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16 Attorneys for Plaintiff RILEY J. DILLARD,
17 on behalf of the general public as private attorney general.

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF RIVERSIDE**

20 RILEY J. DILLARD, on behalf of the general
21 public as private attorney general,

22 Plaintiff,

23 v.

24 FIVE BELOW, INC.; and DOES 1-50,
25 inclusive

26 Defendants.

CASE NO.:

**[PROPOSED] PAGA REPRESENTATIVE
ACTION COMPLAINT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL
ACT (Labor Code §§ 2698 et seq).**

1 Plaintiff RILEY J. DILLARD (“Plaintiff”), on behalf the general public and all non-
2 exempt aggrieved employees, acting on behalf of the California Attorney General as private
3 attorney general, asserts claims against FIVE BELOW, INC. and DOES 1-50, inclusive
4 (“Defendants”) as follows:

5 **I. INTRODUCTION**

6 1. This is a representative action for recovery of penalties under the Private Attorneys
7 General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved
8 employees” to bring a lawsuit as a representative action on behalf of the general public as private
9 attorney general and all other current and former aggrieved employees, to recover civil penalties
10 and address an employer’s violations of the California Labor Code.

11 2. In this case, Defendants violated various provisions of the California Labor Code.
12 As set forth below, Defendants implemented policies and practices which led to Defendant’s: (a)
13 failure to pay wages including overtime; (b) failure to provide meal periods for every work period
14 exceeding more than five (5) or ten (10) hours per day and failure to pay an additional hour’s of
15 pay or accurately pay an additional hour’s of pay in lieu of providing a meal period; (c) failure to
16 provide rest breaks for every four hours or major fraction thereof worked and failure to pay an
17 additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a rest
18 period; (d) failing to pay timely wages required by Labor Code § 203; (e) failing to provide
19 accurate itemized wage statements; (f) issuing payment of wages in the form of Non-Labor Code-
20 Compliant Instrument Pursuant to Labor Code 212 and 213; and (h) failing to indemnify necessary
21 business expenses. As a result, Plaintiff seeks penalties under Labor Code 2698, *et seq.* on behalf
22 of the general public as private attorney general and all other aggrieved employees.

23 **II. JURISDICTION AND VENUE**

24 3. The California Superior Court has jurisdiction over this action pursuant to
25 California Constitution Article VI, Section 10, which grants the Superior Court “original
26 jurisdiction in all cases except those given by statute to other trial courts.” The statutes under
27 which this action is brought do not give jurisdiction to any other court.

28 4. This Court has jurisdiction over Defendants because, upon information and belief,

1 each Defendant either has sufficient minimum contacts in California, or otherwise intentionally
2 avails itself of the California market so as to render the exercise of jurisdiction over it by the
3 California Courts consistent with traditional notions of fair play and substantial justice.

4 5. Venue as to each Defendant is proper in this judicial district pursuant to Code of
5 Civil Procedure section 395. Defendants are doing business throughout California, including but
6 not limited to Santa Clara County, and each Defendant is within the jurisdiction of this Court for
7 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
8 all other aggrieved employees within the State of California. Defendants employ numerous
9 aggrieved employees in in the State of California.

10 6. On information and belief, Defendants have conducted business within the State of
11 California during the purported liability period and continue to conduct business throughout the
12 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
13 similarly situated non-exempt aggrieved employees within California.

14 7. The California Superior Court also has jurisdiction in this matter because on
15 information and belief there are no federal questions at issue, as the issues herein are based solely
16 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
17 California Code of Civil Procedure, the California Civil Code, and the California Business and
18 Professions Code.

19 8. On information and belief, during the statutory liability period and continuing to
20 the present (“liability period”), Defendant consistently maintained and enforced against
21 Defendant’s Non-Exempt aggrieved Employees, among others, the following unlawful practices
22 and policies, in violation of California state wage and hour laws(a) failure to pay wages including
23 overtime; (b) failure to provide meal periods for every work period exceeding more than five (5)
24 or ten (10) hours per day and failure to pay an additional hour’s of pay or accurately pay an
25 additional hour’s of pay in lieu of providing a meal period; (c) failure to provide rest breaks for
26 every four hours or major fraction thereof worked and failure to pay an additional hour’s of pay or
27 accurately pay an additional hour’s of pay in lieu of providing a rest period; (d) failing to pay
28 timely wages required by Labor Code § 203; (e) failing to provide accurate itemized wage

1 statements; (f) issuing payment of wages in the form of Non-Labor Code- Compliant Instrument
2 Pursuant to Labor Code 212 and 213; and (h) failing to indemnify necessary business expenses.

3 9. Plaintiff on behalf of the general public as private attorney general and all other
4 aggrieved employees bring this action pursuant to Labor Code 2698, et seq. for violations
5 enumerated under 2699.5 as follows: sections 201-203, 212, 213, 221, 510, 512, 558, 226, 226.3,
6 226.7, 227.3, 246, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802, and seeking penalties,
7 interest, attorneys' fees and costs.

8 **III. PARTIES**

9 **A. Plaintiff**

10 1. Plaintiff, RILEY J. DILLARD was, at all times relevant to this action, a resident of
11 California. Plaintiff was employed by Defendants in approximately August 5, 2023 as a Non-
12 Exempt Employee with the title of Sales Associate and worked during the liability period for
13 Defendants until Plaintiff's separation from Defendants' employ in approximately September 20,
14 2024. Plaintiff's duties included but were not limited to: greeting customers, assist customers in
15 finding what they are looking for, assist in cleaning the store, replacing products, and assist
16 customers in the check-out process.

17 10. As Defendant's employee, Plaintiff, and all other aggrieved employees were
18 regularly required to and subsequently suffered:

19 a) perform work subject to the control of the employer without being compensated all
20 wages including overtime and minimum wages, all in violation of California labor laws,
21 regulations, and the Industrial Welfare Commission Wage Order ("IWC");

22 b) work without being permitted or authorized a minimum ten-minute rest period for
23 every four hours or major fraction thereof worked and not compensated one (1) hour of pay at his
24 regular rate of compensation for each workday that a rest period was not provided, all in
25 violation of California labor laws, regulations, and the Industrial Welfare Commission Wage
26 Orders ("IWC");

27 c) work in excess of five and ten hours per day without being provided meal periods
28 and not compensated one (1) hour of pay at the regular rate of compensation for each workday that

1 a meal period was not provided, all in violation of California labor laws, regulations, and the
2 Industrial Welfare Commission Wage Orders (“IWC”);

- 3 d) not provided accurate itemized wage statements;
- 4 e) not timely paid wages;
- 5 f) paid in the form of Non-Labor Code Compliant instrument;
- 6 g) not reimbursed necessary business expenses; and
- 7 h) conducting and engaging in unfair business practices.

8 11. On information and belief, Defendants willfully failed to pay all earned wages in
9 the form regular wages, minimum wages, overtime wages, vacation pay, reporting time pay, and
10 meal and rest period premium wages to its Non-Exempt Employees and Aggrieved Employees;
11 nor have Defendants returned to Plaintiff or Aggrieved Employees, upon or after separation from
12 employment with Defendants, all wages earned and owing. Plaintiff seeks penalties under Labor
13 Code 2698, *et seq.* on behalf of the general public as private attorney general and all other
14 aggrieved employees.

15 **B. Defendants**

16 12. Defendants FIVE BELOW, INC. operate as a retail business. Plaintiff estimates
17 there are in excess of 100 Non-Exempt Employees who work or have worked for Defendants over
18 the last year.

19 13. Other than identified herein, Plaintiff is unaware of the true names, capacities,
20 relationships and extent of participation in the conduct alleged herein, of the defendants sued as
21 DOES 1 through 50, but is informed and believes and thereon alleges that said defendants are
22 legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by
23 such fictitious names. Plaintiff will amend this complaint when their true names and capacities are
24 ascertained.

25 14. Plaintiff is informed and believes and thereon alleges that each Defendant, directly
26 or indirectly, or through agents or other persons, employed Plaintiff and other Aggrieved
27 Employees, and exercised control over their wages, hours, and working conditions. Plaintiff is
28 informed and believes and thereon alleges that each defendant acted in all respects pertinent to this

1 action as the agent of the other defendants, carried out a joint scheme, business plan or policy in
2 all respects pertinent hereto, and the acts of each defendant are legally attributable to the other
3 defendants.

4 **IV. GENERAL ALLEGATIONS**

5 15. At all times set forth herein, Defendants employed Plaintiff and other persons in the
6 capacity of non-exempt positions, however titled, throughout the state of California.

7 16. Plaintiff is informed and believes Aggrieved Employees have at all times pertinent
8 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
9 rules and regulations of the IWC California Wage Orders.

10 17. Defendants continue to employ Non-Exempt Employees, however titled, in
11 California and implement a uniform set of policies and practices to all non-exempt employees, as
12 they were all engaged in the job duties related to Defendants' retail business.

13 18. Plaintiff is informed and believes, and thereon alleges, that Defendants are and
14 were advised by skilled lawyers and other professionals, employees, and advisors with knowledge
15 of the requirements of California's wage and employment laws.

16 19. Plaintiff is informed and believes that during the relevant time frame, all Aggrieved
17 Employees are citizens of the state of California.

18 20. During the relevant time frame, Defendants compensated Plaintiff and Aggrieved
19 Employees based upon an hourly rate.

20 21. Defendants failed to provide Plaintiff with an uninterrupted duty-free meal period
21 as required by law.

22 22. Plaintiff and the Aggrieved Employees were regularly required to work shifts in
23 excess of five hours without being provided a lawful meal period and over ten hours in a day
24 without being provided a second lawful meal period as required by law.

25 23. Indeed, during the relevant period of time, as a consequence of Defendants' staffing
26 and scheduling practices, work demands, and Defendants' policies and practices, Defendants
27 frequently failed to provide Plaintiff and the Aggrieved Employees legally compliant second meal
28 periods on shifts over ten hours as required by law.

1 24. On information and belief, Plaintiff and Aggrieved Employees did not waive their
2 rights to meal periods under the law.

3 25. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-duty
4 meal periods.

5 26. Despite the above-mentioned meal period violations, Defendants failed to
6 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,
7 one additional hour of pay at their regular rate as required by California law when meal periods
8 were not timely or lawfully provided in a compliant manner.

9 27. Plaintiff are informed and believe, and thereon alleges, that Defendants know,
10 should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees
11 were entitled to receive premium wages based on their regular rate of pay under Labor Code
12 §226.7 but were not receiving such compensation.

13 28. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
14 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
15 period for every four hours worked or major fraction thereof, including third rest breaks which is a
16 violation of the Labor Code and IWC wage order.

17 29. Defendants maintained and enforced scheduling practices, policies, and imposed
18 work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful,
19 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
20 requisite rest periods were not timely authorized and permitted as a result of Defendants' failure to
21 provide relief for Plaintiff and Aggrieved Employees to take their lawfully required breaks.
22 Further, Plaintiff and Aggrieved Employees were prohibited from leaving the premises during rest
23 breaks.

24 30. Despite the above-mentioned rest period violations, Defendants did not compensate
25 Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of
26 pay at their regular rate as required by California law, including Labor Code section 226.7 and the
27 applicable IWC wage order, for each day on which lawful rest periods were not authorized and
28 permitted.

1 31. In addition, upon information and belief, Plaintiff alleges that Defendants failed to
2 pay overtime pay to Plaintiff and the Aggrieved Employees at the proper rate, as Defendants failed
3 to factor all forms of compensation into the regular rate.

4 32. On information and belief, during the relevant time frame, Defendants failed to
5 adequately reimburse Plaintiff and Aggrieved Employees for business expenditures incurred for
6 the required maintenance of uniforms. Plaintiff was required to launder and maintain his uniform
7 out of pocket. Such business expenditures incurred were incurred in direct consequence of
8 Plaintiff's and Aggrieved Employees' duties pursuant to Labor Code § 2802.

9 33. On information and belief, during the relevant time frame, Defendants failed to
10 adequately reimburse Plaintiffs and Aggrieved Employees for the use of their personal cell phones
11 for work-related activity. Plaintiff used his personal cell phone on a daily basis to scan bar codes
12 of products and communicate with Defendant. Despite Defendant's "no phone use" policy,
13 Plaintiff was required to use his personal cell phone for work purposes.

14 34. Defendants also failed to provide accurate, lawful itemized wage statements to
15 Plaintiff and the Aggrieved Employees in part because of the above specified violations. In
16 addition, upon information and belief, Defendants omitted an accurate itemization of total hours
17 worked, including premiums due and owing for meal and rest period violations, overtime pay,
18 gross pay and net pay figures from Plaintiff and the Aggrieved Employees' wage statements. In
19 addition, upon information and belief, Defendants omitted an accurate itemization of the
20 premiums due and owing for meal and rest period violations from Plaintiff and the Aggrieved
21 Employees' wage statements.

22 35. Plaintiff is informed and believes that Plaintiff and Aggrieved Employees were not
23 compensated for all time worked as Plaintiff and Aggrieved Employees as a result of off-the-clock
24 work to conduct pre-shift work activities. For instance, Plaintiff and Aggrieved Employees were
25 required to go through security bag checks before clocking-in. The bag checks would take
26 approximately 2 minutes each time. Plaintiff was not compensated for this time spent working off
27 the clock.

28 36. Similarly, Plaintiff is informed and believes that Plaintiff and Aggrieved

1 Employees were not compensated for all time worked as Plaintiff and Aggrieved Employees as a
2 result of off-the-clock work to conduct post-shift work activities. For instance, Plaintiff was
3 required to wait for the manager to set the alarm, lock up the store, and leave, all while clocked-
4 out. This off-the-clock work was conducted for approximately 3 minutes after clocking-out.
5 Plaintiff was not compensated for this time spent working off the clock.

6 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
7 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
8 thereof for resignations without prior notice as the case may be) they had a duty to accurately
9 compensate Plaintiff and Aggrieved Employees for all wages owed including minimum wages,
10 meal and rest period premiums, and that Defendants had the financial ability to pay such
11 compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so in part
12 because of the above-specified violations.

13 38. On information and belief, Defendants violated Labor Code sections 212 and 213
14 by issuing payment to Plaintiff and Aggrieved Employees for their wages in a non-Labor Code-
15 compliant instrument. For instance, Plaintiff and Aggrieved Employees received Gift Cards, but
16 they were not reported or reflected on Paystubs, potentially causing regular rate issues.

17 39. Plaintiff and on information and belief Aggrieved Employees received a 20%
18 employee discount as a benefit. This extra benefit was not reflected on available paystubs and
19 thus, might not have been factored into the regular rate of pay.

20 40. Upon information and belief, Defendants knew and or should have known that it is
21 improper to implement policies and commit unlawful acts such as:

22 (a) requiring employees to work four (4) hours or a major fraction thereof without
23 being provided a minimum ten (10) minute rest period and without compensating the employees
24 with one (1) hour of pay at the employees' regular rate of compensation for each workday that a
25 rest period was not provided;

26 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
27 without being provided an uninterrupted thirty minute meal period and/or a second meal period,
28 and without compensating employees with one (1) hour of pay at the regular rate of compensation

1 for each workday that such a meal period was not provided;

2 (c) failing to pay overtime and minimum wages;

3 (d) failing to provide accurate itemized wage statements;

4 (e) failing to timely pay Plaintiff and Aggrieved Employees;

5 (f) issuing wages through non-Labor Code compliant instruments;

6 (g) failing to reimburse necessary business expenses; and

7 (h) conducting and engaging in unfair business practices.

8 41. In addition to the violations above, and on information and belief, Defendants knew
9 they had a duty to compensate Plaintiff and Aggrieved Employees for the allegations asserted
10 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
11 knowingly, recklessly, and/or intentionally failed to do so.

12 Plaintiff and Aggrieved Employees they seek to represent are covered by, and Defendants
13 are required to comply with, applicable California Labor Codes, Industrial Welfare Commission
14 Occupational Wage Orders (hereinafter "IWC Wage Orders") and corresponding applicable
15 provisions of California Code of Regulations, Title 8, section 11000 *et seq.*

16 **REPRESENTATIVE CLAIMS**

17 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 *et seq.***

18 42. Plaintiff incorporates by reference and re-alleges each and every allegation
19 contained above, as though fully set forth herein.

20 43. On March 26, 2025, Plaintiff complied with notice requirements pursuant to Labor
21 Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit A**,
22 indicating that the LWDA and Defendants were put on notice of the claims alleged here and that
23 the notice requirement has been satisfied. Sixty-five days have passed and the LWDA has not
24 indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a
25 representative capacity. The substance and violations set forth in this Complaint of which the
26 LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative
27 Action Complaint to the LWDA.

28 44. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).

1 Plaintiff brings this cause of action on behalf of all current and former California Non-Exempt
2 Employees of Defendants.

3 45. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
4 which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint,
5 including without limitation Labor Code section 201-203, 212, 213, 221, 510, 512, 558, 226,
6 226.3, 226.7, 227.3, 246, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802, and 2698 *et seq.*,
7 applicable IWC Wage Orders and California Code of Regulations, Title 8, section 11000 *et seq.*

8 46. At all times relevant, Plaintiff and all other aggrieved employees regularly
9 performed non-exempt work in excess of 50% of the time, and thus, were subject to the meal and
10 rest break requirements of the applicable IWC wage order and the Labor Code.

11 47. Defendants violated Labor Code section 200, 558, 1194, 1197, by failing to
12 accurately pay at least minimum wages due as a result of Defendants' requiring Plaintiff and
13 aggrieved Employees to work off-the-clock as outlined above.

14 48. Defendants violated Labor Code section 510, and 1194 by failing to accurately pay
15 overtime wages owed as discussed above due to Defendants' failure to incorporate bonuses and
16 other forms of remuneration as described above into the regular rate of pay for overtime
17 calculation purposes. Defendants further failed to accurately pay overtime wages due to
18 Defendants' requiring Plaintiff and aggrieved Employees to work off-the-clock as outlined above.
19 Therefore, Defendants violated section 510, and 1194 by not compensating its Non-Exempt
20 Employees for work performed in excess of eight hours (8) in a day or forty hours in a work week
21 (40). Section 510 of the Labor Code codifies the right to overtime compensation at the rate of one
22 and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day
23 or forty (40) hours in a work week and to overtime compensation twice the regular rate of pay for
24 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
25 seventh day of work in a particular work week.

26 49. Defendants failed to provide Plaintiff and all other aggrieved employees
27 uninterrupted duty free meal periods of not less than thirty (30) minutes. Defendants implemented
28 and enforced policies of on duty meal period practices which required employees to work during

1 their meal periods, to forego their meal periods, and/or to return to work from meal periods prior
2 to thirty (30) uninterrupted minutes. As a proximate result of the aforementioned violations,
3 Plaintiff and all other aggrieved employees have been damaged in an amount according to proof at
4 time of trial.

5 50. Plaintiff, and on information and belief, all aggrieved employees, were
6 systematically not permitted or authorized to take ten minute rest periods for every four hours
7 worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.
8 Plaintiff and on information and belief, aggrieved employees, were not compensated with one
9 hour of wages for every day in which a rest period was missed or untimely as a result of
10 Defendants' policies, practices, or work demands. By failing to authorize and permit a ten-minute
11 rest period for every four hours or major fraction thereof worked per day by its Non-Exempt
12 Employees, and by failing to provide compensation for such non-provided or shortened rest
13 periods, as alleged above, Defendants willfully violated the provisions of Labor Code sections
14 226.7, 512 and the applicable IWC Wage Order.

15 51. Defendants also willfully violated Labor Code sections 201-203 by failing to
16 provide all owed wages at separation from employment. Labor Code sections 201 and 202 require
17 Defendants to pay their employees all wages due either at time of firing, or within seventy-two
18 (72) hours of voluntary separation, if not sooner. Section 203 of the Labor Code provides that if an
19 employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay
20 the subject employee's wages until the back wages are paid in full or an action is commenced.
21 The penalty cannot exceed 30 days of wages.

22 52. Plaintiff and all other aggrieved employees who were separated from employment
23 are entitled to compensation for all forms of wages earned, including but not limited to
24 compensation regular and overtime wages, and for non-provided meal and rest periods, but to date
25 have not received such compensation, therefore entitling them to penalties under PAGA for
26 violations of Labor Code sections 201-203.

27 53. On information and belief, Defendants willfully failed to pay all wages due and
28 owing upon separation from employment. These wages include but are not limited to regular and

1 overtime wages, and meal and rest period premiums.

2 54. On information and belief, Defendants willfully failed to pay all wages due and
3 owing upon separation from employment. These wages include minimum and overtime wages.

4 55. On information and belief, Defendants failed to provide accurate itemized wage
5 statements which failed to include the rate of pay and total hours worked per pay period, failed to
6 account for all hours worked, including overtime, and lastly the accurate accounting of, the lawful
7 meal and rest period premiums due and owing to Plaintiff and the aggrieved employees, pursuant
8 to Labor Code section 226(a).

9 56. Defendants have failed to provide Plaintiff and aggrieved Employees rates of pay
10 and the hours for which they worked for any given pay period.

11 57. Defendants have failed to accurately record all time worked.

12 58. Defendants have also failed to accurately record the meal and rest period premiums
13 owed and all wages owed per pay period.

14 59. Plaintiff and aggrieved Employees have been injured as they were unable to
15 determine whether they had been paid correctly for all hours worked per pay period among other
16 things.

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

22 61. On information and belief, Defendants failed to reimburse Plaintiff and aggrieved
23 Employees for business expenses incurred as described above. Labor Code § 2802 requires
24 Defendants to indemnify Plaintiff and aggrieved Employees for necessary expenditures incurred in
25 direct consequences of the discharge of his or her duties. Despite these realities of the job,
26 Defendants failed to provide reimbursements.

27 62. Labor Code §2804 states in pertinent part: “Any contract or agreement, express or
28 implied, made by any employee to waive the benefits of this article or any part thereof is null and

1 void, and this article shall not deprive any employee or his or her personal representative of any
2 right or remedy to which he is entitled under the laws of this State.

3 63. Labor Code section 1197 makes it unlawful to pay an employee less than the
4 minimum wage as established by the Industrial Welfare Commission.

5 64. Labor Code section 1198 provides that the maximum hours of work and the
6 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
7 standard conditions of labor by the commission shall be the maximum hours of work and the
8 standard conditions of labor for employees. The employment of any employee for longer hours
9 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

10 a. The applicable reporting time wages are fixed by the IWC in Wage Order 1.

11 b. In relevant part, Section 5 of the applicable wage order provides:

12 (A) Each workday an employee is required to report for work and does report,
13 but is not put to work or is furnished less than half said employee's usual or scheduled
14 day's work, the employee shall be paid for half the usual or scheduled day's work, but in
15 no event for less than two (2) hours nor more than four (4) hours, at the employee's regular
16 rate of pay, which shall not be less than the minimum wage.

17 c. Defendants failed to pay reporting time wages. In particular, Plaintiff and the
18 Aggrieved Employees were forced to report to work and were furnished with less
19 than half the employee's usual or scheduled day's work.

20 65. In fact, Plaintiff and Aggrieved Employees reported to work at Defendant's
21 direction, and then were sent home – without the legal compensation. By failure to pay hourly
22 wages for reporting time, Defendants willfully violated Labor Code sections 1194, 1197, 1198,
23 and IWC Wage Orders 1.

24 66. Additionally, Defendants have no accurate records relating to aggrieved
25 employees' work periods, meal periods, total daily hours worked, total hours worked per payroll
26 period and applicable pay rates, in violation of Wage Order. Similarly, Defendants failed to
27 maintain accurate records relating to hours worked daily in violation of Labor Code sections
28 1174(d), 1174.5.

67. As a result of Defendants' unlawful conduct, Plaintiff and aggrieved employees
are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours
worked.

68. Plaintiff and the Representative aggrieved Employees are entitled to recover Penalties and attorneys' fees and costs sunder Labor Code section 2698, et seq.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
2. For reasonable attorneys' fees and costs; and
3. For such other and further relief as the Court deems proper.

Dated: March 26, 2025

JAMES HAWKINS APLC

By:

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