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on behalf of himself and other “aggrieved employees”,
and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

ADRIAN CHAVEZ and MAURICE
WARREN, as aggrieved employees, and on
behalf of all other aggrieved employees under
the Labor Code Private Attorneys’ General
Act of 2004,

Plaintiffs,

v.

PATHWAY STAFFING, INC., a California
Corporation; CAPITAL LUMBER CO., a
Arizona Corporation; and DOES 1 through
100, inclusive,

Defendants.

CASE NO.: 34-2022-00329074

REPRESENTATIVE ACTION

**FIRST AMENDED COMPLAINT UNDER
THE LABOR CODE PRIVATE
ATTORNEYS’ GENERAL ACT OF 2004
FOR CIVIL PENALTIES UNDER LABOR
CODE SECTIONS 226.7, 512, 510, 1194,
1194.2, 226(a)(e), 1174(d), 201-203,
204(a)(b), 218, 210, 226.3, 558, 1174.5,
1197.1, 2699, 2802, 6400, 6401, 6402, 6403,
6404, and 6407**

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

COMES NOW Plaintiffs ADRIAN CHAVEZ (“Plaintiff CHAVEZ”) and MAURICE WARREN (“Plaintiff WARREN” and collectively, “Plaintiffs”) as aggrieved employees, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys’ General Act of 2004, and alleges as follows:

JURISDICTION AND VENUE

1. This is a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against PATHWAY STAFFING, INC., a California corporation, and any of its respective subsidiaries or affiliated companies within the State of California (“PATHWAY STAFFING”), and CAPITAL LUMBER CO., a Arizona Corporation, and any of its respective subsidiaries or affiliated companies within the State of California (“CAPITAL LUMBER,” and together with “PATHWAY STAFFING” and DOES 1 through 100, as further defined below, “Defendants”), as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiffs and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 227.3, Labor Code section 246, *et seq.*, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

2. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

3. Venue is proper in Sacramento County, California pursuant to Code of Civil Procedure sections 392, *et seq.* because, among other things, Sacramento County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiffs, or some of them, and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiffs and Defendants was actually performed; and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect

1 on Plaintiffs and Aggrieved Employees in Sacramento County, and because Defendants employ
2 numerous Aggrieved Employees in Sacramento County.

3 4. Plaintiffs are “aggrieved employee” under PAGA, as Plaintiffs were employed by
4 Defendants during the applicable statutory period and suffered one or more of the Labor Code
5 violations set forth herein. Accordingly, Plaintiffs seek to recover civil penalties, as the term “civil
6 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
7 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
8 reasonable attorneys’ fees and costs, for Plaintiffs and all other aggrieved current and former
9 employees of Defendants during the Civil Penalty Period.

10 5. Specifically, Plaintiffs seeks to recover PAGA civil penalties through a
11 representative action permitted by PAGA and the California Supreme Court in, among other
12 authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class
13 certification of the PAGA allegations described herein is not required.

14 6. During the period beginning one (1) year preceding the provision of notice to the
15 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
16 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204,
17 204(a)(b), 204.1, 205, 205.5, 210, 218, 226, 226.3, 226.7, 226(a)(e), 227.3, 232, 232.5, 246, *et seq.*,
18 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1174(d), 1194, 1194.2, 1197, 1197.1, 1197.5, 1198.5,
19 2699, 2802, 2810.3, 2810.5, 6400, 6401, 6402, 6403, 6404, and 6407, Business & Professions Code
20 section 17200, 8 Cal. Code Regs section 3202, and IWC Order No. 5-2001, among others.

21 7. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
22 such as Plaintiffs, on behalf of Plaintiffs and all other aggrieved current and former employees
23 within the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
24 specified in Labor Code section 2699.3.

25 8. On or around August 26, 2022, Plaintiff CHAVEZ provided written notice pursuant
26 to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of
27 Defendants’ violation of various, including the herein-described, provisions of the Labor Code, to
28 the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of

1 them.

2 9. Plaintiff CHAVEZ also provided Defendants, and each of them, with notice under
3 Labor Code section 2810.3, subdivision (d) that Plaintiff CHAVEZ would seek to hold them liable
4 for each other's wage and hour violations under Labor Code section 2810.3 on August 26, 2022 by
5 certified mail with return receipt requested.

6 10. On September 7, 2023, Plaintiff WARREN sent a letter, by certified mail, return
7 receipt requested, to the LWDA and defendants CAPITAL LUMBER CO. and CAPITAL
8 LUMBER COMPANY INCORPORATED, setting forth the facts and theories of the violations
9 alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.*

10 11. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
11 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
12 calendar days of the August 26, 2022, or September 7, 2023, postmarked date of the herein-
13 described notice sent by Plaintiffs to the LWDA and Defendants.

14 **PAGA REPRESENTATIVE ALLEGATIONS**

15 12. At all relevant times mentioned herein, Defendants had and have a policy or practice
16 of failing to pay overtime wages to Plaintiffs and other Aggrieved Employees in the State of
17 California in violation of California state wage and hour laws as a result of, without limitation,
18 Plaintiffs and other Aggrieved Employees working over eight (8) hours per day, forty (40) hours
19 per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime
20 wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually
21 worked; engaging, suffering, or permitting employees to work off the clock, including, without
22 limitation, by requiring employees: to remain on-call, to suffer under Defendants' control to
23 complete pre-shift tasks before clocking in and post-shift tasks after clocking out (including
24 answering calls from dispatch and others), to clock out for meal periods and continue working, to
25 don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the
26 clock, to make phone calls or drive off the clock; failing to include all forms of remuneration,
27 including non-discretionary bonuses, incentive pay, meal allowances, and other forms of
28 remuneration into the regular rate of pay for the pay periods where overtime was worked and the

1 additional compensation was earned for the purpose of calculating the overtime rate of pay;
2 detrimental rounding of employee time entries, editing and/or manipulation of time entries to show
3 less hours than actually worked, and for paying straight pay instead of overtime pay, to the detriment
4 of Plaintiffs and other Aggrieved Employees.

5 13. At all relevant times mentioned herein, Defendants had and have a practice or policy
6 of failing to compensate Plaintiffs and other Aggrieved Employees with minimum wages for all
7 hours worked or otherwise under Defendants' control as a result of, without limitation, failing to
8 accurately track and/or pay for all minutes actually worked; by requiring employees: to remain on-
9 call; to suffer under Defendants' control to complete pre-shift tasks before clocking in and post-shift
10 tasks after clocking out (including answering calls from dispatch and others), to clock out for meal
11 periods and continue working, to don and doff uniforms and/or safety equipment off the clock, to
12 attend company meetings off the clock, to make phone calls or drive off the clock; detrimental
13 rounding of employee time entries, editing and/or manipulation of time entries to show less hours
14 than actually worked; failing to pay reporting time pay; paid time off and vacation time owed; and
15 failing to pay split shift premiums, to the detriment of Plaintiffs and other Aggrieved Employees.

16 14. At all relevant times mentioned herein, Defendants had and have a policy or practice
17 of failing to provide Plaintiffs and other Aggrieved Employees a thirty (30) minute uninterrupted,
18 timely, and complete meal period for days on which the employee worked in excess of five (5) and
19 ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal
20 periods or compensation in lieu thereof including, without limitation, by interrupting meal periods;
21 not providing timely meal periods; failing to provide first and second meal periods; providing short
22 meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal
23 periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal
24 periods; and/or auto-deducting meal periods that could not be auto-deducted by law or during which
25 employees worked, as required by California wage and hour laws

26 15. At all relevant times mentioned herein, Defendants had and have a policy or practice
27 of failing to provide Plaintiffs and other Aggrieved Employees paid, uninterrupted, timely, and
28 complete rest periods of at least ten (10) minutes per four (4) hours worked or major fractions

1 thereof, or compensation in lieu thereof, including, without limitation, by failing to provide rest
2 periods all together; requiring that they be bundled together and/or with meal periods; interrupting
3 them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not
4 providing them in a timely fashion; and not permitting employees to leave the premises; and/or
5 otherwise requiring on-duty/on-call rest periods, as required by California wage and hour laws.

6 16. At all relevant times mentioned herein, Defendants had and have a policy or practice
7 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
8 Plaintiffs and other Aggrieved Employees with itemized wage statements that accurately reflect
9 gross wages earned; total hours worked by the employee; net wages earned; all deductions; all
10 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
11 at each hourly rate by the employee; the legal name of the employer and/or the name and address of
12 the legal entity securing the employer's services if the employer is a farm labor contractor; and other
13 such information as required by Labor Code section 226, subdivision (a).

14 17. At all relevant times mentioned herein, Defendants had and have a policy or practice
15 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
16 Plaintiffs and other Aggrieved Employees with documents signed to obtain or hold employment
17 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
18 under Labor Code section 1174, making it difficult for Plaintiffs and other Aggrieved Employees to
19 calculate their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other
20 Aggrieved Employees.

21 18. At all relevant times mentioned herein, Defendants had and have a policy or practice
22 of failing to timely pay Plaintiffs and other Aggrieved Employees, among other wages, all wages
23 owed as a result of Defendants' practice or policy of failing to pay, among other wages, overtime
24 wages, minimum wages, premium wages, paid time off and vacation time owed as required by Labor
25 Code sections 201, 202, and 203.

26 19. At all relevant times herein, Defendants had and have a policy or practice of failing
27 to pay Plaintiffs and Aggrieved Employees their paid time off and vacation time owed upon
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1 separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3
2 and applicable Wage Orders.

3 20. At all relevant times mentioned herein, Defendants have had a policy or practice of
4 failing and refusing, and continue to fail and refuse, to reimburse employees, including, without
5 limitation, Plaintiffs and other Aggrieved Employees, with their costs incurred for driving personal
6 vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits,
7 separately laundering mandatory uniforms, for the purchase of tools and safety equipment (including
8 work boots to handle oil), for the purchase and maintenance of cellular phones and cellular phone
9 plans, in direct consequence of the discharge of their duties, or of their obedience to the directions
10 of Defendants, as required by Labor Code 2802.

11 21. At all relevant times mentioned herein, Defendants have had a policy or practice of
12 failing to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft
13 Protection Act of 2011) by, among other things, failing to provide Plaintiffs and other Aggrieved
14 Employees with the rates of pay and overtime rates of pay applicable to their employment;
15 allowances claimed as part of the minimum wage; the regular payday designated by Defendants; the
16 name, address, and telephone number of the workers' compensation insurance carrier; information
17 regarding paid sick leave; and other pertinent information required to be disclosed by Defendants
18 under Labor Code section 2810.5.

19 22. At all relevant times mentioned herein, Defendants failed to provide Plaintiffs and
20 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
21 California law (including, without limitation Labor Code section 246, *et seq.*), and also did not
22 permit its use upon request as contemplated under California laws, to the detriment of Plaintiffs and
23 all other Aggrieved Employees.

24 23. At all relevant times mentioned herein, Defendants have had a policy or practice of
25 failing to pay Plaintiffs and Aggrieved Employees their wages in accordance with Labor Code
26 Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of
27 any calendar month shall be paid for between the 16th and 26th day of the month during which the
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1 labor was performed, and labor performed between the 16th and the last day, inclusive of any
2 calendar month, shall be paid for between the 1st and 10th day of the following month.”

3 24. At all relevant times mentioned herein, Defendants had and have a policy or practice
4 of preventing Plaintiffs and/or Aggrieved Employees from using or disclosing the skills, knowledge
5 and experience they obtained at Defendants for purposes of competing with Defendants, including,
6 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
7 a prospective employer, and from disclosing who else works at Defendants and under what
8 circumstances that they might be receptive to an offer from a rival employer. Plaintiffs are informed
9 and believes that this policy and/or practice violates Business and Professions Code sections 17200,
10 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor
11 Code sections 232, 232.5, and 1197.5, subdivision (k).

12 25. Defendants had and have a policy or practice of preventing Plaintiffs and/or other
13 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants
14 to their managers or outside to private attorneys or government officials, among others, in violation
15 of Business and Professions Code section 17200, and, thus, in violation of Labor Code section
16 1102.5. In addition, Plaintiffs are informed and believes that Defendants’ herein-described policies
17 and/or practices prevent Plaintiffs and/or other Aggrieved Employees from disclosing information
18 about unsafe or discriminatory working conditions, or about wage and hour violations in violation
19 of Labor Code section 232 and 232.5.

20 26. Defendants had and have a policy or practice of preventing Plaintiffs and/or other
21 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
22 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
23 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,
24 subdivision (k). Plaintiffs are informed and believes that this lawful conduct includes the exercise
25 of Plaintiffs’ and/or other Aggrieved Employee’s constitutional rights of freedom of speech and
26 economic liberty.

27 27. Plaintiffs, in Plaintiffs’ representative capacity, seeks civil penalties under Labor
28 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate

1 the California Labor Code as described above, including on behalf of Plaintiffs and other Aggrieved
2 Employees pursuant to PAGA.

3 **PARTIES**

4 **A. Plaintiffs**

5 28. Plaintiff CHAVEZ is a resident of the State of California. At all relevant times
6 herein, Plaintiff CHAVEZ is informed and believes, and based thereon alleges that Defendants
7 employed Plaintiff CHAVEZ as a non-exempt employee, with duties that included, but were not
8 limited to, operation of lumber machinery for clients. Plaintiff CHAVEZ is informed and believes,
9 and based thereon allege that Plaintiff CHAVEZ worked for Defendants from approximately
10 September of 2021 through approximately January 17, 2022.

11 29. Plaintiff WARREN is a resident of Sacramento, California. At all times relevant
12 herein, Plaintiff WARREN was employed by Defendants in Sacramento County, California.
13 Plaintiff WARREN was employed by Defendants as a non-exempt, hourly employee in California,
14 including in and around the city of Sacramento, County of Sacramento.

15 **B. Defendants**

16 30. Plaintiffs are informed and believes and based thereon alleges that defendant
17 PATHWAY STAFFING is, and at all times relevant hereto was, a corporation organized and
18 existing under and by virtue of the laws of the State of California and doing business in the County
19 of Sacramento, State of California.

20 31. Plaintiffs are informed and believes and based thereon alleges that defendant
21 CAPITAL LUMBER is, and at all times relevant hereto was, a Arizona Corporation organized and
22 existing under and by virtue of the laws of the State of California and doing business in the County
23 of Sacramento, State of California.

24 32. The true names and capacities, whether individual, corporate, associate, or otherwise,
25 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiffs,
26 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
27 Plaintiffs are informed and believes and based thereon alleges that each of the defendants designated
28 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.

1 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities
2 of the defendants designated hereinafter as DOES when such identities become known. Plaintiffs
3 are informed and believes, and based thereon alleges, that each defendant acted in all respects
4 pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business
5 plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable
6 to the other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it
7 shall include PATHWAY STAFFING, CAPITAL LUMBER, and any of their parent, subsidiary,
8 or affiliated companies within the State of California, as well as DOES 1 through 100 identified
9 herein.

10 **JOINT LIABILITY ALLEGATIONS**

11 33. Plaintiffs are informed and believes, and based thereon alleges, that at all times
12 mentioned herein, each of the defendants was the agent, principal, employee, employer,
13 representative, joint venture or co-conspirator of each of the other defendants, either actually or
14 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
15 employment, joint venture, and conspiracy.

16 34. All of the acts and conduct described herein of each and every corporate defendant
17 was duly authorized, ordered, and directed by the respective and collective defendant corporate
18 employers, and the officers and management-level employees of said corporate employers. In
19 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
20 their said employees, agents, and representatives, and each of them; and upon completion of the
21 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
22 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
23 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
24 aforementioned corporate employees, agents and representatives.

25 **FIRST CAUSE OF ACTION**

26 **(Civil Penalties Under the Private Attorneys’ General Act (2004) – Against All Defendants)**

27 35. Plaintiffs re-alleges and incorporates by reference all of the allegations set forth in
28 the preceding paragraphs as though fully set forth hereat.

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36. At all relevant times herein, Labor Code section 204, requires and required that:

37. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated

38. At all relevant times herein, Defendants have had a consistent policy or practice of

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39. Defendants had and have a policy or practice of failing to comply with Labor Code

1 entity securing the employer's services if the employer is a farm labor contractor; and other such
2 information as required by Labor Code section 226, subdivision (a).

3 40. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a)
4 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
5 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
6 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
7 deduction statement or fails to keep the records required in subdivision (a) of Section 226."

8 41. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
9 this section are in addition to any other penalty provided by law."

10 42. Plaintiffs are informed and believes, and based thereon alleges, that Defendants had
11 and have a policy or practice of failing to furnish non-exempt employees, including, without
12 limitation, Plaintiffs, with itemized wage statements that accurately reflect gross wages earned; total
13 hours worked; net wages earned; all deductions; all applicable hourly rates in effect and the
14 corresponding number of hours worked at each hourly rate in effect during the pay period; the legal
15 name of the employer and/or the name and address of the legal entity securing the employer's services
16 if the employer is a farm labor contractor; and other such information as required by Labor Code
17 section 226, subdivision (a).

18 43. Defendants failed to issue Plaintiffs and Defendant's California employees
19 accurately itemized wage statements. As Defendants failed to compensate Plaintiffs and
20 Defendants' California employees with all wages due, as detailed above, their wage statements
21 failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours
22 worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code §
23 226(a)(5), and all applicable hourly rates during the pay period and the corresponding number of
24 hours worked, in violation of Labor Code § 226(a)(9), as a result of Defendants' failure to pay all
25 overtime wages due. These violations also violate Labor Code §§ 226(e) and 226.3 with respect to
26 Plaintiffs and Defendants' California employees.

27 44. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
28 wage statements to Plaintiffs and Defendant's California employees in accordance with Labor Code

§ 226 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and Defendant's California employees and the records maintained by Defendants, have not accurately reflected actual gross wages earned, including pay for all hours worked, overtime, and meal/rest premiums, and total hour worked.

45. Pursuant to Labor Code section 226.3, Plaintiffs and other Aggrieved Employees are entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 226.7, 512, 558

46. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil penalty as follows:

- (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- (3) Wages recovered pursuant to this section shall be paid to the affected employee."

47. Plaintiffs are informed and believes, and based thereon allege, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiffs and other Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by employer, the name of the employer, including any "doing business as" names used, the name, address, and telephone number of the workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent information.

48. Plaintiffs and all other aggrieved employees are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal or rest periods as set forth in the IWC Wage Orders and Labor Code §§ 226.7, 512, and 558.

49. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiffs and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 1174.5

50. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

51. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

52. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

1 53. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
2 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
3 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
4 member of the commission or employees of the division to inspect records pursuant to subdivision
5 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

6 54. Plaintiffs are informed and believes, and based thereon alleges, that Defendants have
7 willfully failed to keep adequate or accurate time records including wage statements and similar
8 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
9 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
10 under Labor Code section 1174.

11 55. As a direct and proximate result of the herein-described Labor Code violations,
12 pursuant to Labor Code section 1174.5, Plaintiffs and other Aggrieved Employees are entitled to
13 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
14 hundred dollars (\$500) per violation per Aggrieved Employee.

15 Violation of Labor Code § 1197.1

16 56. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
17 person acting either individually or as an officer, agent, or employee of another person, who pays
18 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
19 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
20 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
21 Section 203 as follows:

22 (1) For any initial violation that is intentionally committed, one hundred dollars
23 (\$100) for each underpaid employee for each pay period for which the
24 employee is underpaid. This amount shall be in addition to an amount
25 sufficient to recover underpaid wages, liquidated damages pursuant to Section
26 1194.2, and any applicable penalties imposed pursuant to Section 203.

27 (2) For each subsequent violation for the same specific offense, two hundred fifty
28 dollars (\$250) for each underpaid employee for each pay period for which the

1 employee is underpaid regardless of whether the initial violation is
2 intentionally committed. This amount shall be in addition to an amount
3 sufficient to recover underpaid wages, liquidated damages pursuant to Section
4 1194.2, and any applicable penalties imposed pursuant to Section 203.

5 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
6 Section 203, recovered pursuant to this section shall be paid to the affected
7 employee.”

8 57. Plaintiffs are informed and believes, and based thereon alleges, that Defendants
9 caused Plaintiffs and Aggrieved Employees not to be paid minimum wages as a result of Defendants,
10 without limitation, routinely failing to pay Plaintiffs or other Aggrieved Employees’ minimum
11 wages for all hours worked or otherwise under Defendants’ control due to, without limitation,
12 routinely failing to accurately track and/or pay for all hours actually worked; detrimental rounding
13 or manipulation of time entries; paying straight pay instead of overtime or otherwise failing to pay
14 overtime hours at the proper overtime rate of pay; engaging, suffering, or permitting employees to
15 work off the clock, entitling Plaintiffs and other aggrieved Employees to actual and liquidated
16 damages.

17 58. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 1197.1, Plaintiffs and other Aggrieved Employees are entitled to
19 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
20 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
21 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
22 subsequent violation.

23 Civil Penalties Under Labor Code § 2699

24 59. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
25 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
26 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
27 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
28 action brought by an aggrieved employee on behalf of himself or herself and other current or former

1 employees pursuant to the procedures specified in Labor Code section 2699.3.

2 60. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
3 Code except those for which a civil penalty is specifically provided, the established civil penalty for
4 a violation of those provisions is as follows: if, at the time of the alleged violation, the person
5 employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
6 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
7 employee per pay period for each subsequent violation.

8 61. Plaintiffs are informed and believes and based thereon alleges that Defendants, and
9 each of them, violated the Labor Code sections described herein, including, without limitation, for
10 the failure to: pay the rates of pay and overtime rates of pay applicable to their employment,
11 allowances claimed as part of the minimum wage, the regular payday designated by Defendants, the
12 name of the employer, including “doing business as” names used, the name, address, and telephone
13 number of the workers’ compensation insurance carrier, information regarding paid sick leave, and
14 other pertinent information required to be disclosed by Defendants under Labor Code section
15 2810.5, failing to provide Plaintiffs and other Aggrieved Employees with the amount of paid sick
16 leave required to be provided pursuant to California and local laws.

17 62. Moreover, Plaintiffs and other Aggrieved Employees within the State of California
18 whom he seeks to represent are entitled to an award of reasonable attorneys’ fees and costs in
19 connection with their herein-described claims for civil penalties.

20 Civil Penalties Under Labor Code § 2802

21 63. Plaintiffs hereby incorporate preceding paragraphs of this Complaint as though fully
22 set forth herein.

23 64. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her employee
24 for all necessary expenditures or losses incurred by the employee in direct consequence of the
25 discharge of his or her duties.”

26 65. Defendants failed to reimburse Plaintiffs and Defendants’ California employees for
27 the equipment they purchased to perform work for Defendants such as face masks. Moreover,
28 Defendants failed to reimburse Plaintiffs and Defendants’ California employees for uniform

1 maintenance. Defendants further failed to reimburse its California employees for using their
2 personal cell phones for the benefit of Defendants. Labor Code section 2802 provides that “[a]n
3 employer shall indemnify his or her employee for all necessary expenditures or losses incurred by
4 the employee in direct consequence of the discharge of his or her duties.” As such, Plaintiffs and
5 Defendants’ California employees have incurred reasonable and necessary expenses in the course
6 of their job duties, which were not reimbursed by Defendants, in violation of Labor Code § 2802.

7 66. As such, Plaintiffs and Defendants’ California employees have incurred reasonable
8 and necessary expenses in the course of their job duties, which were not reimbursed by Defendants,
9 in violation of Labor Code § 2802.

10 67. Plaintiffs are entitled to reimbursement for these necessary expenditures, plus
11 interest and attorneys’ fees and cost, under Labor Code § 2802.

12 68. Plaintiffs also request relief as described below.

13 Civil Penalties Under Labor Code § 6400, 6401, 6402, 6403, 6404, 6407, 8 CCR 3202

14 69. Plaintiffs incorporate all preceding paragraphs of this Complaint as though fully set
15 forth herein.

16 70. Cal. Labor Code § 6400(a) provides that every employer shall furnish employment
17 and a place of employment that is safe and healthful for Plaintiffs therein. Cal. Labor Code § 6401
18 provides that “every employer shall furnish and use safety devices and safeguard, and shall adopt
19 and use practices, means, methods, operations, and processes which are reasonably adequate to
20 render such employment and place of employment safe and healthful.

21 71. Pursuant to Cal. Labor Code § 6402, no employer shall require, or permit any
22 employee to go or be in any employment or place of employment which is not safe and healthful.
23 Cal. Labor Code § 6403 states that no employer shall fail or neglect to provide and use safety devices
24 and safeguard reasonably adequate to render the employment and place of employment safe, or
25 adopt and use methods and processes reasonably necessary to protect the life, safety, and health of
26 Plaintiffs and Defendants’ California employees.

27 72. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any
28 place pf employment that is not safe and healthful. Cal. Labor Code § 6407 provides that every

1 employer and every employee shall comply with occupational safety and health standards, with
2 Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to
3 this division which are applicable to his own actions and conduct. Defendants failed to continue to
4 take precautions to ensure employee safety after the onset of COVID. Under LC §6409.6(a)(1).
5 “COVID-19” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). Plaintiffs,
6 directly after the onset of COVID, were required to partake in mandatory temperature and health
7 checks, but these activities were not enforced or practiced quickly after the onset of COVID and
8 when COVID was still a health risk to Plaintiffs and Defendants’ California employees. Plaintiffs
9 and Defendants’ California employees was also required to provide their own masks at the
10 workplace.

11 73. As a result of these practices, Defendants have violated Cal. Labor Code §§ 6400,
12 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for
13 Plaintiffs, as outlines above.

14 **REQUEST FOR JURY TRIAL**

15 74. Plaintiffs hereby request a trial by jury.

16 **PRAYER**

17 **WHEREFORE**, on behalf of Plaintiffs and Aggrieved Employees, Plaintiffs prays for
18 judgment against Defendants as follows:

- 19 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
20 1174.5, 1197.1, 2699, 2802, 6400, 6401, 6402, 6403, 6404, and 6407;
21 B. An award of reasonable attorneys’ fees and costs pursuant to Labor Code sections
22 210, 226.3, 558, 1174.5, 1197.1, 2699, 2802, 6400, 6401, 6402, 6403, 6404, and
23 6407;
24 C. Pre-judgment and post-judgment interest;
25 D. For costs of suit incurred herein; and
26 E. Such other and further relief as the Court deems just and proper.

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Dated: September 16, 2025

BIBIYAN LAW GROUP, P.C.

BY: /s/ Megan R. Lazar
MEGAN R. LAZAR
Attorneys for Plaintiffs, ADRIAN CHAVEZ
and MAURICE WARREN, as aggrieved
employees, and on behalf of all other
aggrieved employees under the Labor Code
Private Attorneys' General Act of 2004,

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1460 Westwood Boulevard, Los Angeles, CA 90024.

On September 26, 2025, I caused a true and correct copy of the foregoing document described as **FIRST AMENDED COMPLAINT UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 FOR CIVIL PENALTIES** to be served by electronic transmission to the below-referenced electronic email addresses as follows:

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Counsel for Defendant, CAPITAL LUMBER CO.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 26, 2025, at Los Angeles, California.

/s/ Araceli Marquez
Araceli Marquez