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SUPERIOR COURT

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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

ELIJAH TURNER, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

UFP THORNTON, LLC, a Michigan
Limited Liability Company; UNIVERSAL
FOREST PRODUCTS, INC., a Michigan
Corporation; UFP INDUSTRIES, INC., a
Michigan Corporation; MARATHON
STAFFING SOLUTIONS INC, a Nevada
Corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: STK-CV-~~UOE~~-2025- 6866

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

ORIGINAL

FAKED

1 Plaintiff, ELIJAH TURNER, ("PLAINTIFF"), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants UFP
3 THORNTON, LLC, a Michigan Limited Liability Company; UNIVERSAL FOREST PRODUCTS,
4 INC., a Michigan Corporation; UFP INDUSTRIES, INC., a Michigan Corporation; MARATHON
5 STAFFING SOLUTIONS INC, a Nevada Corporation; and DOES 1-100, inclusive, (collectively
6 referred to herein as "DEFENDANTS"). PLAINTIFF is informed and believes and thereon alleges
7 as follows:

8 INTRODUCTION

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

13 JURISDICTION AND VENUE

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

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

24 THE PARTIES

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

27 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title
28 of laborer or a similar job title/position from in or around October 2024, through in or around late

1 November 2024. PLAINTIFF was assigned by Marathon Staffing to work at including but not
2 limited to, UFP (defined below)'s facilities in Thornton, California.

3 6. Defendant, UFP THORNTON, LLC, is a Michigan Limited Liability Company that,
4 at all relevant times, was authorized to do business within the State of California and is doing
5 business in the State of California.

6 7. Defendant, UNIVERSAL FOREST PRODUCTS, INC., is a Michigan Corporation
7 that, at all relevant times, was authorized to do business within the State of California and is doing
8 business in the State of California.

9 8. Defendant, UFP INDUSTRIES, INC., is a Michigan Corporation that, at all relevant
10 times, was authorized to do business within the State of California and is doing business in the State
11 of California.

12 9. Defendant, UFP THORNTON, LLC, Defendant, UNIVERSAL FOREST
13 PRODUCTS, INC., and/ Defendant, UFP INDUSTRIES, INC., are collectively referred to herein
14 as "UFP."

15 10. Defendant, MARATHON STAFFING SOLUTIONS INC ("Marathon Staffing"), is
16 a Nevada Corporation that, at all relevant times, was authorized to do business within the State of
17 California and is doing business in the State of California. Marathon Staffing Services is a staffing
18 company.

19 11. DEFENDANTS own, operate, manage and/or staff its employees to work at the
20 manufacturing centers, warehouse distribution centers, facilities and/or other location(s) in
21 California, including but not limited to, in Riverside, Thornton, Chino, Ontario, and Rancho
22 Cucamonga, California. UFP specializes in the manufacturing and sale of building materials and
23 operates business under including but not limited to the following names: "Universal Forest
24 Products," "UFP Industries," "UFP," "UFP Packaging," "UFP Construction," and/or UFP Retail
25 Solutions." Marathon Staffing is a staffing company. DEFENDANTS, through its various
26 locations, serve the including but not limited to, manufacturing industry.¹

27 12. The true names and capacities of the DOE Defendants sued herein as DOES 1
28

¹ See <https://ufpi.com/> and <https://www.marathonstaffing.com/>. Last visited on March 5, 2025.

1 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
2 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
3 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
4 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
5 become known.

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

16 JOINT LIABILITY

17 14. Under California law, the definition of the terms “to employ” are broadly construed
18 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
19 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
20 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
21 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
22 was to reach situations in which multiple entities control different aspects of the employment
23 relationship. Supervision of the work, in the specific sense of exercising control over how services
24 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
25 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
26 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
27 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
28 California, applying a less stringent standard to what constitutes sufficient control by a business

1 over its vendor's employees' wages and working conditions to render that business liable as a joint
2 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); "[i]f the putative
3 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
4 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
5 employment," *Id.* at 875 [emphasis added].

6 15. During PLAINTIFF's employment by DEFENDANTS, PLAINTIFF and other
7 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
8 the Wage Orders, under the alternative definitions of "to employ" adopted by the California
9 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
10 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
11 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
12 and Aggrieved Employees to work for them.

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

26 17. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
27 to this Complaint, DEFENDANTS, and each of them, were the joint employers of PLAINTIFF and
28 Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and cause of action,

1 in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
2 Employees' wages, hours and working conditions, and/or suffered or permitted them to work so as
3 to be considered the joint employers of PLAINTIFF and Aggrieved Employees.

4 18. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
5 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
6 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
7 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
8 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
9 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
10 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
11 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
12 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
13 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
14 writing the details of their compensation, and the manner in which they were to take meal and rest
15 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
16 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
17 collectively would evaluate their wage rates.

18 19. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
19 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
20 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
21 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
22 PLAINTIFF seeks relief in this Complaint.

23 20. Moreover, based on information and belief, Marathon Staffing hired PLAINTIFF
24 and entered into a written employment agreement with PLAINTIFF. During PLAINTIFF's
25 employment, Marathon Staffing maintained control over many aspects of PLAINTIFF's
26 employment, including, among other things, having the authority to discipline PLAINTIFF, change
27 PLAINTIFF's job assignment, change PLAINTIFF's work hours, change PLAINTIFF's rates of pay,
28 and to terminate PLAINTIFF's employment.

1 21. Based on information and belief, when PLAINTIFF was first hired, Marathon
2 Staffing provided PLAINTIFF with orientation and training materials. Marathon Staffing issued
3 PLAINTIFF written policies concerning meal periods, rest breaks, timekeeping, hours worked, and
4 payment of PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on
5 information and belief, among other things, these policies provided that PLAINTIFF's weekly time
6 records be submitted to Marathon Staffing, and Marathon Staffing was supposed to process
7 PLAINTIFF's time records and pay PLAINTIFF for all hours worked. Marathon Staffing exercised
8 ultimate control over the payment of PLAINTIFF's wages, as Marathon Staffing issued PLAINTIFF
9 his paychecks. Finally, Marathon Staffing directed PLAINTIFF to comply with UFP' policies and
10 directions. PLAINTIFF is informed and believes that Marathon Staffing exercised the same control
11 over, applied the same policies and practices, and engaged in the same acts and omissions with
12 regard to the other Aggrieved Employees.

13 22. UFP similarly suffered or permitted PLAINTIFF to work for them or engaged
14 PLAINTIFF to work for them. PLAINTIFF is informed and believes that UFP entered into a written
15 agreement with Marathon Staffing, pursuant to which UFP paid Marathon Staffing to provide it with
16 workers, including PLAINTIFF, to conduct UFP's business operations – namely, to work in UFP's
17 warehouse distribution centers, warehouses and/or other facilities and/or other location(s). UFP
18 suffered or permitted PLAINTIFF to work at UFP for the entirety of PLAINTIFF's employment.

19 23. UFP further exercised control over PLAINTIFF's wages, hours and working
20 conditions. UFP also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
21 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
22 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
23 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
24 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)
25 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
26 employment; (7) required PLAINTIFF to record hours worked using UFP's timekeeping system;
27 (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks; (9)
28 subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was

1 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief, UFP
2 issued further written policies and practices and guidelines governing PLAINTIFF's working
3 conditions with which PLAINTIFF was required to comply.

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

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

13 26. By reason of their status as joint employers of PLAINTIFF and Aggrieved
14 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
15 Code and applicable Wage Orders as to all Aggrieved Employees.

16 27. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
17 control over, applied the same policies and practices, and engaged in the same acts and omissions
18 with regard to the other Aggrieved Employees.

19 28. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
20 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
21 PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
22 services from which they benefited, and furthermore that the aforementioned entities had the right
23 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
24 times herein, so as to be considered the joint employers of PLAINTIFF.

25 29. By reason of their status as joint employers of PLAINTIFF and Aggrieved
26 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
27 Code and applicable Wage Orders as to all Aggrieved Employees.

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

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

5 31. Marathon Staffing is a “labor contractor” in that it supplies UFP with workers to
6 perform labor within UFP’ usual course of business. Lab. Code § 2810.3(a)(3).

7 32. UFP is a “client employer” in that it is a business entity that “obtains or is provided
8 workers to perform labor within its usual course of business” from labor contractor Marathon
9 Staffing. Lab. Code § 2810.3(a)(1)(A). Moreover, UFP has a workforce of more than twenty-five
10 workers and is supplied with at least five (5) workers from a labor contractor at any given time. Lab.
11 Code § 2810.3(a)(1)(B).

12 33. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
13 of wages to all workers supplied to UFP by Marathon Staffing.

14 34. PLAINTIFF complied with all administrative requirements by providing notice by
15 certified mail of the claims alleged herein to UFP. Lab. Code § 2810.3(d).

16 35. Any reference herein to any alleged act or omission by any DEFENDANT shall be
17 deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly
18 and severally.

19 **PAGA ALLEGATIONS**

20 36. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
21 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
22 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
23 following:

- 24 i. All non-exempt workers who were directly employed by Defendant
25 MARATHON STAFFING SOLUTIONS INC - regardless of where those non-
26 exempt workers were assigned or a staffed to work – in California at any time
27 from one year plus 65 days from the filing of the initial Complaint through the
28 present (“PAGA Period”).

1 ii. All non-exempt workers who were assigned/staffed to work at any one or more
2 of Defendant, UFP THORNTON, LLC's, Defendant, UNIVERSAL FOREST
3 PRODUCTS, INC.'s, and/ Defendant, UFP INDUSTRIES, INC.'s locations in
4 California, by Defendant MARATHON STAFFING SOLUTIONS INC and/or
5 any other staffing/temporary service agencies, at any time during the PAGA
6 Period.

7 iii. All non-exempt workers who were directly employed by Defendant, UFP
8 THORNTON, LLC, Defendant, UNIVERSAL FOREST PRODUCTS, INC.,
9 and/ Defendant, UFP INDUSTRIES, INC. at any location in California at any
10 time during the PAGA Period.

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

16 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

17 38. PLAINTIFF, on March 6, 2025, through counsel, gave written notice by online filing
18 with the California Labor and Workforce Development Agency ("LWDA") informing it that
19 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
20 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via
21 certified mail.

22 39. The PAGA Notice outlined PLAINTIFF's claims for violations of the California
23 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
24 Employees.

25 40. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
26 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
27 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
28 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.

1 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

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

5 **FACTUAL ALLEGATIONS**

6 42. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
7 worked for DEFENDANTS in the State of California. At all times referenced herein,
8 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
9 permitted them to work.

10 43. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title
11 of laborer or a similar job title/position from in or around October 2024, through in or around late
12 November 2024.

13 44. PLAINTIFF was assigned by Marathon Staffing to work at including but not limited
14 to, UFP's facilities in Thornton, California.

15 45. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
16 DEFENDANTS as hours worked.

17 46. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
18 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
19 minimum and overtime wages.

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

22 48. For example, Aggrieved Employees were consistently required to complete off-the-
23 clock work tasks after clocking out for the end of their shifts and during uncompensated meal
24 periods, resulting in off-the-clock work and the underpayment of minimum and overtime wages
25 owed to Aggrieved Employees.

26 49. For example, PLAINTIFF had to complete work tasks during unpaid meal periods
27 resulting in DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the
28 underpayment of wages owed to PLAINTIFF.

1 50. Also, DEFENDANTS required PLAINTIFF and other Aggrieved Employees to
2 clock out at least approximately five (5) minutes early before the end of their shifts as
3 DEFENDANTS did not want them to continue working overtime hours. As such, PLAINTIFF and
4 other Aggrieved Employees were typically forced to complete work tasks off the clock in order to
5 avoid and/or reduce the number of overtime hours compensated. DEFENDANTS knew that the
6 assigned workload would require PLAINTIFF and other Aggrieved Employees to work well over
7 eight (8) hours in a shift and knew when these Aggrieved Employees worked off-the-clock in order
8 to complete assigned job duties, yet DEFENDANTS failed to pay them for all hours worked,
9 resulting in the underpayment of wages owed.

10 51. For example, PLAINTIFF and other Aggrieved Employees typically had to spend at
11 least several minutes completing work tasks off the clock after they had clocked out for the end of
12 their shifts, including, cleaning/organizing their workstations and/or completing other off-the-clock
13 work tasks, resulting in DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved
14 Employees for all hours worked and the underpayment of wages owed.

15 52. DEFENDANTS' failure to pay for all time worked by virtue of its failure to provide
16 lawful meal periods and/or other off-the-clock work practices and policies, resulted in the
17 underpayment of minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid
18 overtime wages for those Aggrieved Employees, including PLAINTIFF, who worked more than
19 eight (8) hours in a day and/or more than forty (40) hours in a week.

20 53. Based on information and belief, DEFENDANTS had actual and/or constructive
21 knowledge that its failure to provide lawful meal periods (as described below) and/or other off-the-
22 clock work resulted in the underpayment of minimum wages and overtime wages owed to
23 Aggrieved Employees, in violation of California's minimum and overtime wage laws.

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

27 55. Based on information and belief, DEFENDANTS failed and continue to fail to pay
28 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours

1 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
2 a work week, in violation of California's overtime laws.

3 56. Based on information and belief, DEFENDANTS failed to incorporate all non-
4 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple
5 base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the
6 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed
7 to PLAINTIFF and other Aggrieved Employees.

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

12 58. For example, at times, PLAINTIFF was required to take his meal periods late due to
13 lack of relief workers and/or the need to continue completing assigned job duties.

14 59. At times, PLAINTIFF was interrupted during unpaid meal periods due to the need to
15 complete assigned job duties.

16 60. For example, PLAINTIFF's supervisor sometimes instructed PLAINTIFF to
17 complete work tasks while PLAINTIFF was clocked out for meal periods, resulting in
18 interrupted/denied meal periods and DEFENDANTS' failure to compensate PLAINTIFF for all
19 hours worked and the underpayment of wages owed.

20 61. Based on information and belief, despite DEFENDANTS' failure to provide lawful
21 meal periods, DEFENDANTS required, suffered and/or permitted PLAINTIFF and other Aggrieved
22 Employees to record that they had taken at least a thirty-minute off-duty meal period and/or would
23 unlawfully edit the clock in and out times for PLAINTIFF's and/or other Aggrieved Employees'
24 meal periods in order to display at least a thirty minute off-duty meal period during many if not all
25 shifts worked, notwithstanding the fact that DEFENDANTS had actual and/or constructive
26 knowledge that DEFENDANTS had required, suffered or permitted PLAINTIFF and other
27 Aggrieved Employees' to perform work-related tasks during their meal periods/were not relieved of
28 all duties and DEFENDANTS' control during unpaid meal periods.

1 62. Based on information and belief, DEFENDANTS had actual and/or constructive
2 knowledge that their policies and practices resulted in the denial of timely uninterrupted meal
3 periods that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved
4 Employees, in violation of California's meal period laws.

5 63. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees an
6 additional hour of wages at their respective regular rates of compensation for each workday a lawful
7 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
8 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
9 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
10 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
11 compensation for purposes of calculating the owed meal period premium.

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

16 65. PLAINTIFF and other Aggrieved Employees were not adequately informed,
17 authorized, instructed about, nor permitted an opportunity to take legally compliant rest periods per
18 California law.

19 66. For example, based on information and belief, at times, PLAINTIFF and other
20 Aggrieved Employees were unable to take compliant rest periods due to their need to complete
21 assigned job duties and/or were unable to take a net off-duty ten-minute rest period in a suitable rest
22 area.

23 67. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
24 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
25 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
26 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
27 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
28 shift differential pay, and/or other non-discretionary compensation into the regular rate of

1 compensation for purposes of calculating the owed rest period premium.

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

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

15 70. Based on information and belief, wage statements issued by DEFENDANTS failed
16 to list all applicable hourly rates in effect during the pay period and the corresponding number of
17 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
18 Code section 226(a)(9).

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

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

25 DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by requiring
26 them to pay for business expenses, including but not limited to, the use of Aggrieved Employees'
27 personal cell phones/mobile devices for work-related purposes and/or by requiring them to pay for
28 the purchase/maintenance of work shoes and/or protective/safety gear.

1 For example, DEFENDANTS required PLAINTIFF to supply steel-toed boots that
2 DEFENDANTS required PLAINTIFF wear for work without providing any reimbursement for
3 these business expenses.

4 73. DEFENDANTS regularly failed to reimburse and indemnify Aggrieved Employees
5 for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF and Aggrieved
6 Employees were entitled to be reimbursed for all reasonable expenses associated with carrying out
7 DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

8 74. **Failure to Timely Pay All Wages Upon Separation of Employment.**
9 DEFENDANTS failed to timely pay Aggrieved Employees all wages that were due and owing upon
10 termination or resignation. Based on information and belief, DEFENDANTS untimely provide final
11 wages to Aggrieved Employees without regard to the timing requirements of Labor Code sections
12 201-202.

13 75. Upon separation of employment, Aggrieved Employees' final paychecks were not
14 timely provided and/or did not include all wages owed as they were devoid of, including but not
15 limited to, all owed minimum wages, overtime wages, premium wages, and/or paid time off wages
16 at the properly accrued rates.

17 76. For example, DEFENDANTS failed to furnish PLAINTIFF with any final paycheck
18 for at least approximately one (1) week following PLAINTIFF's termination, and PLAINTIFF's late
19 final paycheck was devoid of all wages owed including without limitation, all owed minimum
20 wages, overtime wages, and premium wages.

21 77. **Violation of Labor Code Sections 2100-2112.** Pursuant to Labor Code Sections
22 2100-2112, employers with one hundred (100) or more employees at a single warehouse
23 distribution center, or one thousand (1,000) or more employees at one or more warehouse
24 distribution centers in California are required to provide nonexempt employees, upon hire, with a
25 written description of each quota they are subject to (e.g., quantified number of tasks to be performed
26 or materials to be handled) within a defined period of time and any potential adverse employment
27 action that may result from failure to meet the quota. Labor Code Section 2102 (see below) prohibits
28 adverse employment actions against employees who fail to meet their quota if the quota was not

1 properly disclosed to the employee and prohibits quotas that prevent an employee from taking his
2 or her meal or rest breaks, use of restrooms, or that interfere with compliance with California's
3 occupational health and safety laws.

4 78. Labor Code Section 2101 provides:

5 79. Each employer shall provide to each employee, upon hire, or within 30 days of the
6 effective date of this part, a written description of each quota to which the employee is subject,
7 including the quantified number of tasks to be performed or materials to be produced or handled,
8 within the defined time period, and any potential adverse employment action that could result from
9 failure to meet the quota.

10 80. Labor Code Section 2102 provides:

11 81. An employee shall not be required to meet a quota that prevents compliance with
12 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
13 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
14 An employer shall not take adverse employment action against an employee for failure to meet a
15 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
16 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
17 disclosed to the employee pursuant to Section 2101.

18 82. Labor Code Section 2104 provides in pertinent part:

19 83. (a)(1) If a current or former employee believes that meeting a quota caused a
20 violation of their right to a meal or rest period or required them to violate any occupational health
21 and safety laws in the Labor Code or division standards, they have the right to request, and the
22 employer shall provide, a written description of each quota to which the employee is subject and a
23 copy of the most recent 90 days of the employee's own personal work speed data.

24 84. (2) If a former employee requests a written description of the quotas to which they
25 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
26 employer shall provide 90 days of the former employee's quotas and personal work speed data for
27 the 90 days prior to the date of the employee's separation from the employer.

28 85. (b) An employer that receives a written or oral request for information pursuant to

1 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
2 days from the date of the request.

3 86. During the liability period, DEFENDANTS employed 100 or more Aggrieved
4 Employees at a single warehouse distribution center in California rendering DEFENDANTS subject
5 to the provisions of Labor Code Sections 2100-2112, during the relevant period.

6 87. Based on information and belief, DEFENDANTS had/have a policy and practice of
7 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
8 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
9 defined period of time and any potential adverse employment action that may result from failure to
10 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
11 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
12 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
13 compliance of California's occupational health and safety laws.

14 88. Based on further information and belief, DEFENDANTS have/had a policy and
15 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
16 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
17 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
18 Labor Code section 2102.

19 89. Based on information and belief, DEFENDANTS failed and continue to fail to timely
20 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
21 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
22 them to violate any occupational health and safety laws, a written description of each quota to which
23 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
24 personal work speed data.

25 90. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
26 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

27 91. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
28 engaged in these same herein described unlawful practices, which led to violations of the California

1 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
2 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

3 **FIRST CAUSE OF ACTION**
4 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
5 **2698, ET SEQ.**
6 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
7 **Defendants)**

8 92. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

9 **Meal Period Violations**

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

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

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

26 96. Employers must pay employees an additional hour of wages at the employees’
27 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
28 meal period, first meal period provided after five (5) hours, second meal period provided after 10
hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
provide an employee a meal period in accordance with the applicable provision of this Order, the

1 employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation
2 for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

3 97. As explained above, PLAINTIFF and other Aggrieved Employees were unable to
4 take timely, off duty, thirty-minute, uninterrupted meal periods, at times being forced to take late
5 meal periods, interrupted meal periods, and/or work through part or all of their meal periods due to
6 understaffing, the nature and constraints of their job duties, and/or commentary from supervisors
7 pressuring them to take non-compliant meal periods or skip meal periods completely.

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

11 99. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
12 periods in violation of California law and/or failed to pay the proper meal period premium for failure
13 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
14 differential pay and/or other non-discretionary compensation into the regular rate or compensation
15 for purposes of calculating the owed meal period premium.

16 100. These unlawful meal period policies and practices result in violations of Labor Code
17 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
18 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
19 Wage Orders, § 20.

20 **Rest Period Violations**

21 101. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
22 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
23 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
24 "insofar as practicable." In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
25 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
26 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
27 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
28 1029). The rest period requirement obligates employers to permit and authorize employees to take

1 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
2 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
3 257. If the employer fails to provide any required rest period, the employer must pay the employee
4 one hour of pay at the employee's regular rate of compensation for each workday the employer did
5 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
6 applicable IWC Wage Order, §12(B).

7 102. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
8 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
9 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
10 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
11 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
12 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
13 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
14 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
15 "onus is on the employer to clearly communicate the authorization and permission [to take rest
16 periods] to its employees.").

17 103. Based on information and belief, PLAINTIFF and the Aggrieved Employees did not
18 always receive legally compliant, timely 10-minute rest periods for every four (4) hours worked or
19 major fraction thereof.

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

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

24 106. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
25 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
26 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
27 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
28 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into

1 the regular rate of compensation for purposes of determining the owed rest period premium.

2 107. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
3 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
4 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

5 **Minimum and Overtime Wage Violations**

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

13 109. California law also provides that employees in California must be paid overtime,
14 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
15 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
16 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
17 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
18 consecutive day of work in a work week. *Ibid.*

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

23 111. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
24 Aggrieved Employees for all hours worked.

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

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

4 114. Based on information and belief, DEFENDANTS further violated California's
5 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
6 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
7 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
8 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
9 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
10 other Aggrieved Employees.

11 115. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
12 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
13 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
14 Wage Orders, section 20.

15 **Statutory Wage Violations**

16 116. California Labor Code section 223 makes it unlawful for an employer to secretly pay
17 wages lower than required by statute while purporting to pay legal wages. As described above,
18 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
19 earned minimum and overtime compensation for all hours worked which resulted in the payment of
20 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
21 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
22 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
23 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
24 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
25 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
26 Labor Code § 2699(f)-(g).

27 **Business Expense Violations**

28 117. California law requires employers to indemnify their employees for all necessary

1 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
2 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
3 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
4 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
5 incurred by the employee enforcing the rights granted by this section.”

6 118. Among other things, under California law, when employees must use their personal
7 cellphones for work-related purposes, the employer must reimburse them for a reasonable
8 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
9 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
10 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
11 *Id.* 1144-1145.

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

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

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

22 122. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
23 Employees have suffered injury in that they were not completely reimbursed as mandated by
24 California law.

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

1 124. This constitutes a PAGA violation based on violations of California Labor Code §
2 2802 and the applicable Wage Order.

3 **Wage Statement Violations**

4 125. California law requires every employer semi-monthly or at the time of each payment
5 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
6 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
7 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
8 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
9 is paid; (7) the name of the employee and only the last four digits of his or her social security number
10 or an employee identification number other than a social security number; (8) the name and address
11 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
12 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

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

21 127. Moreover, due to violations detailed above, including but not limited to,
22 DEFENDANTS' failure to pay regular and overtime wages for all hours worked and failure to
23 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
24 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized
25 wage statements that listed the gross and net wages earned and the correct applicable rates of pay
26 for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all
27 forms of non-discretionary compensation earned during the pay period into the regular rate of pay
28 for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime

1 rate(s) for each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

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

5 129. Failure to list all hours worked on a wage statement, gives rise to an inference of
6 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
7 1308, 1337).

8 130. Based on information and belief, wage statements issued by DEFENDANTS failed
9 to list all applicable hourly rates in effect during the pay period and the corresponding number of
10 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
11 Code section 226(a)(9).

12 131. DEFENDANTS' failure to accurately list all hours worked on all wage statements
13 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
14 Employees over whether they received all wages owed to them.

15 132. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
16 they could not easily determine whether they received all wages owed to them and whether they
17 were paid for all hours worked.

18 133. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
19 Aggrieved Employees with accurate, itemized wage statements.

20 134. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
21 Employees have suffered injury. The absence of accurate information on their wage statements has
22 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
23 mathematical computations to determine the amount of wages owed, and will cause difficulty and
24 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
25 submission of inaccurate information about wages and amounts deducted from wages to state and
26 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
27 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
28 and pay records than if DEFENDANT had complied with its legal obligations.

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

4 **Untimely Payment of Final Wages**

5 136. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
6 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
7 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
8 employee not having a written contract for a definite period quits his or her employment, his or her
9 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
10 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
11 to his or her wages at the time of quitting.”

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

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

23 139. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
24 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
25 256.

26 **Violation of Labor Code Sections 2100-2112**

27 140. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or

28 ² Labor Code § 226.3 (establishing that the civil penalty is “per employee per violation”).

1 more employees at a single warehouse distribution center, or one thousand (1,000) or more
2 employees at one or more warehouse distribution centers in California are required to provide
3 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
4 quantified number of tasks to be performed or materials to be handled) within a defined period of
5 time and any potential adverse employment action that may result from failure to meet the quota.
6 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
7 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
8 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
9 with compliance with California's occupational health and safety laws.

10 141. Labor Code Section 2101 provides:

11 142. Each employer shall provide to each employee, upon hire, or within 30 days of the
12 effective date of this part, a written description of each quota to which the employee is subject,
13 including the quantified number of tasks to be performed or materials to be produced or handled,
14 within the defined time period, and any potential adverse employment action that could result from
15 failure to meet the quota.

16 143. Labor Code Section 2102 provides:

17 144. An employee shall not be required to meet a quota that prevents compliance with
18 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
19 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
20 An employer shall not take adverse employment action against an employee for failure to meet a
21 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
22 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
23 disclosed to the employee pursuant to Section 2101.

24 145. Labor Code Section 2104 provides in pertinent part:

25 146. (a)(1) If a current or former employee believes that meeting a quota caused a
26 violation of their right to a meal or rest period or required them to violate any occupational health
27 and safety laws in the Labor Code or division standards, they have the right to request, and the
28 employer shall provide, a written description of each quota to which the employee is subject and a

1 copy of the most recent 90 days of the employee's own personal work speed data.

2 147. (2) If a former employee requests a written description of the quotas to which they
3 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
4 employer shall provide 90 days of the former employee's quotas and personal work speed data for
5 the 90 days prior to the date of the employee's separation from the employer.

6 148. (b) An employer that receives a written or oral request for information pursuant to
7 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
8 days from the date of the request.

9 149. During the liability period, DEFENDANTS employed 100 or more Aggrieved
10 Employees at a single warehouse distribution center in California rendering DEFENDANTS subject
11 to the provisions of Labor Code Sections 2100-2112, during the relevant period.

12 150. Based on information and belief, DEFENDANTS had/have a policy and practice of
13 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
14 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
15 defined period of time and any potential adverse employment action that may result from failure to
16 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
17 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
18 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
19 compliance of California's occupational health and safety laws.

20 151. Based on further information and belief, DEFENDANTS have/had a policy and
21 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
22 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
23 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
24 Labor Code section 2102.

25 152. Based on information and belief, DEFENDANTS failed and continue to fail to timely
26 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
27 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
28 them to violate any occupational health and safety laws, a written description of each quota to which

1 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
2 personal work speed data.

3 153. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
4 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

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

9 155. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
10 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

11 **Standard Conditions of Labor Violations**

12 156. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
13 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
14 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
15 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
16 violations with respect to meal periods, rest periods, business expenses, minimum/overtime wages
17 and other violations described herein result in separate violations of sections 1198 and 1199, which
18 subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

19 157. Under the provisions of PAGA and the above mentioned Labor Code sections,
20 including but not limited to Labor Code sections 201-203, 210, 223, 226, 226.7, 256, 510, 512, 558,
21 558.1, 1194, 1197, 1197.1, 1198, 1199, 2100-2112, 2699, 2699.3, 2802, and all applicable Wage
22 Orders as well as all interpretations of these laws by California Courts and administrative bodies, as
23 well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
24 penalties:

25 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
26 relevant California Labor Code provisions listed herein only if permitted by the
27 PAGA statute, pursuant to Labor Code section 2699(a); and

28 b. Default PAGA penalties for any violation of the enumerated list of Labor Code

1 violations without a civil penalty recoverable under the PAGA, all in the default
2 amounts provided by Labor Code section 2699(f).

3 158. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
4 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

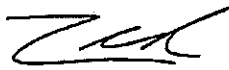
5 **PRAYER FOR RELIEF**

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

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

14
15 Dated: May 15, 2025

CROSNER LEGAL, PC

16
17 By: 
18 Jamie K. Serb, Esq.
19 Brandon Brouillette, Esq.
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21 Attorneys for Plaintiff
22 ELIJAH TURNER
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