cell phones to use ADP

111. Defendants have failed to fully reimburse Plaintiff and Class Members for necessary business-related expenses and losses.

112. Plaintiff and Class Members are entitled to recover their necessary unreimbursed business-related expenses and losses incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California, pursuant to California Labor Code section 2802.

XII. SEVENTH CAUSE OF ACTION

Failure to Keep and Maintain Required Records

in Violation of Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 7-2001, § 7

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

113. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

114. During the Class Period, as part of Defendants' illegal payroll policies and practices to deprive Plaintiff and Class Members of all wages earned and due, Defendants knowingly and intentionally failed to maintain records as required under California Labor Code sections 226 and 1174, and IWC Wage Order No. 7-2001, section 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements. Namely, Defendants did not record Plaintiff and Class Members' actual start and stop times for all work periods, namely, drive time to and from customers originating from or returning to Defendants' premises nor did Defendants establish a mechanism by which Class Members could report missed, late, or short meal periods and rest breaks on a daily basis.

115. As a proximate result of Defendants' unlawful actions and omissions, Plaintiff and Class Members have been damaged in an amount according to proof at trial, and are entitled to all wages earned and due, plus interest thereon. Additionally, Plaintiff and Class Members are entitled to all available civil and statutory penalties and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code section 226(e), as well as other available remedies.

1 **XIII. EIGHTH CAUSE OF ACTION**

2 **Failure to Furnish Timely and Accurate Wage Statements**

3 **Upon Payment of Wages in Violation of Cal. Labor Code § 226**

4 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

5 116. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
6 as if fully set forth herein.

7 117. Labor Code section 226(a) sets forth reporting requirements for employers when they pay
8 wages, as follows: “Every employer shall . . . at the time of each payment of wages, furnish his or her
9 employees . . . an itemized statement in writing showing (1) gross wages earned, (2) total hours worked
10 by the employee . . . , (3) the number of piece-rate units earned and any applicable piece rate if the
11 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
12 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
13 dates of the period for which the employee is paid, (7) the name of the employee and only the last four
14 digits of their social security number or an employee identification number other than a social security
15 number, (8) the name and address of the legal entity that is the employer Section (e) provides: “An
16 employee suffering injury as a result of a knowing and intentional failure by an employer to comply with
17 subdivision (a) shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the
18 initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each
19 violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
20 (\$4,000), and shall be entitled to an award of costs and reasonable attorney’s fees.”

21 118. Defendants issued wage statements to Plaintiff and Class Members that failed to provide
22 the accurate, legal name of the employer; they read “ Earl Ising Inc” instead of “Earl Ising, Inc.,” in
23 violation of Labor Code section 226(a)(8).

24 119. Defendants failed to accurately record and display the correct total hours and overtime
25 hours worked by Plaintiff and Class Members on Plaintiff’s and Class Members’ wage statements, in
26 violation of Labor Code section 226(a)(2).

27 120. Defendants failed to display the correct amounts for meal period premiums and rest break
28 premiums owed to Plaintiff and Class Members on Plaintiff’s and Class Members’ wage statements, in

violation of Labor Code section 226(a)(1) and (a)(9).

121. Consequently, because Defendants failed to (1) accurately record and display the correct total hours and overtime hours worked and (2) display the correct amounts for meal period premiums and rest break premiums owed, Defendants also failed to accurately display the gross and net wages earned, in violation of Labor Code section 226 subsections (a)(1) and (a)(5).

122. Plaintiff and Class Members were damaged by these failures because, among other things, the failures hindered Plaintiff and the Class from determining the amounts of wages actually owed to them.

123. Plaintiff and Class Members request recovery of Labor Code section 226(e) penalties according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code section 226(e), in a sum as provided by the Labor Code and/or other statutes.

XIV. NINTH CAUSE OF ACTION

Violations of California's Unfair Competition Law ("UCL"),

California Business and Professions Code §§ 17200, *et seq.*

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

124. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

125. Section 17200 of the California Business and Professions Code (the "UCL") prohibits any unlawful, unfair, or fraudulent business practices.

126. Through their actions alleged herein, Defendants have engaged in unfair competition within the meaning of the UCL. Defendants' conduct, as alleged herein, constitutes unlawful, unfair, and/or fraudulent business practices under the UCL.

127. Defendants' unlawful conduct under the UCL includes, but is not limited to, violating the statutes alleged herein. Defendants' unfair conduct under the UCL includes, but is not limited to, failure to pay Class Members wages and compensation they earned through labor provided, and failing to otherwise compensate Class Members, as alleged herein, including failing to reimburse all necessary, business-related expenses Plaintiff and Class Members incurred. Defendants' fraudulent conduct includes, but is not limited to, issuing wage statements containing false and/or misleading information

1 about the time the Class Members worked and the amount of wages or compensation due.

2 128. Defendants' violations of California wage and hour laws and illegal payroll practices or
3 payment policies constitute a business practice because they were done repeatedly over a significant
4 period of time, and in a systematic manner to the detriment of Plaintiff and Class Members.

5 129. Plaintiff has standing to assert this claim because he has suffered injury in fact and has
6 lost money as a result of Defendants' conduct.

7 130. For the four years preceding the filing of this action, Plaintiff and Class Members have
8 suffered damages and request restitutionary disgorgement of all monies and profits to be disgorged from
9 Defendants in an amount according to proof at the time of trial and an injunction prohibiting them from
10 engaging in the unlawful, unfair, and/or fraudulent conduct alleged herein.

11 **XV. TENTH CAUSE OF ACTION**

12 **For Civil Penalties Pursuant to California's Private Attorneys General Act of 2004 ("PAGA"),**

13 **§§ 2698, *et seq.*, for Violations of California Labor Code Sections**

14 **(Brought by Plaintiff on Behalf of Himself and the General Public Against All Defendants)**

15 131. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
16 as if fully set forth herein.

17 132. PAGA provides that any provision of law under the Labor Code and applicable IWC Wage
18 Order(s) that provides for a civil penalty to be assessed and collected by California's Labor and
19 Workforce Development Agency ("LWDA") for violations of the California Labor Code and applicable
20 IWC Wage Order(s) may, as an alternative, be recovered by aggrieved employees in a civil action brought
21 on behalf of themselves and other current or former employees pursuant to procedures outlined in
22 California Labor Code section 2699.3.

23 133. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any person
24 who was employed by the alleged violator and against whom one or more of the alleged violations was
25 committed."

26 134. Plaintiff and other current and former employees of Defendants are "aggrieved
27 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current or former
28 employees and one or more of the alleged violations were committed against them.

1 135. Pursuant to Labor Code sections 2699.3 and 2699.5, aggrieved employees, including
2 Plaintiff, may pursue a civil action arising under PAGA, alleging violations of any provision listed in
3 section 2699.5, after the following requirements have been met:

- 4 a. The aggrieved employee shall give written notice (“Employee’s Notice”) by online filing
5 to the LWDA and by certified mail to the employer of the specific provisions of the
6 California Labor Code alleged to have been violated, including the facts and theories to
7 support the alleged violations;
- 8 b. The Employee’s Notice filed with the LWDA is accompanied by a \$75 filing fee; and
- 9 c. The LWDA shall provide notice (“LWDA Notice”) to the employer and the aggrieved
10 employee by certified mail that it does not intend to investigate the alleged violation within
11 60 calendar days of the postmark date of the Employee’s Notice. Upon receipt of the
12 LWDA Notice, or if the LWDA Notice is not provided within 65 calendar days of the
13 postmark date of the Employee’s Notice, the aggrieved employee may commence a civil
14 action pursuant to California Labor Code section 2699 to recover civil penalties in
15 addition to any other penalties to which the employee may be entitled.

16 136. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, including
17 Plaintiff, may pursue a civil action arising under PAGA for violations of any provision other than those
18 listed in section 2699.5 after the following requirements have been met:

- 19 a. The aggrieved employee shall give written notice by online filing (“Employee’s Notice”) to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations;
- 20 b. The Employee’s Notice filed with the LWDA is accompanied by a \$75 filing fee; and
- 21 c. The employer may cure the alleged violation within 33 calendar days of the postmark date of the Employee’s Notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the

33-day period, the employee may commence a civil action pursuant to Section 2699.

137. On March 25, 2025, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's notice to the LWDA was accompanied by the \$75 filing fee. A true and correct copy of Plaintiff's written notice to the LWDA and EARL ISING, INC. doing business as CULLIGAN WATER dated March 25, 2025 is attached hereto as "**Exhibit 1.**" Exhibit 1 is incorporated into this Complaint by reference.

138. As of the filing date of the initial complaint, over 65 days have passed since Plaintiff sent the LWDA Notice described above, and the LWDA has not responded that it intends to investigate Plaintiff's claims. Defendants have not given notice that it has cured the alleged violations set forth in this Complaint. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code section 2699.3(a) and (c) to recover civil penalties against all defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

139. Labor Code section 558(a) provides that "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."

140. Defendants, at all times relevant herein, were employers or persons acting on behalf of an employer(s) who violated Plaintiff's and other non-party aggrieved employees' rights by violating various sections of the California Labor Code as set forth above.

141. As set forth below, Defendants have violated numerous provisions of both the Labor Code

sections regulating hours and days of work as well as the applicable IWC Wage Order(s), including:

- a. Violations of Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order(s) for Defendants' failure to provide Plaintiff and other Class Members with compliant meal periods and/or rest breaks, as set forth above;
- b. Violations of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the applicable IWC Wage Order(s) for Defendants' failure to compensate Plaintiff and other Class Members with at least minimum wages for all hours worked as set forth above;
- c. Violations of Labor Code sections 510, 1198, and the applicable IWC Wage Order(s) for Defendants' failure to compensate Plaintiff and other Class Members with overtime wages for all hours worked in excess of eight in one day or 40 in one week and double time for all hours worked in excess of 12 hours, as set forth above;
- d. Violations of Labor Code sections 226(a), 1198, and the applicable IWC Wage Order(s) for failure to provide accurate and complete wage statements to Plaintiff and other Class Members as set forth above;
- e. Violations of Labor Code sections 1174(d), 1198, and the applicable IWC Wage Order(s) for failure to maintain payroll records. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order(s). Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order(s), employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Defendants failed, on a companywide basis, to keep records of meal period start and stop times for Plaintiff and other non-party aggrieved employees in violation of section 1198. California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are

1 employed, payroll records showing the hours worked daily by and the wages paid to, and
2 the number of piece-rate units earned by and any applicable piece rate paid to, employees
3 employed at the respective plants or establishments” During the relevant time period,
4 and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain
5 accurate payroll records for Plaintiff and other non-party aggrieved employees showing
6 the daily hours they actually worked and the wages paid thereto as a result of failing to
7 record the off-the-clock hours that they worked;

- 8 f. Violations of Labor Code sections 201, 202, and 203 for failure to pay all earned wages
9 upon termination as set forth above;
- 10 g. Violations of Labor Code section 204 for failure to pay all earned wages during
11 employment as set forth above;
- 12 h. Plaintiff and other non-party aggrieved employees are therefore entitled to recover
13 penalties, attorneys’ fees, costs, and interest thereupon, pursuant to Labor Code section
14 2699(f)-(g); and
- 15 i. Any and all additional applicable civil penalties and sums as provided by the California
16 Labor Code and/or other relevant statutes.

17 142. Pursuant to California Labor Code sections 2699(a), 2699.3, 2699.5, and section 558,
18 Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of
19 civil penalties for himself, all other non-party aggrieved employees, and the State of California Against
20 All Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202,
21 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

22 143. In addition, Plaintiff seeks and is entitled to sixty-five percent (65%) of all penalties
23 obtained under California Labor Code section 2699 to be allocated to the LWDA, for education of
24 employers and employees about their rights and responsibilities under the California Labor Code, and
25 thirty-five percent (35%) to all aggrieved employees.

26 144. Further, Plaintiff is entitled to recover reasonable attorneys’ fees and costs pursuant to
27 California Labor Code sections 2699(g)(1), 218.5, 1194(a) and any other applicable statute.

28 ///

1 **XVI. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on behalf
3 of the general public, respectfully requests that this Court find against all defendants as follows:

- 4 1. An order that this action may proceed and may be maintained as a class action;
- 5 2. All unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member
6 on their minimum wage claims;
- 7 3. All unpaid overtime wages due to Plaintiff and each Class Member;
- 8 4. One hour of wages due to Plaintiff and each Class Member for each work period of more than
9 four hours when they did not receive an uninterrupted 10-minute rest break;
- 10 5. One hour of wages due to Plaintiff and each Class Member for each work period of more than
11 five hours when they did not receive an uninterrupted 30-minute meal period;
- 12 6. All unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member
13 on their minimum wage claim;
- 14 7. For restitution of all monies due to Plaintiff and members of the Class and disgorged profits
15 from the unlawful business practices of Defendants;
- 16 8. For waiting time penalties pursuant to Labor Code section 203;
- 17 9. For reimbursement of business expenses under California Labor Code section 2802;
- 18 10. Statutory penalties under Labor Code section 226(e);
- 19 11. For penalties pursuant to Labor Code sections 201, 202, 203, 204, 206, 210, 225.5, 226.7, 510,
20 512, 558, 1174.5, 1182.12, 1194, 1194.2, 1197.1, and 1198;
- 21 12. For injunctive relief enjoining Defendants from engaging in the unlawful and unfair business
22 practices complained of herein;
- 23 13. For all civil penalties permitted by California's Private Attorneys General Act of 2004, Labor
24 Code sections 2698, *et seq.*, based on all the alleged statutory violations set forth in this Complaint;
- 25 14. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226 and 1194;
- 26 15. Prejudgment interest at the maximum legal rate on all due and unpaid wages pursuant to Labor
27 Code section 218.6 and Civil Code sections 3287 and 3289;
- 28 16. For reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226, 1194, 2699(g), and

1 Code of Civil Procedure section 1021.5;

2 17. Accounting of Defendants' records for the liability period;

3 18. General, special, and consequential damages, to the extent allowed by law; and

4 19. All such other and further relief that the Court may deem just and proper.

5
6 Dated: June 13, 2025

ABRAMSON LABOR GROUP

7
8 By: 
Cheryl A. Kenner

9
10 Attorneys for Plaintiff JAVIER APARICIO
and all others similarly situated and aggrieved

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff JAVIER APARICIO, on behalf of himself and all others similarly situated and aggrieved,
3 hereby demands a jury trial with respect to all issues triable of right by jury.
4

5 Dated: June 13, 2025

ABRAMSON LABOR GROUP

6
7 By: Cheryl Kenner
8 Cheryl A. Kenner

9 Attorneys for Plaintiff JAVIER APARICIO
10 and all others similarly situated and aggrieved
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EXHIBIT 1



1700 W Burbank Blvd.
Burbank, California 91506
t | 213.493.6300
Cheryl.K@abramsonlabor.com
www.AbramsonLaborGroup.com

March 25, 2025

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

Earl Ising, Inc.
Attn: Legal Department
1226 Enterprise St.
Stockton, CA 95204

Earl Ising, Inc.
Attn: Legal Department
487 Preston Court
Livermore, CA 94551

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, *ET SEQ.*

To: The California Labor and Workforce Development Agency; Earl Ising, Inc., doing business as Culligan Water

From: Javier Aparicio, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Javier Aparicio ("Mr. Aparicio") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Aparicio, "Claimants") who have been injured by Earl Ising, Inc., doing business as Culligan Water's (collectively, "Culligan Water") violations of the California Labor Code. Mr. Aparicio, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Culligan Water, intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Culligan Water is operating throughout California as a water purification delivery service provider to both commercial and residential customers, which includes delivery and repair of water softeners and water dispensers and delivery of single-use water bottles and filters.

Claimant Mr. Aparicio worked for Culligan Water as an hourly, nonexempt employee in the position of Technician/Driver, earning \$35.00 per hour from approximately May 1, 2023 through the October 2, 2024. Mr. Aparicio, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in water delivery and repair service for Culligan Water. As part of their employment with Culligan Water, Claimant and other hourly, nonexempt employees, collectively, “hourly nonexempt employees,” are or were assigned to and required to suffer and permitted to work, some with and some without pay, while performing tasks collectively including, but not limited to, pre- and post-trip inspections of company truck accompanied by logging the inspections; loading and unloading the company truck with repair tools and products (5-gallon water jugs, filters, water bottles, and water softener salts) to be delivered to customers of Culligan Water; driving the truck from Culligan Water’s facility to customers and back to Culligan Water’s facility or from Claimants’ homes to customers and back home; complying with Culligan Water’s delivery window schedules; and fueling the company truck.

Claimant Mr. Aparicio regularly worked five (5) days per week for 7-10 hours or more hours per day. During the entire course of his employment, Culligan Water has failed to provide Mr. Aparicio and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Culligan Water has also failed to pay minimum wages to Mr. Aparicio and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 7-2001. As a consequence, Culligan Water has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission (“IWC”) Wage Orders, including but not limited to, IWC Wage Order No. 7-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Culligan Water has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Culligan Water has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Culligan Water has failed and continues to fail to provide timely, accurate wage statements to Mr. Aparicio and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Culligan Water, including Mr. Aparicio, Culligan Water violated Labor Code section 203 by failing to timely pay all wages due upon separation. Mr. Aparicio is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Aparicio intends to bring an action against Culligan Water under the Private Attorneys General Act (“PAGA”) to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Aparicio, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Aparicio was employed by Culligan Water from approximately May 1, 2023 through the October 2, 2024 as a Technician/Driver. For a period of at least four (4) years prior to March 2025, but for our purposes here, one (1) year prior, Culligan Water has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Culligan Water has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 7-2001. First, Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work or their recorded hours were reduced—and therefore, those working hours were not compensated. This off-the-clock time primarily occurred because Claimants occasionally started or ended their workdays by driving from their homes straight to Culligan Water’s customers instead of stopping at one of Culligan Water’s facilities first. Culligan Water instructed Claimants to clock in upon arriving at the customer and clock out upon departing from their last customer before driving straight home. Under California law, all of this uncompensated drive time is indeed compensable because Claimants are driving Culligan Water’s truck and products and tools and are under Culligan Water’s control. Claimants’ off-the-clock time was either never added or was reduced if recorded and, therefore, remains uncompensated. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods and rest breaks, the effects of which Defendant could have mitigated by better scheduling delivery windows when necessary and/or by increasing staff to complete jobs more quickly to allow Claimants to take rest breaks. However, Defendant instead chose to preserve its 2-hour delivery window policy and smaller-than-optimum staffing levels, which forced meal periods and rest breaks into noncompliance. With that, Culligan Water’s corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Culligan Water’s failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Culligan Water’s failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 7-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Culligan Water failed to authorize and permit timely, full-length meal periods for Mr. Aparicio and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 7-2001. Mr. Aparicio and Claimants regularly missed their meal periods because of the company’s policy of requiring Claimants to complete all deliveries and/or repairs within their given 2-hour windows first. On a daily basis, Mr. Aparicio and Claimants took their

230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

meal periods at the end of their shifts, which ultimately means their meal periods were late—past the end of the fifth hour, and therefore, Culligan Water owes Mr. Aparicio and Claimants an extra hour of pay for each shift. Nonetheless, Culligan Water did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since Culligan Water required Mr. Aparicio and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 7-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, Culligan Water likewise failed to authorize and permit Mr. Aparicio and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 7-2001. Claimants were not able to take their requisite number of 10-minutes rest breaks based on their shift duration; in fact, Claimants regularly worked through their rest breaks because of the company's policy of requiring Claimants to complete all deliveries and/or repairs within their given 2-hour windows first before taking any breaks. In other words, taking these rest breaks would have caused Claimants to miss some of their delivery windows, so Claimants forgo their rest breaks. Nonetheless, Culligan Water did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 7-2001. Furthermore, since Culligan Water required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Culligan Water was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Mr. Aparicio and Claimants regularly worked overtime hours. Culligan Water has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Culligan Water failed to provide Mr. Aparicio and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order No. 7-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Culligan Water, including Mr. Aparicio, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within 72 hours (resignation without notice). Claimants, including Mr. Aparicio, did not receive his final pay of all wages within the requisite time based on the circumstances of his separation nor did he receive all wages Culligan Water owed Mr. Aparicio based on Culligan Water's prior failings to pay all wages owed every pay period, including but not limited to minimum and overtime wages, and all meal and rest premiums owed, as explained above. On or about October 23, 2024, about three weeks following his termination on October 2, 2024, Culligan Water paid Mr. Aparicio via a paper check by mail for still only some of his wages. As such, Culligan Water did not pay Mr. Aparicio his final wages immediately upon termination as required by law, and the final check did not account for all wages owed to Mr. Aparicio.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Culligan Water pursuant to Labor Code section 226. Because Culligan Water failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due,

Claimants' wage statements were inaccurate in reflecting overtime and minimum wages, all hours worked every pay period, and all meal period and rest break premiums owed. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Culligan Water's uniform failure to pay overtime and minimum wages, failure to authorize and permit full-length, off-duty rest breaks and meal periods or pay Claimants adequate premium compensation in lieu thereof, failure to furnish timely and accurate wage statements, and failure to timely pay all wages upon separation violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, and 1197, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194 and other penalties as permitted by Labor Code sections 210 and 2699.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Aparicio, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Culligan Water for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, and 1197.1.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in black ink that reads "Cheryl Kenner". The signature is written in a cursive, flowing style.

Cheryl A. Kenner