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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

ABRAHAM AYALA, on behalf of the State
of California and all Aggrieved Employees,

Plaintiff,

v.

FLUIDRA NORTH AMERICA LLC, a
Delaware Limited Liability Company;
FLUIDRA USA LLC, a Florida Limited
Liability Company; ZODIAC POOL
SYSTEMS LLC, a Delaware Limited
Liability Company; RANDSTAD
INHOUSE SERVICES, LLC, a Delaware
Limited Liability Company; RANDSTAD
US, LLC, a Delaware Limited Liability
Company; and DOES 1-100, inclusive,

Defendants.

Case No.: **CVRI 2502840**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, ABRAHAM AYALA, (“PLAINTIFF”), on behalf of the State of California and
2 all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 FLUIDRA NORTH AMERICA LLC, a Delaware Limited Liability Company; FLUIDRA USA
4 LLC, a Florida Limited Liability Company; ZODIAC POOL SYSTEMS LLC, a Delaware Limited
5 Liability Company; RANDSTAD INHOUSE SERVICES, LLC, a Delaware Limited Liability
6 Company; RANDSTAD US, LLC, a Delaware Limited Liability Company; and DOES 1-100,
7 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
8 believes and thereon alleges as follows:

9 **INTRODUCTION**

10 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
11 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
12 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
13 for DEFENDANTS’ violations of the California Labor Code as alleged below.

14 **JURISDICTION AND VENUE**

15 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
16 California statutes, including but not limited to the PAGA, and decisional law and regulations.

17 3. Venue is proper in this judicial district and the County of Riverside pursuant to
18 California Code of Civil Procedure section 395.5 because DEFENDANTS assigned PLAINTIFF to
19 work in this judicial district, DEFENDANTS transact business within this judicial district, and
20 conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
21 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
22 proper in any county where the defendants committed Labor Code violations against some of its
23 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
24 because the cause, or some part of the cause, arose in the County of Riverside.

25 **THE PARTIES**

26 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
27 California and a citizen of the State of California.

28 5. PLAINTIFF worked for DEFENDANTS as a non-exempt, hourly-paid, employee

1 with job titles of forklift operator and quality control and/or similar job titles/positions from in or
2 around March 2024 through in or around January 2025. DEFENDANTS assigned PLAINTIFF to
3 work in Perris, California.

4 6. Defendant, FLUIDRA NORTH AMERICA LLC, is a Delaware Limited Liability
5 Company that, at all relevant times, was authorized to do business within the State of California and
6 is doing business in the State of California.

7 7. Defendant, FLUIDRA USA LLC, is a Florida Limited Liability Company that, at all
8 relevant times, was authorized to do business within the State of California and is doing business in
9 the State of California.

10 8. Defendant, ZODIAC POOL SYSTEMS LLC, is a Delaware Limited Liability
11 Company that, at all relevant times, was authorized to do business within the State of California and
12 is doing business in the State of California.

13 9. Defendant, FLUIDRA NORTH AMERICA LLC; Defendant, FLUIDRA USA LLC;
14 and/or Defendant, ZODIAC POOL SYSTEMS LLC, are collectively referred to herein as “Fluidra.”

15 10. Fluidra operates as a global manufacturer of swimming pool and spa equipment,
16 parts, and accessories and connected pool solutions. Fluidra operates under including but not limited
17 to the following brand names: “Fluidra,” “Fluidra USA,” “Jandy,” “Polaris,” “Zodiac,”
18 “iAquaLink,” “Cover-Pools,” “Nature2,” “Baracuda,” “Taylor,” “S.R. Smith,” “CMP” and/or
19 “Grand Effects.”

20 11. Defendant, RANDSTAD INHOUSE SERVICES, LLC, is a Delaware Limited
21 Liability Company that, at all relevant times, was authorized to do business within the State of
22 California and is doing business in the State of California.

23 12. Defendant, RANDSTAD US, LLC, is a Delaware Limited Liability Company that,
24 at all relevant times, was authorized to do business within the State of California and is doing
25 business in the State of California.

26 13. Defendant, RANDSTAD INHOUSE SERVICES, LLC, and/or Defendant,
27 RANDSTAD US, LLC, are collectively referred to herein as “Randstad.”

28 14. Randstad operates as a staffing company. Randstad does business under including

1 but not limited to, the following names: “Randstad USA.”

2 15. DEFENDANTS own, operate, manage and/or staff its employees to work at
3 including but not limited to, the plants, manufacturing centers, warehouse distribution centers,
4 facilities and/or other location(s) in California, including but not limited to, in Perris and Carlsbad,
5 California.¹

6 16. The true names and capacities of the DOE Defendants sued herein as DOES 1
7 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
8 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
9 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
10 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
11 become known.

12 17. PLAINTIFF is further informed and believes that, at all relevant times, each
13 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
14 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
15 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
16 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
17 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
18 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
19 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
20 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
21 controlled, aided and abetted the conduct of all other Defendants.

22 **JOINT LIABILITY**

23 18. Under California law, the definition of the terms “to employ” are broadly construed
24 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
25 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
26 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
27 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control

28 ¹ See <https://www.fluidrausa.com/en> and <https://www.randstadusa.com/>. Last visited on May 28, 2025.

1 was to reach situations in which multiple entities control different aspects of the employment
2 relationship. Supervision of the work, in the specific sense of exercising control over how services
3 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
4 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
5 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
6 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
7 California, applying a less stringent standard to what constitutes sufficient control by a business
8 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
9 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
10 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
11 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
12 employment,” *Id.* at 875 [emphasis added].

13 19. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and other
14 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
15 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
16 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
17 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
18 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
19 and Aggrieved Employees to work for them.

20 20. PLAINTIFF is informed and believes and thereon alleges that at all relevant times
21 Randstad operated as a single integrated enterprise with common ownership and centralized human
22 resources. As a result, Randstad utilized the same unlawful policies and practices across all of their
23 locations/facilities and subjected all of the Aggrieved Employees to these same policies and
24 practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
25 informed and believes that: (1) there is common ownership in, and financial control, in Randstad
26 companies, (2) Randstad utilizes common management, who have control over the day-to-day
27 operations and employment matters, including the power to hire and fire, set schedules, issue
28 employee policies, and determine rates of compensation across its locations in California; (3)

1 Randstad utilizes the same policies and procedures for all California employees, including issuing
2 the same employee handbooks and other form agreements; (4) Randstad uses at least some of the
3 same Human Resources personnel and attorneys to oversee employment matters; and, (6) Randstad
4 shares employees.

5 21. PLAINTIFF is informed and believes and thereon alleges that at all relevant times
6 Fluidra operated as a single integrated enterprise with common ownership and centralized human
7 resources. As a result, Fluidra utilized the same unlawful policies and practices across all of their
8 locations/facilities and subjected all of the Aggrieved Employees to these same policies and
9 practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
10 informed and believes that: (1) there is common ownership in, and financial control, in Fluidra
11 companies, (2) Fluidra utilizes common management, who have control over the day-to-day
12 operations and employment matters, including the power to hire and fire, set schedules, issue
13 employee policies, and determine rates of compensation across its locations in California; (3)
14 Fluidra utilizes the same policies and procedures for all California employees, including issuing the
15 same employee handbooks and other form agreements; (4) Fluidra uses at least some of the same
16 Human Resources personnel and attorneys to oversee employment matters; and, (6) Fluidra entities
17 share employees.

18 22. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
19 to this Complaint, DEFENDANTS, and each of them, were the joint employers of PLAINTIFF and
20 Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and cause of action,
21 in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
22 Employees' wages, hours and working conditions, and/or suffered or permitted them to work so as
23 to be considered the joint employers of PLAINTIFF and Aggrieved Employees.

24 23. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
25 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
26 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
27 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
28 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of

1 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
2 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
3 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
4 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
5 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
6 writing the details of their compensation, and the manner in which they were to take meal and rest
7 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
8 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
9 collectively would evaluate their wage rates.

10 24. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
11 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
12 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
13 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
14 PLAINTIFF seeks relief in this Complaint.

15 25. Moreover, based on information and belief, Randstad hired PLAINTIFF and entered
16 into a written employment agreement with PLAINTIFF. During PLAINTIFF's employment,
17 Randstad maintained control over many aspects of PLAINTIFF's employment, including, among
18 other things, having the authority to discipline PLAINTIFF, change PLAINTIFF's job assignment,
19 change PLAINTIFF's work hours, change PLAINTIFF's rates of pay, and to terminate PLAINTIFF's
20 employment.

21 26. Based on information and belief, when PLAINTIFF was first hired, Randstad
22 provided PLAINTIFF with orientation and training materials. Randstad issued PLAINTIFF written
23 policies concerning meal periods, rest breaks, timekeeping, hours worked, and payment of
24 PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on information and
25 belief, among other things, these policies provided that PLAINTIFF's weekly time records be
26 submitted to Randstad, and Randstad was supposed to process PLAINTIFF's time records and pay
27 PLAINTIFF for all hours worked. Randstad exercised ultimate control over the payment of
28 PLAINTIFF's wages, as Randstad issued PLAINTIFF his paychecks. Finally, Randstad directed

1 PLAINTIFF to comply with Fluidra's policies and directions. PLAINTIFF is informed and believes
2 that Randstad exercised the same control over, applied the same policies and practices, and engaged
3 in the same acts and omissions with regard to the other Aggrieved Employees.

4 27. Fluidra similarly suffered or permitted PLAINTIFF to work for them or engaged
5 PLAINTIFF to work for them. PLAINTIFF is informed and believes that Fluidra entered into a
6 written agreement with Randstad, pursuant to which Fluidra paid Randstad to provide it with
7 workers, including PLAINTIFF, to conduct Fluidra's business operations – namely, to work in
8 Fluidra's warehouse distribution centers, warehouses and/or other facilities and/or other location(s).
9 Fluidra suffered or permitted PLAINTIFF to work at Fluidra for the entirety of PLAINTIFF's
10 employment.

11 28. Fluidra further exercised control over PLAINTIFF's wages, hours and working
12 conditions. Fluidra also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
13 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
14 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
15 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
16 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)
17 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
18 employment; (7) required PLAINTIFF to record hours worked using Fluidra's timekeeping system;
19 (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks; (9)
20 subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was
21 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief, Fluidra
22 issued further written policies and practices and guidelines governing PLAINTIFF's working
23 conditions with which PLAINTIFF was required to comply.

24 29. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
25 control over, applied the same policies and practices, and engaged in the same acts and omissions
26 with regard to all other Aggrieved Employees.

27 30. PLAINTIFF is informed and believes and thereon alleges that DEEFENDANTS
28 must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties

1 under PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
2 services from which DEFENDANTS benefited, and furthermore that the aforementioned entities
3 had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at
4 all relevant times herein, so as to be considered the joint employers of PLAINTIFF.

5 31. By reason of their status as joint employers of PLAINTIFF and Aggrieved
6 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
7 Code and applicable Wage Orders as to all Aggrieved Employees.

8 32. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
9 control over, applied the same policies and practices, and engaged in the same acts and omissions
10 with regard to the other Aggrieved Employees.

11 33. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must
12 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
13 PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
14 services from which they benefited, and furthermore that the aforementioned entities had the right
15 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
16 times herein, so as to be considered the joint employers of PLAINTIFF.

17 34. By reason of their status as joint employers of PLAINTIFF and Aggrieved
18 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
19 Code and applicable Wage Orders as to all Aggrieved Employees.

20 **LIABILITY UNDER CALIFORNIA LABOR CODE SECTION 2810.3**

21 35. California Labor Code section 2810.3(b)(1) provides in pertinent part that “a client
22 employer shall share with the labor contractor” all civil liability for the payment of wages to the
23 workers supplied by the labor contractor.

24 36. Randstad is a “labor contractor” in that it supplies Fluidra with workers to perform
25 labor within Fluidra’s usual course of business. Lab. Code § 2810.3(a)(3).

26 37. Fluidra is a “client employer” in that it is a business entity that “obtains or is provided
27 workers to perform labor within its usual course of business” from labor contractor Randstad. Lab.
28 Code § 2810.3(a)(1)(A). Moreover, Fluidra has a workforce of more than twenty-five workers and

1 is supplied with at least five (5) workers from a labor contractor at any given time. Lab. Code §
2 2810.3(a)(1)(B).

3 38. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
4 of wages to all workers supplied to Fluidra by Randstad.

5 39. PLAINTIFF complied with all administrative requirements by providing notice by
6 certified mail of the claims alleged herein to Fluidra. Lab. Code § 2810.3(d).

7 40. Any reference herein to any alleged act or omission by any DEFENDANT shall be
8 deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly
9 and severally.

10 **PAGA ALLEGATIONS**

11 41. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
12 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
13 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
14 following:

- 15 i. All non-exempt workers who were directly employed by Defendant,
16 RANDSTAD INHOUSE SERVICES, LLC, and/or Defendant, RANDSTAD
17 US, LLC - regardless of where those non-exempt workers were assigned or a
18 staffed to work – in California at any time from one year plus 65 days from the
19 filing of the initial Complaint through the present (“PAGA Period”).
- 20 ii. All non-exempt workers who were assigned/staffed to work at any one or more
21 of Defendant, FLUIDRA NORTH AMERICA LLC’s; Defendant, FLUIDRA
22 USA LLC’s; and/or Defendant, ZODIAC POOL SYSTEMS LLC’s locations in
23 California, by Defendant, RANDSTAD INHOUSE SERVICES, LLC,
24 Defendant, RANDSTAD US, LLC and/or any other staffing/temporary service
25 agencies, at any time during the PAGA Period.
- 26 iii. All non-exempt workers who were directly employed by Defendant, FLUIDRA
27 NORTH AMERICA LLC; Defendant, FLUIDRA USA LLC; and/or Defendant,
28 ZODIAC POOL SYSTEMS LLC at any location in California at any time during

1 the PAGA Period.

2 42. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
3 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
4 limitations period and personally suffered each of the Labor Code violations set forth herein.
5 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
6 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

7 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

8 43. PLAINTIFF, on March 19, 2025, through counsel, gave written notice by online
9 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
10 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
11 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
12 certified mail.

13 44. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
14 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
15 Employees.

16 45. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
17 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
18 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
19 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
20 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

21 46. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
22 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
23 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

24 **FACTUAL ALLEGATIONS**

25 47. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
26 worked for DEFENDANTS in the State of California. At all times referenced herein,
27 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and required,
28 suffered and/or permitted them to work.

1 48. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with job titles
2 of forklift operator and quality control and/or similar job titles/positions from in or around March
3 2024 through in or around January 2025.

4 49. PLAINTIFF was assigned by Randstad to work at including but not limited to
5 Fluidra's facilities located in Perris, California.

6 50. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
7 DEFENDANTS as hours worked.

8 51. At times, DEFENDANTS compensated PLAINTIFF at an hourly rate of \$20.00.

9 52. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
10 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
11 minimum and overtime wages.

12 53. Aggrieved Employees were not paid for all hours worked due to DEFENDANTS'
13 mandated off-the clock work policies and/or practices.

14 54. For example, DEFENDANTS required PLAINTIFF to complete work tasks prior to
15 clocking in for the start of shifts and/or otherwise off-the-clock, resulting in DEFENDANTS' failure
16 to compensate PLAINTIFF for all hours worked and the underpayment of wages owed.

17 55. For example, PLAINTIFF was required to don and doff a uniform vest and work
18 boots off the clock, and at times, had to wait in line behind several employees before PLAINTIFF
19 could clock in, resulting in off-the-clock work.

20 56. Also, there were times PLAINTIFF reported to work for a scheduled shift but was
21 required to spend time off-the-clock communicating with DEFENDANTS and/or waiting for
22 DEFENDANTS to inform PLAINTIFF that PLAINTIFF was being sent home and/or was not being
23 put to work. This time spent under DEFENDANTS' control was not recorded and not compensated,
24 resulting in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the
25 underpayment of wages owed to PLAINTIFF.

26 57. To this end, PLAINTIFF sometimes reported to work for a scheduled shift and was
27 required to wait at the worksite and/or communicate with DEFENDANTS regarding being sent
28

1 home and/or not being put to work, resulting in at least approximately several minutes of off-the-
2 clock work each time this occurred and the underpayment of minimum wages owed to PLAINTIFF.

3 58. Based on information and belief, DEFENDANTS also required other Aggrieved
4 Employees to report to work for their scheduled shifts but then sent those Aggrieved Employees
5 home and/or did not put them to work, yet did not pay all owed reporting time wages and further
6 failed to compensate them for time spent under DEFENDANTS' control waiting to be told they
7 were not being put to work and/or communicating with DEFENDANTS regarding same, which
8 resulted in DEFENDANTS' failure to compensate Aggrieved Employees for all hours worked and
9 the underpayment of wages owed.

10 59. PLAINTIFF was also required to complete off-the-clock work outside of scheduled
11 shifts due to work-related phone calls and/or messages PLAINTIFF received to his phone and was
12 required to respond to, including but not limited to, communications from supervisors regarding
13 scheduling and/or other work tasks, resulting in the underpayment of wages owed to PLAINTIFF.

14 60. For example, PLAINTIFF was required to respond to work-related calls/texts during
15 unpaid meal periods and occasionally on his days off (e.g., to respond to work questions/assist
16 DEFENDANTS with locating a product).

17 61. Based on information and belief, DEFENDANTS had actual and/or constructive
18 knowledge that their off-the-clock work policies and practices resulted in the underpayment of
19 minimum wages owed to PLAINTIFF and other Aggrieved Employees, in violation of California's
20 minimum wage laws.

21 62. DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours
22 worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

23 63. DEFENDANTS failed and continue to fail to pay Aggrieved Employees two times
24 their regular rate of pay for time worked beyond twelve (12) hours per workday and for time worked
25 beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of
26 California's overtime laws.

27 64. Based on information and belief, DEFENDANTS failed to incorporate all non-
28 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple

1 base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the
2 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed
3 to PLAINTIFF and other Aggrieved Employees.

4 **65. Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
5 provides as follows:

6 **66.** (A) Each workday an employee is required to report for work and does report, but is
7 not put to work or is furnished less than half said employee's usual or scheduled day's work, the
8 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
9 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
10 than the minimum wage. (B) If an employee is required to report for work a second time in any one
11 workday and is furnished less than two (2) hours of work on the second reporting said employee
12 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
13 minimum wage.

14 **67.** PLAINTIFF was not paid reporting time wages in accordance with California law,
15 including but not limited to the applicable IWC Wage Order. For example, at times, PLAINTIFF
16 reported to work for a scheduled shift but was sent home and/or was not put to work and was not
17 paid all owed reporting time pay wages in accordance with California law.

18 **68.** Based on information and belief, DEFENDANTS have a policy and practice of
19 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
20 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
21 pay all reporting time wages to PLAINTIFF and Aggrieved Employees violated and continues to
22 violate the applicable Wage Order, and the California Labor Code, including but not limited to
23 section 1198.

24 **69. Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
25 worked shifts of more than five (5) hours, entitling them to at least one meal period. However,
26 PLAINTIFF and other Aggrieved Employees were sometimes unable to take timely, off duty, thirty-
27 minute, uninterrupted meal periods.

28 **70.** PLAINTIFF and other Aggrieved Employees would not receive legally compliant

1 thirty (30) minute first meal breaks. Aggrieved Employees were consistently unable to take timely,
2 off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods,
3 interrupted meal periods, and/or work through part or all their meal periods. For example,
4 PLAINTIFF received a maximum of a single meal period per shift even when working shifts lasting
5 longer than ten (10) and/or twelve (12) hours. Also, at times, PLAINTIFF had to take an interrupted,
6 shortened and/or late meal period (i.e. after working five (5) or more hours) due to the need to
7 complete assigned job duties.

8 71. For example, PLAINTIFF was interrupted during meal periods due to the need to
9 complete assigned job duties, such as respond to work-related calls/messages/in-person
10 interruptions from his supervisor.

11 72. Also, DEFENDANTS' time records for PLAINTIFF show a clock out for a meal
12 period after the fifth hour of work on including but not limited to, the following dates: September
13 9, 2024, September 13, 2024, September 16, 2024, November 12, 2024, November 22, 2024,
14 November 25, 2024, December 3, 2024, and January 6, 2025.

15 73. Also, DEFENDANTS required Aggrieved Employees to complete off-the-clock
16 work prior to their scheduled shift time which DEFENDANTS failed to take into account when
17 scheduling meal periods for Aggrieved Employees. Based on information and belief, meal periods
18 were late, in part due to unaccounted pre-shift off-the-clock work.

19 74. Based on information and belief, DEFENDANTS had actual and/or constructive
20 knowledge that their policies and practices resulted in the denial of uninterrupted meal periods
21 which were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees,
22 in violation of California's meal period laws.

23 75. Also, Aggrieved Employees who worked shifts of more than ten hours did not
24 receive a second legally compliant thirty (30) minute second meal break.

25 76. For example, as described herein, PLAINTIFF did not receive a second meal period
26 on shifts lasting longer than ten (10) hours.

27 77. To this end, DEFENDANTS' time records for PLAINTIFF show PLAINTIFF
28 worked shifts lasting more than ten (10) hours without clocking out for any second meal period on

1 including but not limited to the following dates: May 28, 2024 and May 29, 2024.

2 78. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees an
3 additional hour of wages at their respective regular rates of compensation for each workday a lawful
4 meal period was not provided.

5 79. **Rest Period Violations.** DEFENDANTS did not properly authorize and permit
6 PLAINTIFF and other Aggrieved Employees to take legally compliant rest periods at a rate of every
7 four (4) hours worked or major fraction thereof, that insofar as practicable, were taken in the middle
8 of the work period, as required by law.

9 80. PLAINTIFF and other Aggrieved Employees were not adequately informed,
10 authorized, instructed about, nor permitted an opportunity to take legally compliant rest periods per
11 California law.

12 81. For example, based on information and belief, at times, PLAINTIFF and other
13 Aggrieved Employees were unable to take compliant rest periods due to their need to complete
14 assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area
15 and/or had purported rest periods restricted to DEFENDANTS' premises/their workstations.

16 82. For example, PLAINTIFF was interrupted during a rest period on average at least
17 approximately once per week due to the need to complete assigned job duties (e.g., respond to work-
18 related calls/messages/in-person interruptions).

19 83. For example, per DEFENDANTS' unlawful rest period policies and practices,
20 Aggrieved Employees were not allowed to take third rest periods during shifts lasting longer than
21 ten (10) hours, in violation of California rest period law. For example, DEFENDANTS allowed a
22 maximum of two (2) rest periods per shift even when PLAINTIFF worked shifts lasting longer than
23 ten (10) hours.

24 84. Based on information and belief, at times, DEFENDANTS implemented policies
25 and/or practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
26 DEFENDANTS' control during rest periods.

27 85. For example, PLAINTIFF was prohibited from leaving the worksite during
28 purportedly off-duty rest periods.

1 86. Based on information and belief, Aggrieved Employees were pressured to complete
2 their work duties according to a designated schedule such that rest breaks were only taken once tasks
3 were completed, and/or as time permitted.

4 87. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
5 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
6 violation of California law.

7 88. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
8 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
9 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
10 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
11 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
12 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
13 applicable hourly rates in effect during the pay period and the corresponding number of hours
14 worked at each hourly rate by the employee.

15 89. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
16 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
17 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
18 and Aggrieved Employees (by virtue of the off-the-clock work policies and practices described
19 above) which results in a violation of Labor Code section 226(a).

20 90. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
21 Employees that were not accurate and did not include all of the statutorily required information. As
22 such, DEFENDANTS violated Labor Code section 226.

23 91. **Unreimbursed Business Expenses.** DEFENDANTS required PLAINTIFF and
24 other Aggrieved Employees to incur business expenses as a direct consequence of the performance
25 of their job duties without providing reimbursement, in violation of Labor Code section 2802.

26 92. DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by
27 requiring them to pay for business expenses, including but not limited to, the use of Aggrieved
28 Employees' and/or EXEMPT AGGRIEVED EMPLOYEES' personal cell phones/mobile devices,

1 internet and/or data usage for work-related purposes and/or by requiring them to pay for the purchase
2 and/or maintenance of uniforms, work clothing, work shoes, protective/safety gear.

3 93. For example, DEFENDANTS required Aggrieved Employees to use their personal
4 cell phones/mobile devices to carry out their assigned job duties, including without limitation, for
5 receiving and responding to work-related calls and/or messages from supervisors and/or other
6 employees regarding scheduling and/or other work tasks, however, DEFENDANTS failed to
7 reimburse Aggrieved Employees at all and/or in full for these business expenses.

8 94. For example, DEFENDANTS required PLAINTIFF to use PLAINTIFF's personal
9 cell phone to carry out PLAINTIFF's assigned job duties, including without limitation, for receiving
10 and responding to work-related calls and/or messages, however, DEFENDANTS failed to provide
11 PLAINTIFF with any and/or full reimbursement for these business expenses.

12 95. For instance, DEFENDANTS frequently contacted PLAINTIFF on PLAINTIFF's
13 personal cell phone/device for work, including but not limited to, during PLAINTIFF's shifts, but
14 did not reimburse PLAINTIFF at all/in full for any cellphone-related business expenses.

15 96. Also, DEFENDANTS required PLAINTIFF to supply uniforms, work
16 clothing/shoes and/or protective/safety gear DEFENDANTS required PLAINTIFF wear for work,
17 including without limitation, steel-toed boots, however, DEFENDANTS did not provide
18 PLAINTIFF with any reimbursement for these business expenses.

19 97. DEFENDANTS regularly failed to reimburse and indemnify Aggrieved Employees
20 for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF and Aggrieved
21 Employees were entitled to be reimbursed for all reasonable expenses associated with carrying out
22 DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

23 98. **Failure to Timely Pay All Wages Upon Separation of Employment.**
24 DEFENDANTS failed to timely pay Aggrieved Employees all wages that were due and owing upon
25 termination or resignation. Based on information and belief, DEFENDANTS untimely provide final
26 wages to Aggrieved Employees without regard to the timing requirements of Labor Code sections
27 201-202.

28 99. Upon separation of employment, Aggrieved Employees' final paychecks were not

1 timely provided and/or did not include all wages owed as they were devoid of, including but not
2 limited to, all owed minimum wages, overtime wages, reporting time pay wages, premium wages,
3 and/or paid time off wages at the properly accrued rates.

4 100. For example, DEFENDANTS failed to furnish PLAINTIFF with any final paycheck
5 at the time DEFENDANTS terminated PLAINTIFF's employment, instead requiring PLAINTIFF
6 to wait until the next regularly scheduled pay period in order to receive PLAINTIFF's final
7 paycheck, and PLAINTIFF's late final paycheck is devoid of all wages owed including but not
8 limited to, all owed minimum wages, overtime wages, reporting time pay wages, premium wages,
9 vacation pay and/or paid time off wages at the properly accrued rates (including but not limited to,
10 all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation,
11 including but not limited to, any owed shift differentials).

12 101. For example, PLAINTIFF's employment with DEFENDANTS separated in or
13 around mid-January 2025, yet DEFENDANTS' final paycheck for PLAINTIFF is dated January 30,
14 2025.

15 102. Based on information and belief, DEFENDANTS have a policy and practice of
16 failing to issue final pay checks upon separation of employment and instead waiting until the next
17 regularly scheduled pay period to issue final pay checks, in violation of the timing requirements
18 delineated under Labor Code section 201 and/or 202.

19 **FIRST CAUSE OF ACTION**
20 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
21 **2698, *ET SEQ.***
22 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
23 **Defendants)**

24 103. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

25 **Meal Period Violations**

26 104. California law requires employers to provide employees a duty-free, uninterrupted
27 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
28 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
Court (2012) 53 Cal.4th 1004.

1 105. Employers must also provide employees with a second duty-free, uninterrupted thirty
2 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
3 be provided before the end of the 10th hour of work. *Ibid.*

4 106. Employers covered by any and all applicable IWC Wage Orders have an obligation
5 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
6 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
7 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
8 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
9 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
10 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
11 provided”).

12 107. Employers must pay employees an additional hour of wages at the employees’
13 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
14 meal period, first meal period provided after five (5) hours, second meal period provided after 10
15 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
16 provide an employee a meal period in accordance with the applicable provision of this Order, the
17 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
18 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

19 108. As explained above, PLAINTIFF and other Aggrieved Employees were unable to
20 take timely, off duty, thirty-minute, uninterrupted meal periods, at times being forced to take late
21 meal periods, shortened meal periods, and/or work through part or all of their meal periods due to
22 understaffing, the nature and constraints of their job duties, and/or commentary from supervisors
23 pressuring them to take non-compliant meal periods or skip meal periods completely.

24 109. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
25 actual and/or constructive knowledge that its unlawful meal period policies and practices resulted
26 in the denial of compliant meal periods in violation of California's meal period laws.

27 110. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
28 periods in violation of California law and/or failed to pay the proper meal period premium for failure

1 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
2 differential pay and/or other non-discretionary compensation into the regular rate or compensation
3 for purposes of calculating the owed meal period premium.

4 111. These unlawful meal period policies and practices result in violations of Labor Code
5 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
6 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
7 Wage Orders, § 20.

8 **Rest Period Violations**

9 112. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
10 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
11 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
12 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
13 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
14 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
15 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
16 1029). The rest period requirement obligates employers to permit and authorize employees to take
17 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
18 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
19 257. If the employer fails to provide any required rest period, the employer must pay the employee
20 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
21 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
22 applicable IWC Wage Order, §12(B).

23 113. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
24 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
25 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
26 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
27 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
28 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what

1 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
2 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
3 “onus is on the employer to clearly communicate the authorization and permission [to take rest
4 periods] to its employees.”).

5 114. PLAINTIFF and the Aggrieved Employees did not always receive legally compliant,
6 timely 10-minute rest periods for every four (4) hours worked or major fraction thereof.

7 115. Based on information and belief, at times, DEFENDANTS failed to relieve
8 PLAINTIFF and other Aggrieved Employees of all duties and employer control during rest periods.

9 116. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
10 first, second, or third rest periods as required by California law.

11 117. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
12 period premium to PLAINTIFF and other Aggrieved Employees at their regular rate(s) of pay for
13 each workday in which there was a missed or otherwise unlawful rest period.

14 118. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
15 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
16 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

17 **Minimum and Overtime Wage Violations**

18 119. California law provides that employees in California must be paid for all hours
19 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
20 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
21 The minimum wage standard applies to each hour employees worked for which they were not paid.
22 Therefore, an employer’s failure to pay for any particular hour worked by an employee is unlawful
23 even if averaging an employee’s total pay over all hours worked, paid or not, results in an average
24 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

25 120. California law also provides that employees in California must be paid overtime,
26 equal to 1.5 times the employee’s regular rate of pay for all hours worked in excess of 40 hours per
27 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
28 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond

1 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
2 consecutive day of work in a work week. *Ibid.*

3 121. As explained above, DEFENDANTS violated California's minimum and overtime
4 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
5 by virtue of, among other things, DEFENDANTS' off-the-clock work policies and practices
6 (described above), which resulted in unpaid minimum and overtime wages.

7 122. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
8 Aggrieved Employees for all hours worked.

9 123. Based on information and belief, DEFENDANTS had actual or constructive
10 knowledge that its failure to relieve employees of all duties and employer control during unpaid
11 meal periods and other off-the-clock work resulted in the underpayment of minimum and overtime
12 wages owed to PLAINTIFF and other Aggrieved Employees.

13 124. Based on information and belief, DEFENDANTS failed and continue to fail to pay
14 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
15 in a week.

16 125. Based on information and belief, DEFENDANTS further violated California's
17 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
18 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
19 compensation into the regular rate of pay used to calculate the overtime rate of pay, resulting in the
20 underpayment of overtime wages owed to Aggrieved Employees.

21 126. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
22 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
23 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
24 Wage Orders, section 20.

25 127. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
26 provides as follows:

27 128. (A) Each workday an employee is required to report for work and does report, but is
28 not put to work or is furnished less than half said employee's usual or scheduled day's work, the

1 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
2 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
3 than the minimum wage. (B) If an employee is required to report for work a second time in any one
4 workday and is furnished less than two (2) hours of work on the second reporting said employee
5 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
6 minimum wage.

7 129. PLAINTIFF was not paid reporting time wages in accordance with California law,
8 including but not limited to the applicable IWC Wage Order. For example, based on information
9 and belief, at times, PLAINTIFF reported to work for a scheduled shift but was sent home and/or
10 was not put to work and were not paid all owed reporting time pay wages in accordance with
11 California law.

12 130. Based on information and belief, DEFENDANTS have a policy and practice of
13 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
14 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
15 pay all reporting time wages to PLAINTIFF and Aggrieved Employees violated and continues to
16 violate the applicable Wage Order, and the California Labor Code, including but not limited to
17 section 1198.

18 **Business Expense Violations**

19 131. California law requires employers to indemnify their employees for all necessary
20 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
21 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
22 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
23 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
24 incurred by the employee enforcing the rights granted by this section."

25 132. Among other things, under California law, when employees must use their personal
26 cellphones for work-related purposes, the employer must reimburse them for a reasonable
27 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
28 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was

1 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
2 *Id.* 1144-1145.

3 133. Further, “any contract or agreement, express or implied, made by any employee to
4 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
5 any employee or his personal representative of any right or remedy to which he is entitled to under
6 the laws of this State.” *See* Cal. Lab. Code section 2804.

7 134. As described above, PLAINTIFF and the Aggrieved Employees were improperly
8 required to pay for business expenses that are legally the responsibility of the employer.

9 135. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
10 full reimbursement for all reasonable expenses associated with carrying out their duties required
11 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
12 expenses in violation of Labor Code section 2802.

13 136. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
14 Employees have suffered injury in that they were not completely reimbursed as mandated by
15 California law.

16 137. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
17 full reimbursement for all reasonable expenses associated with carrying out their duties required
18 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
19 expenses in violation of Labor Code section 2802 and the applicable Wage Order.

20 138. This constitutes a PAGA violation based on violations of California Labor Code §
21 2802 and the applicable Wage Order.

22 **Wage Statement Violations**

23 139. California law requires every employer semi-monthly or at the time of each payment
24 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
25 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
26 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
27 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
28 is paid; (7) the name of the employee and only the last four digits of his or her social security number

1 or an employee identification number other than a social security number; (8) the name and address
2 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
3 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

4 140. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
5 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
6 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
7 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
8 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
9 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
10 effect during the pay period and the corresponding number of hours worked at each hourly rate by
11 the employee, in violation of Labor Code section 226(a)(9).

12 141. Moreover, due to violations detailed above, including but not limited to,
13 DEFENDANTS' failure to pay regular and overtime wages for all hours worked and failure to
14 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
15 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized
16 wage statements that listed the gross and net wages earned and the correct applicable rates of pay
17 for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all
18 forms of non-discretionary compensation earned during the pay period into the regular rate of pay
19 for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime
20 rate(s) for each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

21 142. As explained above, wage statements issued by DEFENDANTS failed to list the
22 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of off-the-clock work
23 policies and practices described above), which results in a violation of Labor Code section 226(a).

24 143. Failure to list all hours worked on a wage statement, gives rise to an inference of
25 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
26 1308, 1337).

27 144. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list all applicable hourly rates in effect during the pay period and the corresponding number of

1 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
2 Code section 226(a)(9).

3 145. DEFENDANTS' failure to accurately list all hours worked on all wage statements
4 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
5 Employees over whether they received all wages owed to them.

6 146. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
7 they could not easily determine whether they received all wages owed to them and whether they
8 were paid for all hours worked.

9 147. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
10 Aggrieved Employees with accurate, itemized wage statements.

11 148. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
12 Employees have suffered injury. The absence of accurate information on their wage statements has
13 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
14 mathematical computations to determine the amount of wages owed, and will cause difficulty and
15 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
16 submission of inaccurate information about wages and amounts deducted from wages to state and
17 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
18 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
19 and pay records than if DEFENDANT had complied with its legal obligations.

20 149. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
21 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
22 during which the statute provisions were violated. ²

23 **Untimely Payment of Final Wages**

24 150. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
25 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
26 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
27 employee not having a written contract for a definite period quits his or her employment, his or her

28 ² Labor Code § 226.3 (establishing that the civil penalty is ~~2~~⁷ per employee per violation").

1 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
2 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
3 to his or her wages at the time of quitting.”

4 151. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
5 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
6 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
7 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
8 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
9 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

10 152. Based on information and belief, DEFENDANTS failed and continue to fail to timely
11 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
12 violation of Labor Code section 201-202. Final paychecks are not timely provided and/or did not
13 include all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
14 overtime wages, and premium wages.

15 153. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
16 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
17 256.

18 154. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
19 engaged in these same herein described unlawful practices, which led to violations of the California
20 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
21 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

22 155. Under the provisions of PAGA and the above mentioned Labor Code sections,
23 including but not limited to Labor Code sections 201-203, 210, 226, 226.7, 256, 510, 512, 558,
24 558.1, 1194, 1197, 1197.1, 2699, 2699.3, 2802, and all applicable Wage Orders as well as all
25 interpretations of these laws by California Courts and administrative bodies, as well as any other
26 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 27 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
28 relevant California Labor Code provisions listed herein only if permitted by the

1 PAGA statute, pursuant to Labor Code section 2699(a); and
2 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
3 violations without a civil penalty recoverable under the PAGA, all in the default
4 amounts provided by Labor Code section 2699(f).

5 156. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
6 PLAINTIFF is entitled to recover civil penalties, costs, and attorney’s fees.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
9 PLAINTIFF, the State of California, and all Aggrieved Employees:

- 10 1. For civil penalties under Labor Code Section 2699;
11 2. For an order temporarily, preliminarily and permanently enjoining and
12 restraining DEFENDANTS from engaging in similar unlawful conduct as set
13 forth herein;
14 3. For reasonable attorney’s fees and costs of suit; and
15 4. For such other and further relief that the Court deems just and proper.

16
17 Dated: May 29, 2025 **CROSNER LEGAL, PC**

18
19 By:  _____
20 Jamie K. Serb, Esq.
21 Brandon Brouillette, Esq.
22 Zachary M. Crosner, Esq.
23 Attorneys for Plaintiff
24 ABRAHAM AYALA