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and Milisse Saunders

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ELLIS TROTTER and MILISSE
SAUNDERS, individually, and on behalf of
other members of the general public
similarly situated, and as aggrieved
employees pursuant to the Private Attorneys
General Act (“PAGA”),

Plaintiffs,

vs.

PROPARK AMERICA WEST, LLC, a
Connecticut limited liability company;
PROPARK LA, LLC, a Connecticut limited
liability company; PRO PARK, INC., a
Connecticut corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 20CV365254

**SECOND AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226.7, 516, 1198 and California Code of Regulations Title 8, Section 3395 (Failure to Provide Heat Recovery Periods);
- (6) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (7) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);

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- (8) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiffs Ellis Trotters and Milisse Saunders, individually and on behalf of all other
2 members of the public similarly situated, and as aggrieved employees and on behalf of all
3 other aggrieved employees, allege as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiffs, the State of California, and
8 other current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiffs’
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

23 3. Venue is proper in this Court because Defendants employ persons in this county,
24 and employ Plaintiff Trotter in this county, and thus a substantial portion of the transactions and
25 occurrences related to this action occurred in this county.

26 THE PARTIES

27 4. Plaintiff Ellis Trotter is a resident of Union City, in Alameda County,
28 California. Defendants employed Plaintiff Trotter as an hourly paid, non-exempt Valet

Assistant from April 2019 to approximately March 2020. Plaintiff Trotter worked for Defendants at their location in Foster City, California. Defendants previously employed Plaintiff Trotter as a “GRide” or Shuttle Driver in Mountain View, California, from January 2018 to September 2018. Plaintiff Trotter typically worked eight (8) hours or more per day, four (4) to five (5) days per week, from 8:00 a.m. to 4:30 p.m. Plaintiff Trotter’s primary job duties included, without limitation, checking customers into the system, moving cars from main parking lot to valet parking lot, photographing damage to vehicles, and providing customer service.

5. Plaintiff Milisse Saunders is a resident of Oakland, in Alameda County, California. Defendants employed Plaintiff Saunders as an hourly paid, non-exempt employee from approximately October 2012 to September 2021. Plaintiff Saunders worked as a Vault Supervisor for Defendants at their location in Oakland, California. During her employment, Plaintiff Saunders typically worked eight (8) hours per day, and five (6) days per week. Plaintiff Saunders’s job duties included, without limitation, controlling parking operations, ticket allocations, cash distributions, collections, and deposits.

6. PROPARK AMERICA WEST, LLC was and is, upon information and belief, a Connecticut limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America.

7. PROPARK LA, LLC was and is, upon information and belief, a Connecticut limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America.

8. PRO PARK, INC. was and is, upon information and belief, a Connecticut corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America.

9. Plaintiffs are unaware of the true names or capacities of the Defendants sued

1 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
2 amend the complaint and serve such fictitiously named Defendants once their names and
3 capacities become known.

4 10. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
5 were the partners, agents, owners, or managers of PROPARK AMERICA WEST, LLC;
6 PROPARK LA, LLC; and/or PRO PARK, INC., at all relevant times.

7 11. Plaintiffs are informed and believe, and thereon allege, that each and all of the
8 acts and omissions alleged herein was performed by, or is attributable to, PROPARK
9 AMERICA WEST, LLC; PROPARK LA, LLC; PRO PARK, INC.; and/or DOES 1 through
10 10 (collectively, “Defendants” or “PROPARK”), each acting as the agent, employee, alter
11 ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and
12 was acting within the course and scope of such agency, employment, joint venture, or
13 concerted activity with legal authority to act on the others’ behalf. The acts of any and all
14 Defendants were in accordance with, and represent, the official policy of Defendants.

15 12. At all relevant times, Defendants, and each of them, ratified each and every act
16 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
17 and abetted the acts and omissions of each and all the other Defendants in proximately causing
18 the damages herein alleged.

19 13. Plaintiffs are informed and believe, and thereon allege, that each of said
20 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
21 omissions, occurrences, and transactions alleged herein.

22 14. Under California law, Defendants are jointly and severally liable as employers
23 for the violations alleged herein because they have each exercised sufficient control over the
24 wages, hours, working conditions, and employment status of Plaintiffs and class members.
25 Each Defendant had the power to hire and fire Plaintiffs and class members, supervised and
26 controlled their work schedule and/or conditions of employment, determined their rate of pay,
27 and maintained their employment records. Defendants suffered or permitted Plaintiffs and
28 class members to work and/or “engaged” Plaintiffs and class members so as to create a

1 common-law employment relationship. As joint employers of Plaintiffs and class members,
2 Defendants are jointly and severally liable for the civil penalties and all other relief available
3 to Plaintiffs and class members under the law.

4 15. Plaintiffs are informed and believe, and thereon allege, that at all relevant
5 times, Defendants, and each of them, have acted as joint employers with respect to Plaintiffs
6 and class members because Defendants have:

- 7 (a) jointly exercised meaningful control over the work performed by
8 Plaintiffs and class members;
- 9 (b) jointly exercised meaningful control over Plaintiffs' and class members'
10 wages, hours, and working conditions, including the quantity, quality
11 standards, speed, scheduling, and operative details of the tasks
12 performed by Plaintiffs and class members;
- 13 (c) jointly required that Plaintiffs and class members perform work which is
14 an integral part of Defendants' businesses; and
- 15 (d) jointly exercised control over Plaintiffs and class members as a matter
16 of economic reality in that Plaintiffs and class members were dependent
17 on Defendants, who shared the power to set the wages of Plaintiffs and
18 class members and determined their working conditions, and who
19 jointly reaped the benefits from the underpayment of their wages and
20 noncompliance with other statutory provisions governing their
21 employment.

22 16. Plaintiffs are informed and believe, and thereon allege, that at all relevant times
23 there has existed a unity of interest and ownership between Defendants such that any
24 individuality and separateness between the entities has ceased.

25 17. PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; PRO PARK, INC.;
26 and DOES 1 through 10 are therefore alter egos of each other.

27 18. Adherence to the fiction of the separate existence of Defendants would permit
28 an abuse of the corporate privilege, and would promote injustice by protecting Defendants

1 from liability for the wrongful acts committed by them under the name PROPARK.

2 19. Plaintiffs further allege, upon information and belief, that Defendants
3 PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; and PRO PARK, INC. are alter
4 egos of each other for the following reasons:

- 5 (a) On the California Secretary of State’s website
6 (<https://bizfileonline.sos.ca.gov/>), PROPARK AMERICA WEST, LLC;
7 PROPARK LA, LLC; and PRO PARK, INC. share the same entity and
8 entity mailing address, “ONE UNION PL, HARTFORD, CT 06103”;
- 9 (b) According to their most recent “Statement of Information” forms filed
10 with the California Secretary of State, PROPARK AMERICA WEST,
11 LLC and PROPARK LA, LLC share the same officers and/or directors,
12 including, but not limited to, John Schmid, who serves as Chief
13 Executive Officer of both PROPARK AMERICA WEST, LLC and
14 PROPARK LA, LLC;
- 15 (c) According to the most recent “Statement of Information” forms filed
16 with the California Secretary of State, PRO PARK, INC. is listed as a
17 manager or member of PROPARK LA, LLC; and
- 18 (d) On information and belief, PROPARK AMERICA WEST, LLC;
19 PROPARK LA, LLC; and PRO PARK, INC. utilize the same
20 standardized employment forms and issue the same employment
21 policies.

22 **GENERAL ALLEGATIONS**

23 20. Defendants are a parking management company providing services for more
24 than 500 locations in markets across the United States and at least 39 locations in California.
25 Upon information and belief, Defendants maintain a single, centralized Human Resources
26 (“HR”) department at their company headquarters in Hartford, Connecticut, which is
27 responsible for the recruiting and hiring of new employees, and communicating and
28 implementing Defendants’ company-wide policies, including timekeeping policies, to

1 employees throughout California.

2 21. In particular, Plaintiffs and class members, on information and belief, received
3 the same standardized documents and/or written policies. Upon information and belief, the
4 usage of standardized documents and/or written policies, including new-hire documents,
5 indicate that Defendants dictated policies at the corporate level and implemented them
6 company-wide, regardless of their employees' assigned locations or positions. Upon
7 information and belief, Defendants set forth uniform policies and procedures in several
8 documents provided at an employee's time of hire, including, but not limited to, an
9 Employment Offer Letter and Employee Handbook Acknowledgement Form.

10 22. Upon information and belief, Defendants maintain a centralized Payroll
11 department at their company headquarters in Hartford, Connecticut, which processes payroll
12 for all non-exempt, hourly paid employees working for Defendants at their various locations
13 and jobsites in California, including Plaintiffs and class members. Based upon information
14 and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly
15 paid employees in California, irrespective of their work locations. Upon information and
16 belief, Defendants process payroll for departing employees in the same manner throughout the
17 State of California, regardless of the manner in which each employee's employment ends.

18 23. Defendants continue to employ non-exempt or hourly paid employees in
19 California.

20 24. Plaintiffs are informed and believe, and thereon allege, that at all times herein
21 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
22 and advisors knowledgeable about California labor and wage law, employment and personnel
23 practices, and about the requirements of California law.

24 25. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class
25 members were not paid for all hours worked because all hours worked were not recorded.

26 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
27 should have known that Plaintiffs and class members were entitled to receive certain wages
28 for overtime compensation and that they were not receiving certain wages for overtime

1 compensation.

2 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
3 should have known that Plaintiffs and class members were entitled to be paid at a regular rate
4 of pay, and corresponding rates of pay for overtime wages and/or meal, rest, and recovery
5 period premiums, that included as eligible income all income derived from shift differential
6 pay, incentive pay, nondiscretionary bonuses, and/or other forms of compensation, but failed
7 to include all forms of remuneration in calculating the regular rate of pay for Plaintiff Trotter
8 and class members.

9 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
10 should have known that Plaintiffs and class members were entitled to receive at least
11 minimum wages for compensation and that they were not receiving at least minimum wages
12 for work that was required to be done off-the-clock. In violation of the California Labor
13 Code, Plaintiffs and class members were not paid at least minimum wages for work done off-
14 the-clock.

15 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
16 should have known that Plaintiff Saunders and class members were entitled to meal periods in
17 accordance with the California Labor Code and applicable IWC Wage Order or payment of
18 one (1) additional hour of pay at their regular rates of pay when they were not provided with
19 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff Saunders and class
20 members were not provided with all meal periods or payment of one (1) additional hour of
21 pay at their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30)
22 minute meal period.

23 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiff Saunders and class members were entitled to rest periods in
25 accordance with the California Labor Code and applicable IWC Wage Order or payment of
26 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
27 permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff
28 Saunders and class members were not authorized and permitted to take compliant rest periods,

1 nor did Defendants provide Plaintiff Saunders and class members with payment of one (1)
2 additional hour of pay at their regular rates of pay when they were not authorized and
3 permitted to take a compliant rest period.

4 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
5 should have known that Plaintiff Saunders and class members were entitled to recovery
6 periods in accordance with the Labor Code and applicable General Industry Safety Order or
7 payment of one (1) additional hour of pay at their regular rates of pay when they were not
8 provided a compliant recovery period. In violation of the California Labor Code, Plaintiff
9 Saunders and class members were not provided compliant recovery periods, nor did
10 Defendants provide Plaintiff Saunders and class members with payment of one (1) additional
11 hour of pay at their regular rates of pay when they were not provided a compliant recovery
12 period.

13 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
14 should have known that Plaintiffs and class members were entitled to receive complete and
15 accurate wage statements in accordance with California law. In violation of the California
16 Labor Code, Plaintiffs and class members were not provided complete and accurate wage
17 statements.

18 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
19 should have known that they had a duty to maintain accurate and complete payroll records in
20 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
21 and intentionally failed to do so.

22 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
23 should have known that Plaintiffs and class members were entitled to timely payment of all
24 wages earned upon termination of employment. In violation of the California Labor Code,
25 Plaintiffs and class members did not receive payment of all wages due, including, but not
26 limited to, overtime wages; minimum wages; and/or meal, rest, and recovery period
27 premiums, within permissible time periods.

28 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or

1 should have known that Plaintiffs and class members were entitled to timely payment of
2 wages during their employment. In violation of the California Labor Code, Plaintiffs and
3 class members did not receive payment of all wages, including, but not limited to, overtime
4 wages; minimum wages; and/or meal, rest, and recovery period premiums, within permissible
5 time periods.

6 36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs and class members were entitled to receive itemized wage
8 statements or separate written statements showing the amount of paid sick leave available, or
9 paid time off provided in lieu of sick leave. In violation of the California Labor Code,
10 Defendants failed to provide Plaintiffs and class members with written itemized wage
11 statements or separate written statements showing this information.

12 37. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiffs and class members were entitled to one day's rest in seven.
14 In violation of the California Labor Code, Defendants required Plaintiff Saunders and class
15 members to work more than six consecutive days without a day of rest, where the total hours
16 worked exceeded 30 hours in any week or six hours in any one day thereof.

17 38. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that Plaintiffs and class members were entitled to suitable seating and/or
19 were entitled to sit when it did not interfere with the performance of their duties and also have
20 seats nearby to use during a lull in tasks that do require moving about or standing. In
21 violation of the California Labor Code and applicable IWC Wage Order, Defendants failed to
22 provide Plaintiff Trotter and class members with suitable seating.

23 39. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and class members were entitled to be paid a split-shift
25 premium when they returned to work for an additional shift in the same day, after having been
26 clocked out for more than an hour. In violation of the California Labor Code and applicable
27 IWC Wage Order, Defendants did not pay Plaintiff Trotter and class members all split-shift
28 premiums due.

1 40. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and class members were entitled to receive full
3 reimbursement for all business-related expenses and costs they incurred during the course and
4 scope of their employment and that they did not receive full reimbursement of applicable
5 business-related expenses and costs incurred.

6 41. Plaintiffs are informed and believe, and thereon allege, that at all times herein
7 mentioned, Defendants knew or should have known that they had a duty to compensate
8 Plaintiffs and class members for all hours worked, and that Defendants had the financial
9 ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so,
10 and falsely represented to Plaintiffs and class members that they were properly denied wages,
11 all in order to increase Defendants' profits.

12 **PAGA REPRESENTATIVE ALLEGATIONS**

13 42. At all times herein set forth, PAGA provides that any provision of law under
14 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
15 assessed and collected by the LWDA for violations of the California Labor Code and
16 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
17 civil action brought on behalf of themselves and other current or former employees pursuant
18 to procedures outlined in California Labor Code section 2699.3.

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

22 44. Plaintiffs and other current and former employees of Defendants are "aggrieved
23 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
24 or former employees and one or more of the alleged violations were committed against them.

25 45. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
26 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
27 following requirements have been met:

28 (a) The aggrieved employee or representative shall give written notice by

1 online filing with the LWDA and by certified mail to the employer of
2 the specific provisions of the California Labor Code alleged to have
3 been violated, including the facts and theories to support the alleged
4 violation.

5 (b) An aggrieved employee's notice filed with the LWDA pursuant to
6 2699.3(a) and any employer response to that notice shall be
7 accompanied by a filing fee of seventy-five dollars (\$75).

8 (c) The LWDA shall notify the employer and the aggrieved employee or
9 representative by certified mail that it does not intend to investigate the
10 alleged violation ("LWDA Notice") within sixty (60) calendar days of
11 the postmark date of the aggrieved employee's notice. Upon receipt of
12 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
13 (65) calendar days of the postmark date of the aggrieved employee's
14 notice, the aggrieved employee may commence a civil action pursuant
15 to California Labor Code section 2699 to recover civil penalties.

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

20 (a) The aggrieved employee or representative shall give written notice by
21 online filing with the LWDA and by certified mail to the employer of
22 the specific provisions of the California Labor Code alleged to have
23 been violated (other than those listed in Section 2699.5), including the
24 facts and theories to support the alleged violation.

25 (b) An aggrieved employee's notice filed with the LWDA pursuant to
26 2699.3(c) and any employer response to that notice shall be
27 accompanied by a filing fee of seventy-five dollars (\$75).

28 (c) The employer may cure the alleged violation within thirty-three (33)

1 calendar days of the postmark date of the notice sent by the aggrieved
2 employee or representative. The employer shall give written notice
3 within that period of time by certified mail to the aggrieved employee or
4 representative and by online filing with the LWDA if the alleged
5 violation is cured, including a description of actions taken, and no civil
6 action pursuant to Section 2699 may commence. If the alleged violation
7 is not cured within the 33-day period, the aggrieved employee may
8 commence a civil action pursuant to Section 2699.

9 47. On March 26, 2020, Plaintiff Trotter provided written notice by online filing to
10 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
11 Labor Code alleged to have been violated, including facts and theories to support the alleged
12 violations, in accordance with California Labor Code section 2699.3. Plaintiff Trotter's
13 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
14 The LWDA PAGA Administrator confirmed receipt of Plaintiff Trotter's written notice and
15 assigned Plaintiff Trotter PAGA Case Number LWDA-CM-780396-20. A true and correct
16 copy of Plaintiff Trotter's written notice to the LWDA and Defendants is attached hereto as
17 "Exhibit 1."

18 48. On August 10, 2022, Plaintiff Saunders provided written notice by online filing
19 to the LWDA and by Certified Mail to Defendants of the specific provisions of the California
20 Labor Code alleged to have been violated, including facts and theories to support the alleged
21 violations, in accordance with California Labor Code section 2699.3. Plaintiff Saunders's
22 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
23 The LWDA PAGA Administrator confirmed receipt of Plaintiff Saunders's written notice and
24 assigned Plaintiff Saunders PAGA Case Number LWDA-CM-900915-22. A true and correct
25 copy of Plaintiff Saunders's written notice to the LWDA and Defendants is attached hereto as
26 "Exhibit 2."

27 49. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
28 sent the notices described above to the LWDA, and the LWDA has not responded that it

intends to investigate Plaintiffs' claims and Defendants have not cured the violations.

50. Thus, Plaintiffs have satisfied the administrative prerequisites under California Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

52. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiffs' and other aggrieved employees' rights by violating various sections of the California Labor Code as set forth above.

53. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

54. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiffs, acting in the public interest as private attorneys general, seek assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

CLASS ACTION ALLEGATIONS

55. Plaintiffs bring this action on their own behalf, as well as on behalf of each and

1 all other persons similarly situated, and thus seek class certification under California Code of
2 Civil Procedure section 382.

3 56. All claims alleged herein arise under California law for which Plaintiffs seek
4 relief authorized by California law.

5 57. Plaintiffs' proposed class consists of and is defined as follows:

6 All persons who worked for Defendants as non-exempt, hourly
7 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial ("Class").

8 58. Plaintiffs' proposed subclass consists of and is defined as follows:

9 All persons who worked for Defendants as non-exempt, hourly
10 paid employees in California and who received at least one wage
11 statement within one (1) year prior to the filing of the initial
complaint until the date of trial ("Subclass").

12 59. Members of the Class and Subclass are referred to herein as "class members."

13 60. Plaintiffs reserve the right to redefine the Class and Subclass and to add
14 additional subclasses as appropriate based on further investigation, discovery, and specific
15 theories of liability.

16 61. There are common questions of law and fact as to class members that
17 predominate over questions affecting only individual members, including, but not limited to:

- 18 (a) Whether Defendants required Plaintiffs and class members to work over
19 eight (8) hours per day, over twelve (12) hours per day, or over forty
20 (40) hours per week and failed to pay all legally required overtime
21 compensation to Plaintiffs and class members;
- 22 (b) Whether Defendants failed to properly calculate the "regular rate" of
23 pay on which Plaintiff Trotter's and class members' rates of pay for
24 overtime wages and/or meal, rest, and recovery period premiums were
25 based;
- 26 (c) Whether Defendants failed to pay Plaintiffs and class members at least
27 minimum wages for all hours worked;
- 28 (d) Whether Defendants failed to provide Plaintiff Saunders and class

- 1 members with meal periods;
- 2 (e) Whether Defendants failed to authorize and permit Plaintiff Saunders
- 3 and class members to take rest periods;
- 4 (f) Whether Defendants failed to provide Plaintiff Saunders and class
- 5 members with heat recovery periods;
- 6 (g) Whether Defendants provided Plaintiff Trotter and class members with
- 7 complete and accurate wage statements as required by California Labor
- 8 Code section 226(a);
- 9 (h) Whether Defendants maintained accurate payroll records as required by
- 10 California Labor Code section 1174(d);
- 11 (i) Whether Defendants failed to pay earned overtime wages; minimum
- 12 wages; and/or meal, rest, and recovery period premiums due to
- 13 Plaintiffs and class members upon their discharge;
- 14 (j) Whether Defendants failed timely to pay overtime wages; minimum
- 15 wages; and/or meal, rest, and recovery period premiums to Plaintiffs
- 16 and class members during their employment;
- 17 (k) Whether Defendants failed to provide Plaintiffs and class members with
- 18 written notice on wage statements listing requisite sick pay information
- 19 set forth in Labor Code section 246(i);
- 20 (l) Whether Defendants failed to provide Plaintiff Saunders and class
- 21 members one day's rest in seven;
- 22 (m) Whether Defendants failed to provide Plaintiff Trotter and class
- 23 members with suitable seating;
- 24 (n) Whether Defendants required Plaintiff Trotter and class members to
- 25 return to work for an additional shift in the same day, after having been
- 26 clocked out for more than an hour, without paying Plaintiff Trotter and
- 27 class members an addition hour of pay at the minimum wage as required
- 28 by California Code of Regulations, Title 8, section 11090(4)(C);

- 1 (o) Whether Defendants failed to reimburse Plaintiffs and class members
2 for necessary and required business-related expenditures and/or losses
3 incurred by them in the scope of their employment;
- 4 (p) Whether Defendants engaged in unlawful and unfair business practices
5 in violation of California Business & Professions Code sections 17200,
6 *et seq.*; and
- 7 (q) The appropriate amount of damages, restitution, or monetary penalties
8 resulting from Defendants' violations of California law.

9 62. There is a well-defined community of interest in the litigation and the class
10 members are readily ascertainable:

- 11 (a) Numerosity: The class members are so numerous that joinder of all
12 members would be unfeasible and impractical. The membership of the
13 entire class is unknown to Plaintiffs at this time; however, the class is
14 estimated to be greater than one hundred (100) individuals and the
15 identity of such membership is readily ascertainable by inspection of
16 Defendants' employment records.
- 17 (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately
18 protect the interests of each class member with whom they have a well-
19 defined community of interest, and Plaintiffs' claims (or defenses, if
20 any) are typical of all class members as demonstrated herein.
- 21 (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately
22 protect the interests of each class member with whom they have a well-
23 defined community of interest and typicality of claims, as demonstrated
24 herein. Plaintiffs acknowledge that they have an obligation to make
25 known to the Court any relationship, conflicts or differences with any
26 class member. Plaintiffs' attorneys, the proposed class counsel, are
27 versed in the rules governing class action discovery, certification, and
28 settlement. Plaintiffs have incurred, and throughout the duration of this

1 action, will continue to incur costs and attorneys' fees that have been,
2 are, and will be necessarily expended for the prosecution of this action
3 for the substantial benefit of each class member.

4 (d) Superiority: The nature of this action makes the use of class action
5 adjudication superior to other methods. A class action will achieve
6 economies of time, effort, and expense as compared with separate
7 lawsuits, and will avoid inconsistent outcomes because the same issues
8 can be adjudicated in the same manner and at the same time for the
9 entire class.

10 (e) Public Policy Considerations: Employers in the State of California
11 violate employment and labor laws every day. Current employees are
12 often afraid to assert their rights out of fear of direct or indirect
13 retaliation. Former employees are fearful of bringing actions because
14 they believe their former employers might damage their future
15 endeavors through negative references and/or other means. Class
16 actions provide the class members who are not named in the complaint
17 with a type of anonymity that allows for the vindication of their rights
18 while simultaneously protecting their privacy.

19 **FIRST CAUSE OF ACTION**

20 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

21 **(Against all Defendants)**

22 63. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
23 and every allegation set forth above.

24 64. Labor Code section 1198 makes it illegal to employ an employee under
25 conditions of labor that are prohibited by the applicable wage order. California Labor Code
26 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
27 be the . . . standard conditions of labor for employees. The employment of any employee . . .
28 under conditions of labor prohibited by the order is unlawful.”

1 65. California Labor Code section 1198 and the applicable IWC Wage Order
2 provide that it is unlawful to employ persons without compensating them at a rate of pay
3 either time-and-one-half or two-times that person's regular rate of pay, depending on the
4 number of hours worked by the person on a daily or weekly basis.

5 66. Specifically, the applicable IWC Wage Order provides that Defendants are and
6 were required to pay Plaintiffs and class members working more than eight (8) hours in a day
7 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
8 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
9 workweek.

10 67. The applicable IWC Wage Order further provides that Defendants are and were
11 required to pay Plaintiffs and class members working more than twelve (12) hours in a day,
12 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
13 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
14 employee, including nondiscretionary bonuses and incentive pay.

15 68. California Labor Code section 510 codifies the right to overtime compensation
16 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
17 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
18 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
19 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
20 in a day on the seventh (7th) day of work.

21 69. During the relevant time period, Defendants willfully failed to pay all overtime
22 wages owed to Plaintiffs and class members. During the relevant time period, Plaintiffs and
23 class members were not paid overtime premiums for all of the hours they worked in excess of
24 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
25 hours in a week, because all hours worked were not recorded.

26 70. First, during the relevant period, Defendants have had a company-wide policy
27 and/or practice of improperly rounding employee clock-in and clock-out duration times to the
28 nearest quarter-hour in their timekeeping records. Defendants' rounding policy has resulted in

1 the failure to compensate Plaintiffs and class members fully for all hours worked, causing
2 Plaintiffs and class members to not be paid overtime wages for all of the overtime hours they
3 actually worked. Upon information and belief, Defendants' rounding policy is, and continues
4 to be, unfair and has, over time, resulted in the underpayment of wages to Plaintiffs and class
5 members. To the extent Defendants' rounding policy has taken away time worked that was
6 eligible for overtime, Plaintiffs and class members have been denied overtime pay for all
7 hours worked. Alternatively, Defendants had, and continue to have, a company-wide policy
8 and/or practice of simply paying employees, including Plaintiffs and class members, for the
9 hours they are scheduled to work and not the actual hours worked. Because Defendants failed
10 to accurately record their actual hours worked, Plaintiffs and class members were not paid for
11 all hours worked before or after their scheduled shifts.

12 71. Second, Defendants have a policy and/or practice of discouraging and impeding
13 Plaintiffs and class members from recording hours worked that are outside of their scheduled
14 shifts in order to limit the amount of overtime employees can accrue. On information and
15 belief, this policy of limiting overtime, coupled with Defendants' practices of understaffing
16 and assigning heavy workloads, led Plaintiffs and class members to work off-the-clock before
17 or after their scheduled shift times in order to complete their assigned tasks. For example,
18 Plaintiff Trotter would arrive to work up to 10-15 minutes early and was asked to start
19 performing work immediately, such as moving cars between lots, locating missing cars, and
20 uploading new cars into the system, but was not permitted to clock in until his designated shift
21 start-time. After clocking out from his scheduled shift, Plaintiff Trotter also handed out keys
22 to customers for 10-20 minutes per instance. As another example, Defendants required
23 Plaintiff Saunders to clock out and continue working for up to 15 minutes to complete closing
24 tasks, such as locking the vault office, turning in paperwork, and returning equipment at the
25 request of management. When this occurred, Plaintiffs and class members were unable to
26 record this off-the-clock work because Defendants' management prohibited them from
27 recording these overtime hours. Thus, Defendants failed to track this time spent working
28 before and after scheduled shifts, and Plaintiffs and class members receive no compensation

1 for this time.

2 72. Further, during the relevant period, Defendants implemented, on a company-
3 wide basis, an employer-imposed requirement that Plaintiff Saunders and class members
4 undergo mandatory COVID-19 temperature checks and/or health screenings before clocking
5 in for their scheduled shifts. Prior to their shifts, employees were required to spend time
6 filling out a health screening form, undergoing a temperature check, and/or taking a COVID-
7 19 test, before being permitted to clock in for their shifts. Even though Defendants required
8 these health screenings, Defendants did not provide Plaintiff Saunders and class members a
9 mechanism to record this time worked so they could be compensated for the time spent
10 undergoing mandatory temperature checks and/or health screenings.

11 73. Third, during the relevant period, Defendants had a company-wide safety
12 policy requiring employees to undergo mandatory security checks by a stadium security
13 employee before entering the premises before clocking in at the beginning of a shift. For
14 example, Defendants required Plaintiff Saunders to spend 15 minutes to complete mandatory
15 security checks before clocking in at the beginning of a shift. Although Defendants'
16 requirement that employees undergo security checks was mandatory, Defendants did not
17 compensate them for the time it took them to wait and undergo these checks. As a result of
18 these security policies and/or practices, employees were subject to Defendants' control before
19 they had clocked in for their shifts, but were not compensated for this time.

20 74. Fourth, during the relevant period, Defendants had, and continue to have, a
21 company-wide policy and/or practice of strictly staffing their sites/locations based on the labor
22 hours allocated by corporate for each location. Defendants' uniform use of labor budgets has
23 resulted in chronic understaffing and a lack of adequate meal period coverage, because there
24 are too few employees on duty to handle the heavy workload and attend to customers. As a
25 result of this lack of meal period coverage, Plaintiff Saunders and class members were not
26 always afforded uninterrupted 30-minute meal periods during shifts when they were entitled
27 to receive a meal period. Moreover, Defendants had a practice of failing to adhere to a
28 schedule for meal periods, which further caused Plaintiff Saunders and class members to not

1 be relieved of their duties for compliant meal periods. Consequently, Plaintiff Saunders and
2 class members were required to work through and/or had their unpaid meal periods interrupted
3 in order to complete their assigned duties, time for which they were not paid.

4 75. Fifth, during the relevant time period, Defendants maintained and implemented
5 a company-wide on-premises meal period policy, which mandated that Plaintiff Saunders and
6 class members remain on the work premises during their meal periods. Because Plaintiff
7 Saunders and class members were restricted from leaving the premises during meal periods,
8 they were denied the ability to use their meal periods freely for their own purposes, such as
9 running personal errands. Thus, Defendants effectively maintained control over Plaintiff
10 Saunders and class members during unpaid meal periods, but did not pay them for this time.

11 76. Additionally, during the relevant time period, Defendants had, and continue to
12 have, a company-wide policy and/or practice of requiring employees to use their personal
13 mobile devices and/or company-issued radios to communicate with supervisors at all times,
14 including during unpaid meal periods. Defendants expected that Plaintiff Saunders and class
15 members respond to calls and text messages promptly to discuss work-related matters. For
16 example, at least once per week, Plaintiff Saunders had her meal periods interrupted by calls
17 from management on her radio or personal cellular phone to discuss work-related matters.
18 However, Defendants did not compensate Plaintiff Saunders and class members for the time
19 they spent communicating with supervisors regarding work-related issues during meal periods
20 while off-the-clock.

21 77. Sixth, on information and belief, because Defendants frowned upon employees
22 accruing meal period penalties, Defendants' management pressured Plaintiff Saunders and
23 class members to record compliant meal periods on their timesheets regardless of whether
24 they had received a compliant meal period or not, in order to strictly limit meal penalties that
25 would need to be paid by Defendants. Alternatively, Defendants' management would adjust
26 employees' time records to reflect compliant meal periods or would automatically deduct 30-
27 minute meal periods from Plaintiff Saunders's and class members' time records even when
28 meal periods were missed, short, and/or interrupted. Thus, Defendants did not record all

1 hours worked during meal periods, and Plaintiff Saunders and class members performed work
2 during meal periods for which they were not paid.

3 78. Defendants knew or should have known that as a result of these company-wide
4 practices and/or policies, Plaintiffs and class members were performing work off-the-clock
5 before or after their shifts and/or during meal periods, and were suffered or permitted to
6 perform work for which they were not paid. Because Plaintiffs and class members worked
7 shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-
8 the-clock work qualified for overtime premium pay.

9 79. Furthermore, Defendants did not paid Plaintiff Trotter and class members the
10 correct overtime rate for the recorded overtime hours that they generated. In addition to an
11 hourly wage, Defendants paid Plaintiff Trotter and class members shift differential pay,
12 incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. For example,
13 Defendants paid Plaintiff Trotter and class members referral bonuses and shift differential
14 pay. However, in violation of the California Labor Code, Defendants failed to incorporate all
15 compensation, including shift differential pay, incentive pay, nondiscretionary bonuses, and/or
16 other forms of remuneration, into the calculation of the regular rate of pay for purposes of
17 calculating the overtime wage rate. Therefore, during times when Plaintiff Trotter and class
18 members worked overtime and received these other forms of pay, Defendants failed to pay all
19 overtime wages by paying a lower overtime rate than required.

20 80. Defendants' failure to pay Plaintiffs and class members the balance of overtime
21 compensation as required by California law, violates the provisions of California Labor Code
22 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class
23 members are entitled to recover their unpaid overtime compensation, as well as interest, costs,
24 and attorneys' fees.

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SECOND CAUSE OF ACTION
Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid
Minimum Wages
(Against all Defendants)

81. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

82. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining “Hours Worked”).

83. First, as stated, during the relevant time period, Defendants have had a policy of rounding Plaintiffs’ and class members’ hourly clock-in and clock-out duration times to the quarter-hour in their timekeeping records, resulting in the failure to compensate Plaintiffs and class members fully for all hours worked. Alternatively, Defendants had a company-wide policy and/or practice of only paying Plaintiffs and class members for their scheduled shifts, rather than their actual hours worked, because Defendants failed to track hours worked outside of their scheduled shifts.

84. Second, as stated, due to Defendants’ company-wide practice of restricting overtime accrual by not recording hours worked that were outside of employees’ scheduled shifts, Defendants systematically failed to pay Plaintiffs and class members for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. Thus, Plaintiffs and class members were required to work off-the-clock before and/or after their scheduled shifts, including completing work-related tasks, submitting to mandated pre-shift COVID-19 temperature checks and health screenings, and/or undergoing security checks, but were not compensated for this time.

1 85. Third, as stated, due to Defendants’ uniform practices of utilizing labor
2 budgets, understaffing, while assigning heavy workloads, failing to adhere to a schedule for
3 meal periods, requiring employees to stay on worksite premises during meal periods, requiring
4 employees to carry and use their personal mobile devices and/or company-issued radios to
5 communicate with supervisors during meal periods, Plaintiff Saunders and class members
6 were impeded from taking all uninterrupted meal periods to which they were entitled and were
7 required to work off-the-clock. Moreover, as stated, in order to prevent employees from
8 accruing meal period penalties, upon information and belief, Defendants’ management
9 pressured employees to record compliant meal periods, adjusted employee time records to
10 reflect compliant meal periods, and/or automatically deducted 30- minute meal periods from
11 Plaintiff Saunders’s and class members’ time records even when meal periods were missed,
12 short, and/or interrupted. Thus, Defendants systematically failed to pay Plaintiff Saunders and
13 class members for actual hours worked during unpaid meal periods, because these hours were
14 not always correctly recorded.

15 86. Thus, Defendants did not pay at least minimum wages for all hours worked by
16 Plaintiffs and class members. To the extent that these off-the-clock hours did not qualify for
17 overtime premium payment, Defendants did not pay at least minimum wages for those hours
18 worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197,
19 1197.1, and 1198.

20 87. Defendants’ failure to pay Plaintiffs and class members minimum wages
21 violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
22 California Labor Code section 1194.2, Plaintiffs and class members are entitled to recover
23 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

24 **THIRD CAUSE OF ACTION**

25 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period**

26 **Violations**

27 **(Against all Defendants)**

28 88. Plaintiffs incorporate by reference and re-allege as if fully stated herein each

1 and every allegation set forth above.

2 89. At all relevant times herein set forth, the applicable IWC Wage Order and
3 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiffs' and
4 class members' employment by Defendants.

5 90. At all relevant times herein set forth, California Labor Code section 512(a)
6 provides that an employer may not require, cause, or permit an employee to work for a period
7 of more than five (5) hours per day without providing the employee with a meal period of not
8 less than thirty (30) minutes, except that if the total work period per day of the employee is
9 not more than six (6) hours, the meal period may be waived by mutual consent of both the
10 employer and the employee. Under California law, first meal periods must start after no more
11 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

12 91. At all relevant times herein set forth, California Labor Code sections 226.7,
13 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
14 meal period mandated by an applicable order of the IWC.

15 92. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
16 and the applicable IWC Wage Order also require employers to provide a second meal period
17 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
18 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
19 total hours worked is no more than twelve (12) hours, the second meal period may be waived
20 by mutual consent of the employer and the employee only if the first meal period was not
21 waived.

22 93. First, during the relevant time period, as stated, Defendants had, and continue
23 to have, company-wide policies and/or practices of understaffing their locations pursuant to
24 their labor budget practices while assigning heavy workloads and failing to adhere to a
25 schedule for meal periods, which resulted in a lack of meal period coverage and prevented
26 Plaintiff Saunders and class members from taking all timely, uninterrupted meal periods to
27 which they were entitled. For example, Plaintiff Saunders was forced to forego meal periods
28 2-3 times per week; she was also required to take her meal periods late (after having worked

1 in excess of five (5) hours or more into her shift) approximately 1-2 times per week, in order
2 to complete her work duties.

3 94. Second, as set forth above, Defendants had a company-wide policy and/or
4 practice of requiring employees to use their personal mobile devices and/or company-issued
5 radios to communicate with supervisors at all times, including during meal periods, which
6 caused Plaintiff Saunders's meal periods to be interrupted by a supervisor at least twice per
7 week to discuss work-related matters.

8 95. Third, as also stated, during the relevant time period, Defendants maintained
9 and implemented a company-wide on-premises meal period policy, which mandated that
10 Plaintiff Saunders and class members remain on the work premises during their meal periods.
11 Because Plaintiff Saunders and class members were restricted from leaving the premises
12 during meal periods, they were denied the ability to use their meal periods freely for their own
13 purposes, such as running personal errands. Thus, Defendants effectively maintained control
14 over Plaintiff Saunders and class members during meal periods.

15 96. Fourth, Defendants did not provide Plaintiff Saunders and class members with
16 second 30-minute meal periods on days that they worked in excess of ten (10) hours in one
17 day. For example, throughout her employment, Plaintiff Saunders was forced to forego her
18 second meal period five (5) times. Plaintiff Saunders and class members did not sign valid
19 meal period waivers on days that they were entitled to meal periods and were not relieved of
20 all duties.

21 97. Moreover, Defendants had a company-wide policy of requiring all newly hired
22 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
23 the position that non-exempt, hourly paid employees had waived their rights to second meal
24 periods for the entirety of their employment and, on that basis, did not provide them with all
25 meal periods to which they were entitled. Furthermore, Defendants' meal period waiver form
26 requires employees to provide written notice should they wish to revoke the waiver.
27 Defendants' presumption that meal periods would not be provided for shifts in excess of ten
28 (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or

1 near the time of hire, and imposition on employees to revoke the waivers in writing,
2 discouraged and impeded Plaintiff Saunders and class members from taking all meal periods
3 to which they were entitled.

4 98. Furthermore, an employer's obligation to provide a meal period is only
5 "triggered" when the employer "employs an employee for a work period of more than five
6 hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits
7 anyone to work for a full five hours, its meal break obligation is triggered.").

8 [A]fter the meal break obligation is triggered . . . an employer is put to a
9 choice: it must (1) afford an off-duty meal period; (2) consent to a
10 mutually agreed-upon waiver if one hour or less will end the shift; or (3)
11 obtain written agreement to an on-duty meal period if circumstances
permit. Failure to do one of these will render the employer liable for
premium pay.

12 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
13 required Plaintiff Saunders and class members to sign meal period waivers simultaneously at
14 or near their time of hire (as opposed to on a specific work day) renders them invalid and
15 unenforceable, because Defendants' obligation to provide Plaintiff Saunders and class
16 members with meal periods did not arise until they had employed them for a full five (5)
17 hours.

18 99. At all times herein mentioned, Defendants knew or should have known that, as
19 a result of these policies, Plaintiff Saunders and class members were not actually relieved of
20 all duties to take timely, uninterrupted meal periods. Defendants further knew or should have
21 known that they did not pay Plaintiff Saunders and class members meal period premiums
22 when meal periods were late, interrupted, shortened, and/or missed.

23 100. As set forth above, on information and belief, because Defendants frowned
24 upon employees accruing meal period penalties, Defendants' management pressured Plaintiff
25 Saunders and class members to record that they took meal periods on their timesheets
26 regardless of whether they had received a compliant meal period or not, in order to strictly
27 limit meal penalties that would need to be paid by Defendants. Alternatively, Defendants'
28 management would adjust employees' time records to reflect compliant meal periods or would

1 automatically deduct 30-minute meal periods from Plaintiff Saunders's and class members'
2 time records even when meal periods were missed, short, and/or interrupted. Further, to the
3 extent that Defendants' rounding policy reported that Plaintiff Saunders and class members
4 were provided with timely, full 30-minute meal periods when, in fact, the meal periods were
5 taken after the fifth hour of work or were less than 30 minutes, Plaintiff Saunders and class
6 members did not receive meal period penalties for these improperly rounded meal periods.

7 101. Furthermore, Defendants engaged in a company-wide practice and/or policy of
8 not paying all meal period premiums owed when compliant meal periods are not provided.
9 Because of Defendants' practices and/or policies, Plaintiff Saunders and class members have
10 not received premium pay for all missed, late, and interrupted meal periods.

11 102. Defendants' conduct violates the applicable IWC Wage Order, and California
12 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff Saunders and class members are
13 therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's
14 regular rate of compensation for each work day that the meal period was not provided.

15 **FOURTH CAUSE OF ACTION**

16 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 17 **(Against all Defendants)**

18 103. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
19 and every allegation set forth above.

20 104. At all relevant times herein set forth, the applicable IWC Wage Order and
21 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs' and class
22 members' employment by Defendants.

23 105. At all relevant times, the applicable IWC Wage Order provides that "[e]very
24 employer shall authorize and permit all employees to take rest periods, which insofar as
25 practicable shall be in the middle of each work period" and that the "rest period time shall be
26 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
27 hours or major fraction thereof" unless the total daily work time is less than three and one-half
28 (3 ½) hours.

106. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiffs and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

107. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff Saunders and class members to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants’ company-wide practices, including understaffing and assigning heavy workloads, prevented Plaintiff Saunders and class members from being relieved of all duty to take rest periods. Additionally, Defendants failed to schedule rest periods, which, coupled with Defendants’ failure to provide adequate rest period coverage, further led to Plaintiff Saunders and class members not being authorized and permitted to take compliant rest periods. Moreover, as stated, Defendants had, and continue to have, a policy and/or practice of requiring that Plaintiff Saunders and class members to respond to calls from Defendants’ management at all times on company-issued radios and/or personal mobile devices, including during rest periods.

108. Further, during the relevant time period, Defendants maintained and implemented a company-wide on-premises rest period policy, which mandated that Plaintiff Saunders and class members remain on the work premises during their rest periods. Because Plaintiff Saunders and class members were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, Defendants effectively maintained control over

1 Plaintiff Saunders and class members during rest periods.

2 109. As a result of Defendants' practices and policies, Plaintiff Saunders and class
3 members worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours
4 without receiving all uninterrupted 10-minute rest periods to which they were entitled. For
5 example, throughout her employment, Plaintiff Saunders would have her rest periods
6 interrupted by a supervisor at least twice per week to discuss work-related matters.

7 110. Defendants also has engaged in a company-wide practice and/or policy of not
8 paying all rest period premiums owed when compliant rest periods are not authorized and
9 permitted. Because Defendants frowned upon employees accruing rest period penalties,
10 Defendants pressured Plaintiff Saunders and class members to falsify the time rest periods
11 were taken and/or adjusted or filled out employee records to reflect compliant and/or timely
12 rest periods, regardless of whether Plaintiff Saunders and class members had received a
13 compliant rest period at that time or not, in order to strictly limit rest period penalties that
14 Defendants would otherwise owe. Because of this practice and/or policy, Plaintiff Saunders
15 and class members have not received premium pay for all missed rest periods.

16 111. Accordingly, Defendants failed to authorize and permit all compliant rest
17 periods and failed to pay the full rest period premiums due. Defendants' conduct violates the
18 applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198.
19 Plaintiff Saunders and class members are therefore entitled to recover from Defendants one
20 (1) additional hour of pay at the employee's regular rate of compensation for each work day
21 that a compliant rest period was not authorized and permitted.

22 **FIFTH CAUSE OF ACTION**

23 **Violation of California Labor Code §§ 226.7 and 1198 & California Code of Regulations**

24 **Title 8, Section 3395—Heat Recovery Period Violations**

25 **(Against all Defendants)**

26 112. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
27 and every allegation set forth above.

28 113. At all relevant times herein set forth, the applicable General Industry Safety

1 Order and California Labor Code sections 226.7 and 1198 were applicable to Plaintiffs' and
2 class members' employment by Defendants.

3 114. At all relevant times, California Labor Code section 226.7(a) defines "recovery
4 period" to mean a cooldown period afforded an employee to prevent heat illness. California
5 Labor Code section 226.7 provides that no employer shall require an employee to work during
6 any recovery period mandated by an applicable order of the California IWC, the Occupational
7 Safety and Health Standards Board, or the Division of Occupational Safety and Health. The
8 applicable General Industry Safety Order provides that "[w]hen the outdoor temperature in the
9 work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more
10 areas with shade at all times while employees are present that are either open to the air or
11 provided with ventilation or cooling." Cal. Code of Reg., Title 8, § 3395(d)(1). Furthermore,
12 "[t]he amount of shade present shall be at least enough to accommodate the number of
13 employees on recovery or rest periods, so that they can sit in a normal posture fully in the
14 shade without having to be in physical contact with each other." *Id.* "Employees shall be
15 allowed and encouraged to take a preventative cool-down rest in the shade when they feel the
16 need to do so to protect themselves from overheating. Such access to shade shall be permitted
17 at all times." *Id.*

18 115. During the relevant time period, Defendants violated California Labor Code
19 section 226.7 and California Code of Regulations, Title 8, section 3395(d), because
20 Defendants failed to provide Plaintiff Saunders and class members with recovery periods. For
21 example, Plaintiff Saunders worked in the direct sun for a full shift, was not provided a shaded
22 area for recovery near her work areas, and was not permitted to take recovery periods in a
23 shaded area while working.

24 116. Defendants also have engaged in a company-wide practice and/or policy of not
25 paying all recovery period premiums owed when compliant recovery periods are not provided.
26 Because of this practice and/or policy, Plaintiff Saunders and class members have not received
27 premium pay for all missed recovery periods.

28 117. Defendants' conduct violates the applicable General Industry Safety Order and

1 California Labor Code sections 226.7 and 1198. Plaintiff Saunders and class members are
2 therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's
3 regular rate of compensation for each work day that a compliant recovery period was not
4 provided.

5 **SIXTH CAUSE OF ACTION**

6 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 7 **Statements and Failure to Maintain Accurate Payroll Records** 8 **(Against all Defendants)**

9 118. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
10 and every allegation set forth above.

11 119. At all relevant times herein set forth, California Labor Code section 226(a)
12 provides that every employer shall furnish each of his or her employees an accurate and
13 complete itemized wage statement in writing, including, but not limited to, the name and
14 address of the legal entity that is the employer, the inclusive dates of the pay period, total
15 hours worked, and all applicable rates of pay.

16 120. At all relevant times, Defendants have knowingly and intentionally provided
17 Plaintiff Trotter and Subclass members with uniform, incomplete, and inaccurate wage
18 statements. For example, Defendants have issued uniform wage statements to Plaintiff Trotter
19 and Subclass members that fail to correctly list: gross wages earned; total hours worked; net
20 wages earned; and all applicable hourly rates in effect during the pay period, including rates of
21 pay for overtime wages, and the corresponding number of hours worked at each hourly rate.
22 Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

23 121. Because Defendants do not record the time Plaintiff Trotter and Subclass
24 members spend working off the clock, improperly round Plaintiff Trotter's and Subclass
25 members' clock-in and clock-out duration times, and/or deducted time from their records for
26 meal periods that were interrupted and/or missed (and therefore time for which they should
27 have been paid), Defendants do not list the correct amount of gross wages and net wages
28 earned by Plaintiff Trotter and Subclass members in compliance with section 226(a)(1) and

1 section 226(a)(5). For the same reason, Defendants fail to accurately list the total number of
2 hours worked by Plaintiff Trotter and Subclass members in violation of section 226(a)(2), and
3 fail to list the applicable hourly rates of pay in effect during the pay period and corresponding
4 accurate number of work hours worked at each hourly rate in violation of section 226(a)(9).

5 122. Also, because Defendants did not calculate Plaintiff Trotter's and Subclass
6 members' regular rate of pay correctly for purposes of paying overtime wages, Defendants did
7 not list the correct amount of gross wages in compliance with section 226(a)(1). For the same
8 reason, Defendants also failed to list the correct amount of net wages in violation of section
9 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during
10 the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

11 123. The wage statement deficiencies also include, without limitation, failing to list
12 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
13 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
14 only the last four digits of his or her social security number or an employee identification
15 number other than a social security number; failing to list the name and address of the legal
16 entity that is the employer; failing to list the inclusive dates of the period for which employees
17 were paid; and/or failing to state all hours worked as a result of not recording or stating hours
18 worked off-the-clock.

19 124. California Labor Code section 1198 provides that the maximum hours of work
20 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
21 set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he
22 employment of any employees for longer hours than those fixed by the order or under
23 conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC
24 Wage Order, employers are required to keep accurate time records showing when the
25 employee begins and ends each work period and meal period. During the relevant time
26 period, Defendants have failed, on a company-wide basis, to keep accurate records of work
27 period and/or meal period start and stop times for Plaintiff Trotter and Subclass members, in
28 violation of section 1198.

125. California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d), Defendants have willfully failed to maintain accurate payroll records for Plaintiff Trotter and Subclass members showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Plaintiff Trotter’s and Subclass members’ clock-in and clock-out duration times.

126. Plaintiff Trotter and Subclass members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

SEVENTH CAUSE OF ACTION

**Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon Termination
(Against all Defendants)**

127. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

128. This cause of action is dependent upon, and wholly derivative of, the overtime wages; minimum wages; and/or meal, rest, and recovery period premiums that were not timely paid to Plaintiffs and those class members no longer employed by Defendants upon their termination.

129. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or

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

5 130. Defendants willfully failed to pay Plaintiffs and class members who are no
6 longer employed by Defendants the earned and unpaid wages set forth above, including but
7 not limited to, overtime wages; minimum wages; and/or meal, rest, and recovery period
8 premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving
9 Defendants' employ.

10 131. Defendants' failure to pay Plaintiffs and those class members who are no
11 longer employed by Defendants their wages earned and unpaid at the time of discharge, or
12 within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code
13 sections 201 and 202. Plaintiffs and class members are therefore entitled to recover from
14 Defendants the statutory penalty wages for each day they were not paid, at their regular rate of
15 pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

16 **EIGHTH CAUSE OF ACTION**

17 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 18 **Employment** 19 **(Against all Defendants)**

20 132. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
21 and every allegation set forth above.

22 133. This cause of action is dependent upon, and wholly derivative of, the overtime
23 wages; minimum wages; and/or meal, rest, and recovery period premiums that were not timely
24 paid to Plaintiffs and class members by Defendants during their employment.

25 134. At all times relevant herein set forth, Labor Code section 204 provides that all
26 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
27 days, inclusive, of any calendar month, other than those wages due upon termination of an
28 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of

1 the month during which the labor was performed.

2 135. At all times relevant herein, Labor Code section 204 provides that all wages
3 earned by any person in any employment between the sixteenth (16th) and the last day,
4 inclusive, of any calendar month, other than those wages due upon termination of an
5 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
6 month.

7 136. At all times relevant herein, Labor Code section 204 provides that all wages
8 earned for labor in excess of the normal work period shall be paid no later than the payday for
9 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
10 204 provides that the requirements of this section are deemed satisfied by the payment of
11 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
12 seven (7) calendar days following the close of the payroll period.

13 137. During the relevant time period, Defendants have willfully failed to pay
14 Plaintiffs and class members all wages due including, but not limited to, overtime wages;
15 minimum wages; and/or meal, rest, and recovery period premiums, within the time periods
16 specified by California Labor Code section 204.

17 138. Defendants' failure to pay Plaintiffs and class members all wages due violates
18 Labor Code section 204. Plaintiffs and class members are therefore entitled to recover from
19 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

20 **NINTH CAUSE OF ACTION**

21 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 22 **(Against all Defendants)**

23 139. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
24 and every allegation set forth above.

25 140. At all times herein set forth, California Labor Code section 2802 provides that
26 an employer must reimburse employees for all necessary expenditures and losses incurred by
27 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
28 to prevent employers from passing off their cost of doing business and operating expenses on

1 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
2 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or
3 equipment are required by the employer or are necessary to the performance of a job, such
4 tools and equipment shall be provided and maintained by the employer, except that an
5 employee whose wages are at least two (2) times the minimum wage provided herein may be
6 required to provide and maintain hand tools and equipment customarily required by the trade
7 or craft." IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required
8 by the employer to be worn by the employee as a condition of employment, such uniforms
9 shall be provided and maintained by the employer."

10 141. First, during the relevant time period, Defendants had a company-wide policy
11 of requiring Plaintiffs and class members to utilize their own personal mobile devices,
12 including, but not limited to, cellular phones, and mobile data to carry out their job duties, but
13 Defendants failed to reimburse them for the costs of their work-related mobile device
14 expenses. Plaintiffs and class members were required to use their personal cellular phones to
15 complete their work-related tasks, such as discussing work assignments throughout their shifts
16 with Defendants' management, writing reports, and contacting equipment vendors. Although
17 Defendants required Plaintiffs and class members to utilize their personal mobile devices
18 and/or mobile data to carry out their work-related responsibilities, Defendants failed to fully
19 reimburse them for this cost.

20 142. Second, during the relevant time period, Defendants had a company-wide
21 policy of requiring Plaintiff Saunders and class members to utilize their own personal vehicles
22 for work purposes, but failed to reimburse them for all costs of travel, including mileage. For
23 example, on several occasions, Plaintiff Saunders drove four (4) miles from the premises to a
24 UPS store in order to drop off equipment for repair, but she was not compensated for her
25 travel expenses or mileage.

26 143. Third, Defendants, on a company-wide basis, expected Plaintiffs and class
27 members to report to work in clean and presentable uniforms, including uniform green polo
28 shirts and jackets, on a daily basis. However, Defendants did not provide its employees with

1 sufficient uniforms to wear for their shifts throughout the week. For example, Defendants
2 only provided Plaintiffs with two (2) uniform shirts and one (1) jacket at the beginning of their
3 employment. Because Defendants failed to provide Plaintiffs with an adequate number of
4 uniform items in relation to their scheduled shifts and for the tasks they were required to
5 perform, Plaintiffs were forced to wash their uniform items more frequently than they would
6 otherwise do laundry and incur expenses in doing so. Thus, Defendants failed to maintain the
7 uniforms they required Plaintiffs and class members to wear during their shifts and forced
8 them to incur the cost of maintaining employee uniforms.

9 144. Defendants could have provided Plaintiffs and class members with the actual
10 equipment for use on the job, such as company mobile devices and company vehicles, to be
11 used for fulfilling work-related tasks, and with an adequate number of uniforms or access to a
12 cleaning service. Or, Defendants could have reimbursed employees for the costs of their
13 mobile device usage, travel expenses, mileage, and laundry expenses or provided a uniform
14 maintenance allowance. Instead, Defendants have passed these operating costs off onto
15 Plaintiffs and class members.

16 145. Defendants' company-wide policy and/or practice of passing on their operating
17 costs to Plaintiffs and class members violates California Labor Code section 2802.
18 Defendants have intentionally and willfully failed to reimburse Plaintiffs and other class
19 members for necessary business-related expenses and costs.

20 146. Plaintiffs and class members are entitled to recover from Defendants their
21 business-related expenses incurred during the course and scope of their employment, plus
22 interest.

23 **TENTH CAUSE OF ACTION**

24 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

25 **(Against all Defendants)**

26 147. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
27 and every allegation set forth above.

28 148. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiffs to recover

1 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
2 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
3 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section
4 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover civil penalties for
5 violations of those Labor Code sections not found in section 2699.5, including sections 246,
6 516, and 1182.12.

7 149. Defendants' conduct, as alleged herein, violates numerous sections of the
8 California Labor Code, including, but not limited to, the following:

- 9 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
10 Wage Order for Defendants' failure to compensate Plaintiffs and other
11 aggrieved employees with all required overtime pay, as alleged herein;
- 12 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the
13 applicable IWC Wage Order for Defendants' failure to include all forms
14 of remuneration in the "regular rate" of pay as required by law for
15 purposes of paying overtime wages and/or meal, rest, and recovery
16 period premiums, to Plaintiff Trotter and/or other aggrieved employees,
17 as alleged herein and set forth below;
- 18 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,
19 and the applicable IWC Wage Order for Defendants' failure to
20 compensate Plaintiffs and other aggrieved employees with at least
21 minimum wages for all hours worked, as alleged herein;
- 22 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
23 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
24 Saunders and other aggrieved employees with meal periods, as alleged
25 herein;
- 26 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
27 applicable IWC Wage Order for Defendants' failure to authorize and
28 permit Plaintiff Saunders and other aggrieved employees to take rest

1 periods, as alleged herein;

2 (f) Violation of Labor Code sections 226.7, 516, and 1198, and the
3 applicable General Industry Safety Order for Defendants' failure to
4 provide heat recovery periods to Plaintiff Saunders and other aggrieved
5 employees, as alleged herein;

6 (g) Violation of Labor Code sections 226(a) and 1198, and the applicable
7 IWC Wage Order for failure to provide accurate and complete wage
8 statements to Plaintiffs and other aggrieved employees, as alleged
9 herein and set forth below;

10 (h) Violation of Labor Code sections 1174(d) and 1198, and the applicable
11 IWC Wage Order for failure to maintain payroll records as alleged
12 herein;

13 (i) Violation of Labor Code sections 201 and 202 for failure to pay all
14 earned wages upon termination, as alleged herein;

15 (j) Violation of Labor Code section 204 for failure to pay all earned wages
16 during employment, as alleged herein;

17 (k) Violation of Labor Code section 246 for failure to provide written
18 itemized wage statements or separate written statements showing the
19 amount of paid sick leave available, or paid time off provided in lieu of
20 sick leave, as set forth below;

21 (l) Violation of Labor Code sections 551 and 552 for failure to provide one
22 day's rest in seven to Plaintiff Saunders and other aggrieved employees,
23 as set forth below;

24 (m) Violation of Labor Code section 1198 and the applicable IWC Wage
25 Order for failing to provide suitable seating to Plaintiff Trotter and other
26 aggrieved employees, as set forth below;

27 (n) Failing to pay Plaintiff Trotter and other aggrieved employees a split-
28 shift premium wage of an additional hour of pay at the minimum wage,

1 when they returned to work for an additional shift in the same day, after
2 having been clocked out for more than an hour, in violation of Labor
3 Code section 1198 and the application IWC Wage Order, as set forth
4 below; and

- 5 (o) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs
6 and other aggrieved employees for all business expenses necessarily
7 incurred, as alleged herein.

8 150. Pursuant to Labor Code section 226.7(c) and the applicable IWC Wage Order,
9 if an employer fails to provide an employee a meal or rest or recovery period in accordance
10 with a state law, the employer shall pay the employee one (1) additional hour of pay at the
11 employee's regular rate of compensation for each work day that the meal or rest or recovery
12 period was not provided. An employee's regular rate of compensation includes all
13 remuneration for employment paid to, or on behalf of, the employee, including
14 nondiscretionary bonuses and incentive pay. *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.
15 5th 858, 878 (2021) ("the term 'regular rate of compensation' in section 226.7(c) has the same
16 meaning as 'regular rate of pay' in section 510(a) and encompasses not only hourly wages but
17 all nondiscretionary payments for work performed by the employee.").

18 151. As stated, Defendants engaged in a company-wide practice and/or policy of not
19 paying all meal, rest, and/or recovery period premiums owed when compliant meal, rest, and
20 recovery periods are not provided. To the extent that Defendants did pay other aggrieved
21 employees meal, rest, and/or recovery period premiums, Defendants did not pay other
22 aggrieved employees at the correct rate of pay for premiums because Defendants
23 systematically failed to include all forms of compensation, such as shift differential pay,
24 incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular
25 rate of pay.

26 152. Defendants' failure to properly calculate the rates of pay for meal, rest, and/or
27 recovery period premiums based on all remuneration paid is in violation of California Labor
28 Code sections 226.7 and 1198, and the applicable IWC Wage Order. Other aggrieved

1 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
2 2699(a), (f), and (g).

3 153. During the relevant time period, because Defendants did not calculate other
4 aggrieved employees' regular rate of pay correctly for purposes of paying meal, rest, and/or
5 recovery period premiums, Defendants did not list the correct amount of gross wages in
6 compliance with section 226(a)(1) and did not list the correct amount of net wages earned by
7 other aggrieved employees in violation of section 226(a)(5). Defendants also failed to
8 correctly list all applicable hourly rates in effect during the pay period, namely, correct rates
9 of pay for meal, rest, and/or recovery period premiums, in violation of section 226(a)(9).
10 Defendants' conduct is in violation of California Labor Code 226(a). Other aggrieved
11 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
12 226.3 and/or 2699(a), (f), and (g).

13 154. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
14 provide employees who have worked in California for 30 or more days from the
15 commencement of employment with paid sick days, to be accrued at least one hour for every
16 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick
17 leave (or equivalent paid leave or paid time off) in each year of the employee's employment.
18 Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249,
19 section 246(i) provides that an employer must provide an employee with written notice that
20 sets forth the amount of paid sick leave available, or paid time off that an employer provides
21 in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate
22 written statement provided on the designated pay date with the employee's wages.

23 155. During the relevant time period, Defendants have failed, on a company-wide
24 basis, to provide Plaintiffs and other aggrieved employees written notice on wage statements
25 and/or other separate written statements that listed the requisite information set forth in Labor
26 Code section 246(i). Defendants' ongoing and systematic failure to provide written notice of
27 sick leave benefits to Plaintiffs and other aggrieved employees violates California Labor Code
28 section 246(i). Plaintiffs and other aggrieved employees are therefore entitled to recover civil

1 penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

2 156. At all relevant times herein, California Labor Code section 551 provides that
3 every person employed in any occupation of labor is entitled to one day's rest in seven.
4 Additionally, California Labor Code section 552 prohibits employers from requiring
5 employees to work more than six consecutive days without a day of rest. California Labor
6 Code section 556 exempts an employer from the day-of-rest requirement when the total hours
7 worked by an employee do not exceed 30 hours in any week or six hours in any one day
8 thereof.

9 157. During the relevant time period, Defendants scheduled Plaintiff Saunders and
10 other aggrieved employees to work six (6) or more hours per day and seven (7) consecutive
11 days in a workweek. Because Plaintiff Saunders and other aggrieved employees worked over
12 30 hours per week and over six (6) hours per day in any one day in a workweek, they were not
13 exempt from the day-of-rest requirement. To the extent that Plaintiff Saunders and other
14 aggrieved employees may have signed purported waivers of their right to a day's rest in seven,
15 such waivers are invalid. Thus, Defendants willfully caused Plaintiff Saunders and other
16 aggrieved employees to work more than six days in seven, in violation of Labor Code sections
17 551 and 552. Plaintiff Saunders and other aggrieved employees are therefore entitled to
18 recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

19 158. At all relevant times herein, California Labor Code section 1198 makes it
20 illegal to employ an employee under conditions of labor that are prohibited by the applicable
21 wage order. California Labor Code section 1198 requires that "... the standard conditions of
22 labor fixed by the commission shall be the ... standard conditions of labor for employees.
23 The employment of any employee ... under conditions of labor prohibited by the order is
24 unlawful."

25 159. California Code of Regulations, Title 8, section 11090(14)(A) provides that
26 "[a]ll working employees shall be provided with suitable seats when the nature of the work
27 reasonably permits the use of seats."

28 160. Defendants' California locations are generally similar in their layout and design

1 in that there is space behind valet podiums and kiosks to allow for the presence and use of a
2 seat or stool by Plaintiff Trotter and other aggrieved employees during the performance of
3 their work duties. Defendants could have provided Plaintiff Trotter and other aggrieved
4 employees with a seat or stool at their valet podiums and kiosks, with reasonable or no
5 modification to these work areas, but instead denied them seating and forced Plaintiff Trotter
6 and other aggrieved employees to stand throughout the day.

7 161. Plaintiff Trotter and other aggrieved employees have spent a substantial portion
8 of their day behind or at these valet podiums and kiosks. The nature of the work of an
9 employee performing certain valet duties, such as selling parking vouchers and checking
10 parking customers in and out at host stands, can reasonably be accomplished from a seated
11 position. However, Defendants systematically, and on a company-wide basis, does not
12 provide seats or stools at or near their valet podiums and kiosks, forcing employees, including
13 Plaintiff Trotter and other aggrieved employees, to stand throughout their work shifts.

14 162. During the relevant time period, Defendants violated California Labor Code
15 section 1198 and California Code of Regulations, Title 8, section 11090(14)(A), because
16 Plaintiff Trotter and other aggrieved employees were not allowed to sit, even when the nature
17 of their work would reasonably permit the use of seats, nor were they provided with suitable
18 seats. Defendants' management did not inform Plaintiff Trotter and other aggrieved
19 employees that they are allowed to sit down, provide any means for them to sit down, or
20 mention any policy regarding sitting.

21 163. As a result of Defendants' company-wide policy and/or practice prohibiting
22 employees performing certain valet duties from sitting during their shifts and failure to
23 provide suitable seating to these employees, Plaintiff Trotter and other aggrieved employees
24 are forced to stand during shifts and denied seats. Defendants' failure to provide suitable
25 seating to Plaintiff Trotter and other aggrieved employees violated and continues to violate
26 California Labor Code section 1198 and IWC Wage Order 9-2001, subdivision 14(A).
27 Plaintiff Trotter and other aggrieved employees are therefore entitled to recover civil penalties
28 pursuant to Labor Code sections 2699(a), (f), and (g).

1 164. At all relevant times herein, California Labor Code section 1198 makes it
2 illegal to employ an employee under conditions of labor that are prohibited by the applicable
3 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
4 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
5 The employment of any employee . . . under conditions of labor prohibited by the order is
6 unlawful.”

7 165. California Code of Regulations, Title 8, section 11090(14)(B) provides that
8 “[w]hen employees are not engaged in the active duties of their employment and the nature of
9 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
10 proximity to the work area and employees shall be permitted to use such seats when it does
11 not interfere with the performance of their duties.”

12 166. During the relevant time period, Defendants violated California Labor Code
13 section 1198 and California Code of Regulations, Title 8, section 11090(14)(B), because
14 Plaintiff Trotter and other aggrieved employees were not allowed to sit, even during lulls in
15 their work duties, nor were they provided with suitable seats in reasonable proximity to their
16 work areas.

17 167. As stated, Defendants’ California locations are generally similar in their layout
18 and design and there was, and continues to be, space near their work areas (with reasonable or
19 no modification to these work areas) to allow for the presence and use of a seat or stool by
20 Plaintiff Trotter and other aggrieved employees during lulls in operation. Defendants could
21 have provided Plaintiff Trotter and other aggrieved employees with a seat or stool in their
22 work areas, but instead denied, and continues to deny, employees seating, forcing them to
23 stand throughout the day.

24 168. Defendants did not provide Plaintiff Trotter and other aggrieved employees
25 with seats or stools in reasonable proximity to their work areas to allow them to use seats
26 when it would not interfere with the performance of their duties for times when they were not
27 engaged in active duties that require standing. In other words, to the extent Plaintiff Trotter
28 and other aggrieved employees engaged in duties in which the nature of the work required

1 standing, Defendants denied them the use of seats nearby when they were not engaged in
2 those duties. Moreover, Defendants did not inform Plaintiff Trotter and other aggrieved
3 employees of their rights to a seat or stool under California law.

4 169. As a result of Defendants' company-wide policy and/or practice prohibiting
5 employees from sitting at any time, even when they were not engaged in active duties
6 requiring standing, and company-wide failure to provide seats in reasonable proximity to their
7 work areas, Plaintiff Trotter and other aggrieved employees were forced to stand during shifts
8 and denied seats. Defendants' failure to provide suitable seating to Plaintiff Trotter and other
9 aggrieved employees violated and continues to violate California Labor Code section 1198
10 and IWC Wage Order 9-2001, subdivision 14(B). Plaintiff Trotter and other aggrieved
11 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
12 2699(a), (f), and (g).

13 170. At all times relevant herein, Labor Code section 1198 provides that no
14 employer may employ an employee under conditions of labor that are prohibited by the
15 applicable IWC Wage Order. California Code of Regulations, Title 8, section 11090(4)(C)
16 provides that, "When an employee works a split shift, one (1) hour's pay at the minimum
17 wage shall be paid in addition to the minimum wage for that workday, except when the
18 employee resides at the place of employment." California Code of Regulations, Title 8,
19 defines a split shift as "a work schedule, which is interrupted by non-paid non-working
20 periods established by the employer, other than bona fide rest or meal periods."

21 171. Defendants violated California Labor Code section 1198 and California Code
22 of Regulations, Title 8, section 11090(4)(C), because Defendants failed to pay Plaintiff Trotter
23 and other aggrieved employees a split-shift premium when they returned to work for an
24 additional shift in the same day, after having been clocked out for more than an hour.

25 172. For instance, Plaintiff Trotter was required to work a 4-hour shift in the
26 morning and then required to return two (2) hours later for his scheduled afternoon shift.
27 Other aggrieved employees have been similarly required to report to work for their scheduled
28 morning shifts, and then return two (2) hours later to complete their scheduled afternoon

1 shifts. When this occurred, Defendants did not always pay Plaintiff Trotter and other
2 aggrieved employees an additional hour at minimum wage. Accordingly, Defendants have
3 required Plaintiff Trotter and other aggrieved employees to work split shifts but failed to pay
4 them the split-shift premium wage in violation of California Labor Code section 1198.

5 173. Defendants' failure to compensate Plaintiff Trotter and other aggrieved
6 employees with split-shift pay when they returned to work for an additional shift in the same
7 day, after having been clocked out for more than an hour, violates California Labor Code
8 section 1198 and California Code of Regulations Title 8, section 11090(4)(C). Plaintiff
9 Trotter and other aggrieved employees are therefore entitled to recover civil penalties pursuant
10 to Labor Code sections 2699(a), (f), and (g).

11 **ELEVENTH CAUSE OF ACTION**

12 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

13 **Unlawful Business Practices**

14 **(Against all Defendants)**

15 174. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
16 and every allegation set forth above.

17 175. Defendants are "persons" as defined by California Business & Professions
18 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
19 and/or associations.

20 176. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
21 unlawful and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have
22 suffered injury in fact and have lost money as a result of Defendants' unlawful business
23 practices. Plaintiffs seek to enforce important rights affecting the public interest within the
24 meaning of Code of Civil Procedure section 1021.5.

25 177. Defendants' activities, as alleged herein, are violations of California law, and
26 constitute unlawful business acts and practices in violation of California Business &
27 Professions Code sections 17200, *et seq.*

28 178. A violation of California Business & Professions Code sections 17200, *et seq.*

1 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
2 policies and practices have violated state law in at least the following respects:

- 3 (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and
4 class members, to work overtime without paying them proper
5 compensation in violation of California Labor Code sections 510 and
6 1198 and the applicable IWC Wage Order, as alleged herein;
- 7 (b) Failing to include all forms of remuneration in the “regular rate” of pay
8 as required by law for purposes of paying overtime wages and/or meal,
9 rest, and recovery period premiums to Plaintiff Trotter and class
10 members, in violation of California Labor Code sections 226.7, 510, and
11 1198, and the applicable IWC Wage Order, as alleged herein;
- 12 (c) Failing to pay at least minimum wage to Plaintiffs and class members in
13 violation of California Labor Code sections 1182.12, 1194, 1197,
14 1197.1, and 1198 and the applicable IWC Wage Order, as alleged
15 herein;
- 16 (d) Failing to provide uninterrupted meal periods to Plaintiff Saunders and
17 class members in violation of California Labor Code sections 226.7,
18 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged
19 herein;
- 20 (e) Failing to authorize and permit Plaintiff Saunders and class members to
21 take uninterrupted rest periods in violation of California Labor Code
22 sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as
23 alleged herein;
- 24 (f) Failing to provide recovery periods to Plaintiff Saunders and class
25 members in violation of Labor Code sections 226.7 and 1198, and the
26 applicable General Industry Safety Order, as alleged herein;
- 27 (g) Failing to provide Plaintiff Trotter and class members with accurate
28 wage statements and failing to maintain accurate payroll records in

violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein;

(h) Failing timely to pay all earned wages to Plaintiffs and class members in violation of California Labor Code section 204, as alleged herein;

(i) Failing to provide written notice of paid sick leave or paid time off available to Plaintiffs and class members in violation of California Labor Code section 246(i), as set forth below;

(j) Failing to provide one day's rest in seven to Plaintiff Saunders and class members in violation of California Labor Code sections 551 and 552, as set forth below;

(k) Failing to pay Plaintiff Trotter and class members a split-shift premium wage of an additional hour of pay at the minimum wage, when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, in violation of California Labor Code section 1198 and the application IWC Wage Order, as set forth below; and

(l) Failing to reimburse Plaintiffs and class members for all business expenses necessarily incurred in violation of California Labor Code sections 2802, as alleged herein.

179. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate

1 written statement provided on the designated pay date with the employee's wages.

2 180. During the relevant time period, Defendants have failed, on a company-wide
3 basis, to provide Plaintiffs and class members written notice on wage statements and/or other
4 separate written statements that listed the requisite information set forth in Labor Code section
5 246(i). Defendants' ongoing and systematic failure to provide written notice of sick leave
6 benefits to Plaintiffs and class members violates California Labor Code section 246(i).

7 181. At all relevant times herein, California Labor Code section 551 provides that
8 every person employed in any occupation of labor is entitled to one day's rest in seven.
9 Additionally, California Labor Code section 552 prohibits employers from requiring
10 employees to work more than six consecutive days without a day of rest.

11 182. At all relevant times herein set forth, California Labor Code section 556
12 exempts an employer from the day-of-rest requirement when the total hours worked by an
13 employee do not exceed 30 hours in any week or six hours in any one day thereof.

14 183. During the relevant time period, Defendants scheduled Plaintiff Saunders and
15 class members to work six (6) or more hours per day and seven (7) consecutive days in a
16 workweek. Because Plaintiff Saunders and class members worked over 30 hours per week
17 and over six (6) hours per day in any one day in a workweek, they were not exempt from the
18 day-of-rest requirement. To the extent that Plaintiff Saunders and class members may have
19 signed purported waivers of their right to a day's rest in seven, such waivers are invalid.
20 Thus, Defendants willfully caused Plaintiff Saunders and class members to work more than
21 six days in seven, in violation of Labor Code sections 551 and 552.

22 184. At all times relevant herein, Labor Code section 1198 provides that no
23 employer may employ an employee under conditions of labor that are prohibited by the
24 applicable IWC Wage Order. California Code of Regulations, Title 8, section 11090(4)(C)
25 provides that, "When an employee works a split shift, one (1) hour's pay at the minimum
26 wage shall be paid in addition to the minimum wage for that workday, except when the
27 employee resides at the place of employment." California Code of Regulations, Title 8,
28 defines a split shift as "a work schedule, which is interrupted by non-paid non-working

1 periods established by the employer, other than bona fide rest or meal periods.”

2 185. Defendants violated California Labor Code section 1198 and California Code
3 of Regulations, Title 8, section 11090(4)(C), because Defendants have failed to pay Plaintiff
4 Trotter and class members a split-shift premium when they returned to work for an additional
5 shift in the same day, after having been clocked out for more than an hour. For instance,
6 Plaintiff Trotter was required to work a 4-hour shift in the morning and then required to return
7 two (2) hours later for his scheduled afternoon shift. Other employees have been similarly
8 required to report to work for their scheduled morning shifts, and then return two (2) hours
9 later to complete their scheduled afternoon shifts. When this occurred, Defendants did not
10 always pay Plaintiff Trotter and class members an additional hour at minimum wage.

11 186. Accordingly, Defendants required Plaintiff Trotter and class members to work
12 split shifts but failed to pay them the split-shift premium wage in violation of California Labor
13 Code section 1198. Defendants’ failure to compensate Plaintiff Trotter and class members
14 with split-shift pay when they returned to work for an additional shift in the same day, after
15 having been clocked out for more than an hour, violates California Labor Code section 1198
16 and California Code of Regulations, Title 8, section 11090(4)(C).

17 187. As a result of the violations of California law herein described, Defendants
18 unlawfully gained an unfair advantage over other businesses. Plaintiffs and class members
19 have suffered pecuniary loss by Defendants’ unlawful business acts and practices alleged
20 herein.

21 188. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
22 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
23 Defendants during a period that commences four years prior to the filing of this complaint; a
24 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
25 class members; and an award of attorneys’ fees pursuant to California Code of Civil
26 Procedure section 1021.5 and other applicable laws; and an award of costs.

27 //

28 //

1 **TWELFTH CAUSE OF ACTION**

2 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

3 **Unfair Business Practices**

4 **(Against all Defendants)**

5 189. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
6 and every allegation set forth above.

7 190. Defendants are “persons” as defined by California Business & Professions
8 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
9 and/or associations.

10 191. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
11 and harmful to Plaintiff Saunders, class members, and to the general public. Plaintiff
12 Saunders has suffered injury in fact and has lost money as a result of Defendants’ unfair
13 business practices. Plaintiff Saunders seek to enforce important rights affecting the public
14 interest within the meaning of Code of Civil Procedure section 1021.5.

15 192. Defendants’ activities, namely Defendants’ company-wide practice and/or
16 policy of not paying Plaintiff Saunders and class members all meal, rest, and recovery period
17 premiums due to them under Labor Code section 226.7, deprived Plaintiff Saunders and class
18 members of the compensation guarantee and enhanced enforcement implemented by section
19 226.7. The statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended
20 primarily to compensate employees, and secondarily to shape employer conduct.” *Safeway,*
21 *Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section
22 226.7 were guaranteed to Plaintiff Saunders and class members as part of their employment
23 with Defendants, and thus Defendants’ practice and/or policy of denying these statutory
24 benefits constitutes an unfair business practice in violation of California Business &
25 Professions Code sections 17200, *et seq.* (*Id.*)

26 193. A violation of California Business & Professions Code sections 17200, *et seq.*
27 may be predicated on any unfair business practice. In the instant case, Defendants’ policies
28 and practices have violated the spirit of California’s meal and rest period laws and constitute

1 acts against the public policy behind these laws.

2 194. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
3 Plaintiff Saunders and class members are entitled to restitution for the class-wide loss of the
4 statutory benefits implemented by section 226.7 withheld and retained by Defendants during a
5 period that commences four years prior to the filing of this complaint; a permanent injunction
6 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
7 Plaintiff Saunders and class members; an award of attorneys' fees pursuant to California Code
8 of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

9 **REQUEST FOR JURY TRIAL**

10 Plaintiffs request a trial by jury.

11 **PRAYER FOR RELIEF**

12 Plaintiffs, on behalf of all others similarly situated, pray for relief and judgment
13 against Defendants, jointly and severally, as follows:

14 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
15 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiffs
16 reserve the right to amend their prayer for relief to seek a different amount.

17 **Class Certification**

- 18 2. That this case be certified as a class action;
19 3. That Plaintiffs be appointed as the representatives of the Class and Subclass;
20 4. That counsel for Plaintiffs be appointed as class counsel.

21 **As to the First Cause of Action**

22 5. That the Court declare, adjudge, and decree that Defendants violated California
23 Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to
24 pay all overtime wages due to Plaintiffs and class members;

25 6. For general unpaid wages at overtime wage rates and such general and special
26 damages as may be appropriate;

27 7. For pre-judgment interest on any unpaid overtime compensation commencing
28 from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiffs and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff Saunders and class members;

17. That the Court make an award to the Plaintiff Saunders and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid meal period premiums from the date

1 such amounts were due, or as otherwise provided by law;

2 21. For attorneys' fees pursuant to California Code of Civil Procedure section
3 1021.5, or as otherwise provided by law; and

4 22. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Fourth Cause of Action**

7 23. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully
9 failing to authorize and permit Plaintiff Saunders and class members to take all rest periods;

10 24. That the Court make an award to the Plaintiff Saunders and class members of
11 one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period
12 was not authorized and permitted;

13 25. For all actual, consequential, and incidental losses and damages, according to
14 proof;

15 26. For premiums pursuant to California Labor Code section 226.7(c);

16 27. For pre-judgment interest on any unpaid rest period premiums from the date
17 such amounts were due, or as otherwise provided by law;

18 28. For attorneys' fees pursuant to California Code of Civil Procedure section
19 1021.5, or as otherwise provided by law; and

20 29. For such other and further relief as the Court may deem equitable and
21 appropriate.

22 **As to the Fifth Cause of Action**

23 30. That the Court declare, adjudge and decree that Defendants violated California
24 Labor Code sections 226.7 and 1198, and applicable General Industry Safety Order by
25 willfully failing to provide all recovery periods to Plaintiff Saunders and class members;

26 31. That the Court make an award to the Plaintiff Saunders and class members of
27 one (1) hour of pay at each employee's regular rate of pay for each workday that a recovery
28 period was not provided;

1 32. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 33. For premiums pursuant to California Labor Code section 226.7(c);

4 34. For pre-judgment interest on any unpaid recovery period premiums from the
5 date such amounts were due, or as otherwise provided by law;

6 35. For attorneys' fees pursuant to California Code of Civil Procedure section
7 1021.5, or as otherwise provided by law; and

8 36. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 **As to the Sixth Cause of Action**

11 37. That the Court declare, adjudge and decree that Defendants violated the
12 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage
13 Order as to Plaintiff Trotter and Subclass members, and willfully failed to provide accurate
14 itemized wage statements thereto;

15 38. For all actual, consequential, and incidental losses and damages, according to
16 proof;

17 39. For injunctive relief pursuant to California Labor Code section 226(h);

18 40. For statutory penalties pursuant to California Labor Code section 226(e);

19 41. For attorneys' fees and costs pursuant to California Labor Code section
20 226(e)(1); and

21 42. For such other and further relief as the Court may deem equitable and
22 appropriate.

23 **As to the Seventh Cause of Action**

24 43. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code sections 201 and 202 by willfully failing to pay overtime wages; minimum wages;
26 and/or meal, rest, and recovery period premiums owed at the time of termination of the
27 employment of Plaintiffs and other terminated class members;

28 44. For all actual, consequential and incidental losses and damages, according to

1 proof;

2 45. For waiting time penalties according to proof pursuant to California Labor
3 Code section 203 for all employees who have left Defendants' employ;

4 46. For pre-judgment interest on any unpaid wages from the date such amounts
5 were due, or as otherwise provided by law;

6 47. For attorneys' fees pursuant to California Code of Civil Procedure section
7 1021.5, or as otherwise provided by law; and

8 48. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 **As to the Eighth Cause of Action**

11 49. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code section 204 by willfully failing to timely pay Plaintiffs and class members
13 overtime wages; minimum wages; and/or meal, rest, and recovery period premiums during
14 their employment;

15 50. For all actual, consequential and incidental losses and damages, according to
16 proof;

17 51. For statutory penalties according to proof pursuant to California Labor Code
18 section 210;

19 52. For pre-judgment interest on any unpaid wages from the date such amounts
20 were due, or as otherwise provided by law;

21 53. For attorneys' fees pursuant to California Code of Civil Procedure section
22 1021.5, or as otherwise provided by law; and

23 54. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 **As to the Ninth Cause of Action**

26 55. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
28 related expenses and costs incurred by Plaintiffs and class members;

1 56. For unpaid business-related expenses and such general and special damages as
2 may be appropriate;

3 57. For pre-judgment interest on any unpaid business-related expenses from the
4 date such amounts were due, or as otherwise provided by law;

5 58. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 59. For attorneys' fees and costs pursuant to California Labor Code
8 section 2802(c), or as otherwise provided by law; and

9 60. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 **As to the Tenth Cause of Action**

12 61. That the Court declare, adjudge and decree that Defendants violated the
13 following California Labor Code provisions as to Plaintiffs and/or other aggrieved employees:
14 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
15 to include all forms of remuneration in the "regular rate" of pay for purposes of paying
16 overtime wages and/or meal, rest, and recovery period premiums); 1182.12, 1194, 1197,
17 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7,
18 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by
19 failing to authorize and permit all rest periods); 226.7, 516, and 1198 (by failing to provide
20 heat recovery periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
21 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
22 earned wages upon termination); 204 (by failing to timely pay all earned wages during
23 employment); 246 (by failing to provide written notice of paid sick leave or paid time off
24 available); 551 and 552 (by failing to provide one day's rest in seven); 1198 (by failing to
25 provide suitable seating); 1198 (by failing to pay split-shift premiums); and 2802 (by failing to
26 reimburse business expenses);

27 62. For civil penalties pursuant to California Labor Code sections 210, 226.3,
28 248.5, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor

Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

63. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

64. For pre-judgment and post-judgment interest as provided by law; and

65. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

66. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to include all forms of remuneration in the "regular rate" of pay for purposes of paying overtime and/or meal, rest, and recovery period premiums to Plaintiff Trotter and class members, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiff Saunders and class members all meal periods, failing to authorize and permit Plaintiff Saunders and class members to take all rest periods, failing to provide Plaintiff Saunders and class members all recovery periods, failing to provide Plaintiff Trotter and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiff Trotter and class members, failing timely to pay Plaintiffs and class members all earned wages during employment, failing to provide written notice of paid sick leave or paid time off available, failing to provide one day's rest in seven, failing to properly compensate Plaintiff Trotter and class members for split shifts, and failing to reimburse Plaintiffs and class members for business-related expenses, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

67. For restitution of unpaid wages to Plaintiffs and all class members and prejudgment interest from the day such amounts were due and payable;

68. For the appointment of a receiver to receive, manage and distribute any and all

1 funds disgorged from Defendants and determined to have been wrongfully acquired by
2 Defendants as a result of violations of California Business & Professions Code sections 17200
3 *et seq.*;

4 69. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Code of Civil Procedure section 1021.5; and

6 70. For such other and further relief as the Court may deem equitable and
7 appropriate.

8 **As to the Twelfth Cause of Action**

9 71. That the Court declare, adjudge and decree that Defendants' conduct of denying
10 Plaintiff Saunders and class members the statutory benefits guaranteed under section 226.7
11 constitutes an unfair business practice in violation of California Business and Professions
12 Code sections 17200, *et seq.*;

13 72. For restitution of the statutory benefits under section 226.7 unfairly withheld
14 from Plaintiff Saunders and class members and prejudgment interest from the day such
15 amounts were due and payable;

16 73. For the appointment of a receiver to receive, manage, and distribute any and all
17 funds disgorged from Defendants and determined to have been wrongfully acquired by
18 Defendants as a result of violations of California Business & Professions Code sections
19 17200, *et seq.*;

20 74. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
21 California Code of Civil Procedure section 1021.5;

22 75. For pre-judgment and post-judgment interest as provided by law; and

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1 76. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: February 10, 2023

Respectfully submitted,

5 Capstone Law APC

6 

7 By: _____

8 Robert Drexler
9 Molly DeSario
Jonathan Lee

10 Attorneys for Plaintiffs Ellis Trotter
11 and Milisse Saunders
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EXHIBIT “1”

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

March 26, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Ellis Trotter v. ProPark America West, LLC, et al.*

Dear PAGA Administrator:

This office represents Ellis Trotter in connection with his claims under the California Labor Code. Mr. Trotter is an employee of PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; and/or PRO PARK, INC. For the purpose of this letter, Mr. Trotter collectively refers to these entities as “PROPARK.”

The employers may be contacted directly at the addresses below:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103

PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103

Mr. Trotter intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Mr. Trotter seeks relief on behalf of himself, the State of California, and other persons who are or were employed by PROPARK in California as a non-exempt, hourly paid employee and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PROPARK has employed Mr. Trotter as a non-exempt, hourly paid Valet Assistant since approximately March 2019. Mr. Trotter works for PROPARK at its location in Foster City, California. PROPARK previously employed Mr. Trotter as a “GRide” or Shuttle Driver in Mountain View, California, from 2018 to 2019. He typically works eight (8) hours or more per day, four (4) to five (5) days per week, from 8:00 a.m. to 4:30 p.m. His job duties include checking customers into

the system, moving cars from main parking lot to valet parking lot, photographing damage to vehicles, and providing customer service.

PROPARK has committed one or more of the following Labor Code violations against Mr. Trotter, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

PROPARK’s Company-Wide and Uniform Payroll and HR Practices

PROPARK AMERICA WEST, LLC and PROPARK LA, LLC are Connecticut limited liability companies, while PRO PARK, INC. is a Connecticut corporation. PROPARK is a parking management company providing services for more than 500 locations in markets across the United States and at least 39 locations in California. Upon information and belief, PROPARK maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Hartford, Connecticut, for all non-exempt, hourly paid employees working for PROPARK in California, including Mr. Trotter and other aggrieved employees. At all relevant times, PROPARK issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Trotter and other aggrieved employees, regardless of their location or position.

Upon information and belief, PROPARK maintains a centralized Payroll department at its corporate headquarters in Hartford, Connecticut, which processes payroll for all non-exempt, hourly paid employees working for PROPARK in California, including Mr. Trotter and other aggrieved employees. Further, PROPARK issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Trotter and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, PROPARK utilized the same methods and formulas when calculating wages due to Mr. Trotter and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

¹ These facts, theories, and claims are based on Mr. Trotter’s experience and counsel’s review of those records currently available relating to Mr. Trotter’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Trotter reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

PROPARK willfully failed to pay all overtime wages owed to Mr. Trotter and other aggrieved employees. During the relevant time period, Mr. Trotter and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, PROPARK has had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in its timekeeping system. PROPARK's rounding policy has resulted in the failure to compensate Mr. Trotter and other aggrieved employees fully for all hours worked, causing Mr. Trotter and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, PROPARK's rounding policy is, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Mr. Trotter and other aggrieved employees. To the extent PROPARK's rounding policy has taken away time worked that was eligible for overtime, Mr. Trotter and other aggrieved employees have been denied overtime pay for all hours worked.

Second, during the relevant period, PROPARK had, and continues to have, a company-wide policy and/or practice of strictly staffing its sites/locations based on the labor hours allocated by corporate for each location. PROPARK's uniform use of labor budgets has resulted in chronic understaffing, because there are too few employees on duty to handle the heavy workload and attend to customers.

Third, PROPARK has a policy and/or practice of discouraging and impeding Mr. Trotter and other aggrieved employees from recording hours worked that are outside of their scheduled shifts in order to limit the amount of overtime employees can accrue. On information and belief, this policy of limiting overtime, coupled with PROPARK's understaffing and assigning heavy workloads, has led Mr. Trotter and other aggrieved employees to work off-the-clock before or after their scheduled shift times in order to complete their assigned tasks. For example, Mr. Trotter arrives to work up to 10-15 minutes early and is asked to start performing work immediately, such as moving cars between lots, locating missing cars, and uploading new cars into the system, but he does not clock in until his designated shift start-time. After clocking out from his scheduled shift, Mr. Trotter also hands out keys to customers for 10-20 minutes per instance. Thus, PROPARK has failed to track this time spent working before and after scheduled shifts, and Mr. Trotter and other aggrieved employees receive no compensation for this time.

PROPARK knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Trotter and other aggrieved employees have been performing their assigned duties off-the-clock, and were suffered or permitted to perform work for which they were not paid. PROPARK also knew, or should have known, that it does not compensate Mr. Trotter and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Mr. Trotter and other aggrieved employees regularly work shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualifies for overtime premium pay. Therefore, Mr. Trotter and other aggrieved employees are not paid overtime wages for all of the overtime hours they have actually worked. PROPARK's failure to pay Mr. Trotter and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Furthermore, PROPARK has not paid other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, PROPARK pays other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, such as referral bonuses and shift differential pay. However, in violation of the California Labor Code, PROPARK has failed to incorporate all remunerations, including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees have worked overtime and received these other forms of pay, PROPARK has failed to pay all overtime wages by paying a lower overtime rate than required.

Mr. Trotter and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As set forth above, PROPARK has had a policy of rounding Mr. Trotter's and other aggrieved employees' hourly clock-in and clock-out duration times to the quarter-hour in its timekeeping system, resulting in the failure to compensate Mr. Trotter and other aggrieved employees fully for all hours worked. Also, as stated, as a result of PROPARK's policy of limiting the amount of overtime employees can accrue by discouraging and impeding Mr. Trotter and other aggrieved employees from recording hours worked that are outside of their scheduled shifts, and policy of understaffing while assigning heavy workloads, Mr. Trotter and other aggrieved employees are required to work off-the-clock before and/or after their scheduled shift start and end times to complete their assigned job duties.

Thus, PROPARK does not pay minimum wages for all hours worked by Mr. Trotter and other aggrieved employees. To the extent that these off-the-clock hours do not qualify for overtime premium payment, PROPARK does not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, PROPARK has regularly failed to pay at least minimum wages to Mr. Trotter and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PROPARK has not provided Mr. Trotter and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PROPARK has knowingly and intentionally provided Mr. Trotter and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PROPARK has issued uniform wage statements to Mr. Trotter and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, PROPARK has violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PROPARK does not record the time Mr. Trotter and other aggrieved employees spent working off-the-clock and improperly rounds Mr. Trotter's and other aggrieved employees' clock-in and clock-out duration times, PROPARK does not list the correct amount of gross wages and net wages earned by Mr. Trotter and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, PROPARK fails to accurately list the total number of the hours worked by Mr. Trotter and other aggrieved employees, in violation of section 226(a)(2), and fails to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, because PROPARK does not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, PROPARK does not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and does not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). PROPARK also fails to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the correct name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PROPARK has willfully failed to maintain accurate payroll records for Mr. Trotter and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Mr. Trotter’s and other aggrieved employees’ total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, PROPARK has failed to keep accurate records of work period start and end times for Mr. Trotter and other aggrieved employees in violation of section 1198.

Because PROPARK has failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Trotter and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Trotter and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Trotter and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PROPARK has failed to pay Mr. Trotter and other aggrieved employees all wages due to them, including, but not limited to, overtime wages and/or minimum wages, within any time period specified by California Labor Code section 204.

Mr. Trotter and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

PROPARK have willfully failed to pay other aggrieved employees who are no longer employed by PROPARK all their earned wages, including, but not limited to, overtime wages and/or minimum wages, either at the time of discharge, or within seventy-two (72) hours of their leaving PROPARK's employ in violation of California Labor Code sections 201, 202, and 203.

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Provide Sick Leave Benefits and Written Notice of Paid Sick Leave Benefits

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, PROPARK has failed to provide Mr. Trotter and other aggrieved employees written notice on wage statements and/or other separate written statements that list the requisite information set forth in Labor Code section 246(i). PROPARK's ongoing and systematic failure to provide written notice of sick leave benefits to Mr. Trotter and other aggrieved employees violates California Labor Code section 246(i).

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11090(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

PROPARK’s California locations are generally similar in their layout and design in that there is space behind valet podiums and kiosks to allow for the presence and use of a seat or stool by Mr. Trotter and other aggrieved employees during the performance of their work duties. PROPARK could provide Mr. Trotter and other aggrieved employees with a seat or stool at its valet podiums and kiosks, with reasonable or no modification to these work areas, but instead denies employees seating and forces Mr. Trotter and other aggrieved employees to stand throughout the day.

Mr. Trotter and other aggrieved employees have spent a substantial portion of their day behind or at these valet podiums and kiosks. The nature of the work of an employee performing certain valet duties, such as checking parking customers in and out, can reasonably be accomplished from a seated position. However, as set forth herein, PROPARK systematically, and on a company-wide basis, does not provide seats or stools at or near their valet podiums and kiosks, forcing Mr. Trotter and other aggrieved employees to stand throughout their work shifts.

PROPARK has violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11040(14)(A) because Mr. Trotter and other aggrieved employees are not allowed to sit, even when it would not have interfered with the performance of their duties, nor are they provided with suitable seats. PROPARK’s management has not informed Mr. Trotter and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of PROPARK’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Mr. Trotter and other aggrieved employees are forced to stand during shifts and denied seats. PROPARK’s failure to

provide suitable seating to Mr. Trotter and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 9-2001, Section 14(A).

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring PROPARK into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11090(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, PROPARK's California locations are generally similar in their layout and design in that there is space near their work areas to allow for the presence and use of a seat or stool by Mr. Trotter and other aggrieved employees during lulls in operation. PROPARK could provide Mr. Trotter and other aggrieved employees with a seat or stool in its work areas, with reasonable or no modification to these work areas, but instead denies employees seating and forces Mr. Trotter and other aggrieved employees to stand throughout the day.

PROPARK does not provide Mr. Trotter and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they are not engaged in active duties that require standing. In other words, to the extent Mr. Trotter and other aggrieved employees engage in duties in which the nature of the work required standing, PROPARK denies them the use of seats nearby during lulls in their work duties. Moreover, PROPARK has not informed Mr. Trotter and other aggrieved employees of their rights to a seat or stool under California law.

As a result of PROPARK's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they are not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Trotter and other aggrieved employees are forced to stand during shifts and denied seats. PROPARK's failure to provide suitable seating to Mr. Trotter and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 9-2001, Section 14(B).

Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring PROPARK into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 4(C) – Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11090(4)(C) provides that, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment." California Code of Regulations, Title 8, defines a split shift as "a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods."

PROPARK has willfully violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11090(4)(C), because PROPARK has failed to pay Mr. Trotter and other aggrieved employees a split-shift premium when they return to work for an additional shift in the same day, after having been clocked out for more than an hour. For example, Mr. Trotter has been required to work a 4-hour shift in the morning and then required to return two (2) hours later for his scheduled afternoon shift. Other aggrieved employees have been similarly required to report to work for their scheduled morning shifts, and then return two (2) hours later to complete their scheduled afternoon shifts. Accordingly, PROPARK has required Mr. Trotter and other aggrieved employees to work split shifts but failed to pay them an additional hour at minimum wage in violation of California Labor Code section 1198.

PROPARK's failure to provide Mr. Trotter and other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11090(4)(C). Mr. Trotter and other aggrieved employees are therefore entitled to recover civil penalties pursuant to sections 1194 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, PROPARK, on a company-wide basis, has required that Mr. Trotter and other aggrieved employees use their own personal cellular phones and/or cellular data to carry out their job duties, but has failed to reimburse them for the costs of their work-related cellular phone expenses. Mr. Trotter and other aggrieved employees are required to use their personal cellular phones to complete their work-related tasks, such as discussing work assignments throughout their shifts with PROPARK management. Although PROPARK requires Mr. Trotter and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, PROPARK has failed to fully reimburse them for this cost.

Additionally, PROPARK, on a company-wide basis, has expected Mr. Trotter and other aggrieved employees to report to work in clean and presentable uniforms, including a uniform green polo shirt and jacket emblazoned with PROPARK's logo, which forces Mr. Trotter and other aggrieved employees to wash their uniforms more frequently than they would otherwise do laundry, and incur expenses for doing so. For example, Mr. Trotter has only been provided two (2) uniform shirts, but is scheduled to work five (5) days in a week, and thus incurs laundry expenses for the upkeep of his uniforms.

PROPARK could have provided Mr. Trotter and other aggrieved employees with the actual tools for use on the job, such as company phones to be used for fulfilling work-related tasks, and with an adequate number of uniform shirts or access to a cleaning service. Or, PROPARK could have reimbursed employees for the costs of their cellular phone usage and laundry expenses. Instead, PROPARK has passed these operating costs off onto Mr. Trotter and other aggrieved employees.

Thus, PROPARK had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Trotter and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." PROPARK, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Trotter's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Trotter seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Trotter, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against PROPARK for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 246, 510, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Mr. Trotter seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

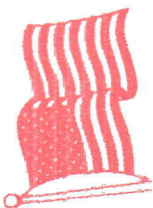
Best Regards,

A handwritten signature in black ink, appearing to read 'Mao Shiokura', with a stylized flourish at the end.

Mao Shiokura

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PROPARK AMERICA WEST, LLC

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City, State, ZIP+4®

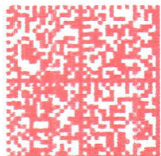
HARTFORD CT 06103

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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1. Article Addressed to:

PROPARK LA, LLC
 1 UNION PLACE
 HARTFORD CT 06103



9590 9402 4882 9032 7449 91

2. Article Number (Transfer from service label)

7019 0700 0001 7653 1186

PS Form 3811, July 2015 PSN 7530-02-000-9053

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7019 0700 0001 7653 1186

PROPARK LA, LLC
 1 UNION PLACE
 HARTFORD CT 06103

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Postage
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Total Postage and Fees
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 PROPARK LA, LLC

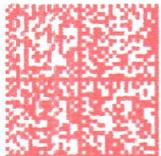
Street and Apt. No., *at Propark LA*
 1 UNION PLACE

City, State, ZIP+4®
 HARTFORD CT 06103

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Trotter v. Propark
 LA, LLC

7019 0700 0001 7653 1186

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1. Article Addressed to:

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103



9590 9402 4882 9032 7449 84

2. Article Number (Transfer from service label)

7015 0640 0006 1449 0382

PS Form 3811, July 2015 PSN 7530-02-000-9053

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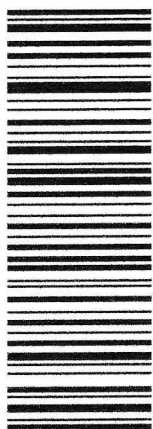
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Domestic Return Receipt

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HARTFORD CT 06103

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103

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Trotter v. Pro Park,
Inc.

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1. Article Addressed to:

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103



9590 9402 4882 9032 7449 84

2. Article Number (Transfer from service label)

7015 0640 0006 1449 0382

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- ☐ Agent
☐ Addressee

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C. Date of Delivery

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PS Form 3811, July 2015 PSN 7530-02-000-9053

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1. Article Addressed to:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103



9590 9402 4882 9032 7450 04

2. Article Number (Transfer from service label)

7019 0700 0001 7653 1179

PS Form 3811, July 2015 PSN 7530-02-000-9053

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1. Article Addressed to:

PROPAPK LA
1 UNIT PLAC
H 06103



9590 9402 4882 9032 7449 91

2. Article Number (Transfer from service label)

7019 0700 0001 7653 1186

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EXHIBIT “2”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

JEZZETTE RON
310.712.8142 Direct
Jezzette.Ron@capstonelawyers.com

August 10, 2022

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Milisse Saunders v. ProPark America West, LLC, et al.*

Dear PAGA Administrator:

This office represents Milisse Saunders in connection with her claims under the California Labor Code. Ms. Saunders was an employee of PROPARK AMERICA WEST, LLC; PROPARK LA, LLC; and/or PRO PARK, INC. For the purpose of this letter, Ms. Saunders collectively refers to these entities as "PROPARK."

The employers may be contacted directly at the addresses below:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103

PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103

Ms. Saunders intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Saunders seeks relief on behalf of herself, the State of California, and other persons who are or were employed by PROPARK as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

PROPARK employed Ms. Saunders as an hourly paid, non-exempt employee from approximately October 2012 to September 2021. Ms. Saunders worked as a Vault Supervisor for PROPARK at its location in Oakland, California. During her employment, Ms. Saunders typically worked eight (8) hours per day, and five (6) days per week. At the time her employment ended, Ms. Saunders was

compensated approximately \$20.00 per hour. Her job duties included, without limitation, controlling parking operations, ticket allocations, cash distributions, collections, and deposits.

PROPARK committed one or more of the following Labor Code violations against Ms. Saunders, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

PROPARK’s Company-Wide and Uniform Payroll and HR Practices

PROPARK AMERICA WEST, LLC and PROPARK LA, LLC are Connecticut limited liability companies, while PRO PARK, INC. is a Connecticut corporation. PROPARK is a parking management company providing services for more than 500 locations in markets across the United States and at least 39 locations in California. Upon information and belief, PROPARK maintains a single, centralized Human Resources (HR) department at its company headquarters in Hartford, Connecticut, for all non-exempt, hourly paid employees working for PROPARK in California, including Ms. Saunders and other aggrieved employees. At all relevant times, PROPARK issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Saunders and other aggrieved employees, regardless of their location or position.

Upon information and belief, PROPARK maintains a centralized Payroll department at its corporate headquarters in Hartford, Connecticut, which processes payroll for all non-exempt, hourly paid employees working for PROPARK in California, including Ms. Saunders and other aggrieved employees. Further, PROPARK issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Saunders and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, PROPARK utilized the same methods and formulas when calculating wages due to Ms. Saunders and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

¹ These facts, theories, and claims are based on Ms. Saunders’s experience and counsel’s review of those records currently available relating to Ms. Saunders’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Ms. Saunders’s reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

PROPARK willfully failed to pay all overtime wages owed to Ms. Saunders and other aggrieved employees. During the relevant time period, Ms. Saunders and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, PROPARK had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour on its timekeeping records. PROPARK's rounding policy has resulted in the failure to compensate Ms. Saunders and other aggrieved employees fully for all hours worked, causing Ms. Saunders and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, PROPARK's rounding policy was, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Saunders and other aggrieved employees. To the extent PROPARK's rounding policy has taken away time worked that was eligible for overtime, Ms. Saunders and other aggrieved employees have been denied overtime pay for all hours worked. Alternatively, PROPARK had, and continues to have, a company-wide policy and/or practice of failing to record hours worked by its employees. Instead, on information and belief, PROPARK's policy and/or practice is to simply pay employees, including Ms. Saunders and other aggrieved employees, for the hours they are scheduled to work. Because PROPARK failed to accurately record their actual hours worked, Ms. Saunders and other aggrieved employees were not paid for all hours worked before or after their scheduled shifts.

Second, during the relevant period, PROPARK had a policy and/or practice of discouraging and impeding Ms. Saunders and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with PROPARK's practice of understaffing and assignment of heavy workloads, led Ms. Saunders and other aggrieved employees to work off-the-clock before or after their scheduled shift times in order to complete their assigned tasks. For example, PROPARK required Ms. Saunders to clock out and continue working for up to 15 minutes to complete closing tasks, such as locking the vault office, turning in paperwork, and returning equipment at the request of management. As another example, when other aggrieved employees reported to work 10-15 minutes early they were asked to start working immediately, such as moving cars between lots, locating missing cars, and uploading new cars into the system, but were not permitted to clock in prior to their designated shift-start time. When this occurred, Ms. Saunders and other aggrieved employees were unable to record this off-the-clock work because PROPARK's management prohibited them from recording these overtime hours. This off-the-clock work could have been recorded by PROPARK, but it refused to do so to avoid payment of overtime wages to Ms. Saunders and other aggrieved employees.

Further, during the relevant period, PROPARK implemented, on a company-wide basis, an employer-imposed requirement that Ms. Saunders and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to their shifts, employees were required to spend time filling out a health screening form, undergoing a temperature check, and/or taking a COVID-19 test, before being permitted to clock in for their shifts. Even though PROPARK required these health screenings, PROPARK did not provide Ms. Saunders and other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Third, during the relevant period, PROPARK had a company-wide safety policy requiring employees to undergo mandatory security checks by a stadium security employee before entering the premises before clocking in at the beginning of a shift. For example, PROPARK required Ms. Saunders to spend 15 minutes to complete mandatory security checks before clocking in at the beginning of a shift. Although PROPARK's requirement that other aggrieved employees undergo security checks was mandatory, PROPARK did not compensate them for the time it took them to wait and undergo these checks. As a result of these security policies and/or practices, other aggrieved employees were subject to PROPARK's control before they had clocked in for their shifts, but were not compensated for this time.

Fourth, during the relevant period, PROPARK had, and continues to have, a company-wide policy and/or practice of strictly staffing its sites/locations based on the labor hours allocated by corporate for each location. PROPARK's uniform use of labor budgets has resulted in chronic understaffing and a lack of adequate meal period coverage, because there are too few employees on duty to handle the heavy workload and attend to customers. As a result of this lack of meal period coverage, Ms. Saunders and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Moreover, PROPARK had a practice of failing to adhere to a schedule for meal periods, which further caused Ms. Saunders and other aggrieved employees to not be relieved of their duties for compliant meal periods. Consequently, Ms. Saunders and other aggrieved employees were required to work through and/or had their unpaid meal periods interrupted in order to complete their assigned duties, time for which they were not paid.

Fifth, during the relevant time period, PROPARK maintained and implemented a company-wide on-premises meal period policy, which mandated that Ms. Saunders and other aggrieved employees remain on the work premises during their meal periods. Because Ms. Saunders and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, PROPARK effectively maintained control over Ms. Saunders and other aggrieved employees during unpaid meal periods, but did not pay them for this time.

Additionally, during the relevant time period, PROPARK had, and continues to have, a company-wide policy and/or practice of requiring employees to use their personal mobile devices and/or company-issued radios to communicate with supervisors at all times, including during unpaid meal periods. PROPARK expected that Ms. Saunders and other aggrieved employees respond to calls and text messages promptly to discuss work-related matters. For example, at least once per week, Ms. Saunders had her meal periods interrupted by calls from management on her radio or personal cellular phone to discuss work-related matters. However, PROPARK did not compensate Ms. Saunders and other aggrieved employees for the time they spent communicating with supervisors regarding work-related issues during meal periods while off-the-clock.

Sixth, on information and belief, because PROPARK frowned upon employees accruing meal period penalties, PROPARK's management pressured Ms. Saunders and other aggrieved employees to record compliant meal periods on their timesheets regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by PROPARK. Alternatively, PROPARK's management would adjust employees' time records to reflect compliant meal periods or would automatically deduct 30-minute meal periods from Ms. Saunders's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Thus, PROPARK did not record all hours worked during meal periods, and Ms.

Saunders and other aggrieved employees performed work during meal periods for which they were not paid.

PROPARK knew or should have known that as a result of these company-wide practices and/or policies, Ms. Saunders and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Saunders and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, PROPARK did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, PROPARK paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, PROPARK failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, PROPARK failed to pay all overtime wages by paying a lower overtime rate than required.

Accordingly, Ms. Saunders and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining “Hours Worked”).

First, as stated, during the relevant time period, PROPARK had a policy of rounding Ms. Saunders's and other aggrieved employees' hourly clock-in and clock-out duration times to the quarter-hour in its timekeeping system, resulting in the failure to compensate Ms. Saunders and other aggrieved employees fully for all hours worked. Alternatively, PROPARK had a company-wide policy and/or practice of only paying Ms. Saunders and other aggrieved employees for their scheduled shifts, rather than their actual hours worked, because PROPARK failed to track hours worked outside of their scheduled shifts.

Second, as stated, due to PROPARK's company-wide practice of restricting overtime accrual by not recording hours worked that were outside of employees' scheduled shifts, PROPARK systematically failed to pay Ms. Saunders and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. Thus, Ms. Saunders and/or other employees were required to perform work off-the-clock before and after their scheduled shifts,

including completing work-related tasks, submitting to mandated pre-shift COVID-19 temperature checks and health screenings and security checks, but were not compensated for this time.

Third, as stated, due to PROPARK's uniform practices of utilizing labor budgets, understaffing, while assigning heavy workloads, failing to adhere to a schedule for meal periods, requiring employees to stay on worksite premises during meal periods, requiring employees to carry and use their personal mobile devices and/or company-issued radios to communicate with supervisors during meal periods, Ms. Saunders and/or other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Moreover, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, PROPARK's management pressured employees to record compliant meal periods, adjusted employee time records to reflect compliant meal periods, and/or automatically deducted 30- minute meal periods from Ms. Saunders's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Thus, PROPARK systematically failed to pay Ms. Saunders and other aggrieved employees for actual hours worked during unpaid meal periods, because these hours were not always correctly recorded.

Thus, PROPARK did not pay at least minimum wages for all hours worked by Ms. Saunders and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, PROPARK did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, PROPARK regularly failed to pay at least minimum wages to Ms. Saunders and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, as stated, PROPARK had, and continues to have, company-wide policies and/or practices of understaffing its locations pursuant to its labor budget practices

while assigning heavy workloads and failing to adhere to a schedule for meal periods, which resulted in a lack of meal period coverage and prevented Ms. Saunders and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. For example, Ms. Saunders was forced to forego meal periods 2-3 times per week; she was also required to take her meal periods late (after having worked in excess of five (5) hours or more into her shift) approximately 1-2 times per week, in order to complete her work duties.

Second, as set forth above, PROPARK had a company-wide policy and/or practice of requiring employees to use their personal mobile devices and/or company-issued radios to communicate with supervisors at all times, including during meal periods, which caused Ms. Saunders's meal periods to be interrupted by a supervisor at least twice per week to discuss work-related matters.

Third, as also stated, during the relevant time period, PROPARK maintained and implemented a company-wide on-premises meal period policy, which mandated that Ms. Saunders and other aggrieved employees remain on the work premises during their meal periods. Because Ms. Saunders and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, PROPARK effectively maintained control over Ms. Saunders and other aggrieved employees during meal periods.

Fourth, PROPARK did not provide Ms. Saunders and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, throughout her employment, Ms. Saunders was forced to forego her second meal period 5 times. Ms. Saunders and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, PROPARK had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. PROPARK took the position that non-exempt, hourly paid employees had waived their rights to second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Furthermore, PROPARK's meal period waiver form requires employees to provide written notice should they wish to revoke the waiver. PROPARK's presumption that meal periods would not be provided for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Saunders and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That PROPARK required Ms. Saunders and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because PROPARK's obligation to provide Ms. Saunders and aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times herein mentioned, PROPARK knew or should have known that, as a result of these policies, Ms. Saunders and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. PROPARK further knew or should have known that it did not pay Ms. Saunders and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

As set forth above, on information and belief, because PROPARK frowned upon employees accruing meal period penalties, PROPARK's management pressured Ms. Saunders and other aggrieved employees to record that they took meal periods on their timesheets regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by PROPARK. Alternatively, PROPARK's management would adjust employees' time records to reflect compliant meal periods or would automatically deduct 30-minute meal periods from Ms. Saunders's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Further, to the extent that PROPARK's rounding policy reported that Ms. Saunders and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Saunders and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Furthermore, PROPARK engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of PROPARK's practices and/or policies, Ms. Saunders and/or other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that PROPARK did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, PROPARK did not pay other aggrieved employees at the correct rate of pay for premiums because PROPARK systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PROPARK failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Saunders and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall

be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, PROPARK regularly failed to authorize and permit Ms. Saunders and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, PROPARK’s company-wide practices, including understaffing and assigning heavy workloads, prevented Ms. Saunders and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, PROPARK failed to schedule rest periods, which, coupled with PROPARK’s failure to provide adequate rest period coverage, further led to Ms. Saunders and other aggrieved employees not being authorized and permitted to take compliant rest periods. Moreover, as stated, PROPARK had, and continues to have, a policy and/or practice of requiring that Ms. Saunders and other aggrieved employees to respond to calls from PROPARK’s management at all times on company-issued radios and/or personal mobile devices, including during rest periods.

Further, during the relevant time period, PROPARK maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Saunders and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Saunders and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, PROPARK effectively maintained control over Ms. Saunders and other aggrieved employees during rest periods.

As a result of PROPARK’s practices and policies, Ms. Saunders and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Saunders would have her rest periods interrupted by a supervisor at least twice per week to discuss work-related matters.

PROPARK also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because PROPARK frowned upon employees accruing rest period penalties, PROPARK pressured Ms. Saunders and other aggrieved employees to falsify the time rest periods were taken and/or adjusted or filled out employee records to reflect compliant and/or timely rest periods, regardless of whether Ms. Saunders and other aggrieved employees had received a compliant rest period at that time or not, in order to strictly limit rest period penalties that PROPARK would otherwise owe. Because of this practice and/or policy, Ms. Saunders and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that PROPARK did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, PROPARK did not pay other aggrieved employees at the correct rate of pay for premiums because PROPARK failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PROPARK failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Saunders and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 & California Code of Regulations Title 8, Section 3395 – Failure to Provide Heat Recovery Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide recovery periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest or recovery period is not provided. California Labor Code section 226.7(a) defines "recovery period" to mean a cooldown period afforded an employee to prevent heat illness. California Labor Code section 226.7 provides that no employer shall require an employee to work during any recovery period mandated by an applicable order of the California IWC, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health. The applicable General Industry Safety ("GIS") Order provides that "[w]hen the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling." Cal. Code of Reg., Title 8, § 3395(d)(1). Furthermore, "[t]he amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other." *Id.* "Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel the need to do so to protect themselves from overheating. Such access to shade shall be permitted at all times." *Id.*

During the relevant time period, PROPARK violated California Labor Code section 226.7 and California Code of Regulations, Title 8, section 3395(d), because PROPARK failed to provide Ms. Saunders and other aggrieved employees with recovery periods. For example, Ms. Saunders worked in the direct sun for a full shift, was not provided a shaded area for recovery near her work areas, and was not permitted to take recovery periods in a shaded area while working.

PROPARK also has engaged in a company-wide practice and/or policy of not paying all recovery period premiums owed when compliant recovery periods are not provided. Because of this practice and/or policy, Ms. Saunders and other aggrieved employees have not received premium pay for all missed recovery periods. Alternatively, to the extent that PROPARK did pay other aggrieved employees for missed recovery periods, PROPARK did not pay other aggrieved employees at the correct rate of pay, because PROPARK systematically failed to include all compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, PROPARK failed to authorize and permit all recovery periods in violation of California Labor Code sections 226.7, 516, and 1198, and California Code of Regulations, Title 8, section 3395. Ms. Saunders and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. PROPARK has not provided Ms. Saunders and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, PROPARK has knowingly and intentionally provided Ms. Saunders and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PROPARK issued uniform wage statements to Ms. Saunders and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal, rest, and recovery period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, PROPARK violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because PROPARK did not record the time Ms. Saunders and other aggrieved employees spent working off-the-clock, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), PROPARK did not list the correct amount of gross wages and net wages earned by Ms. Saunders and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, PROPARK failed to accurately list the total number of hours worked by Ms. Saunders and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because PROPARK did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal, rest, and recovery period premiums, PROPARK did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, PROPARK also failed to list the correct amount of net wages in violation of section 226(a)(5). PROPARK also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), PROPARK willfully failed to maintain accurate payroll records for Ms. Saunders and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Saunders’s and other aggrieved employees’ total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, PROPARK engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Saunders and other aggrieved employees in violation of section 1198. Furthermore, in light of PROPARK’s failure to provide Ms. Saunders and other aggrieved employees with second 30-minute meal periods to which they were entitled, PROPARK kept no records of meal start and end times for second meal periods.

Because PROPARK failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Saunders and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Saunders and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of

the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, PROPARK failed to pay Ms. Saunders and other aggrieved employees all wages due to them, including, but not limited to, overtime wages; minimum wages; and/or meal, rest, and recovery period premiums within any time period specified by California Labor Code section 204.

Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

PROPARK willfully failed to pay Ms. Saunders and other aggrieved employees who are no longer employed by PROPARK all their earned wages, including, but not limited to, overtime wages; minimum wages; and/or meal, rest, and recovery period premiums either at the time of discharge, or within seventy-two (72) hours of their leaving PROPARK's employ.

Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Provide Written Notice of Paid Sick Leave

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages.

During the relevant time period, PROPARK has failed to provide Ms. Saunders and/or other aggrieved employees written notice on wage statements and/or other separate written statements that listed the amount of paid sick leave (or equivalent paid leave or paid time off) available to them.

PROPARK's ongoing and systematic failure to provide written notice of sick leave benefits to Ms. Saunders and/or other aggrieved employees violates California Labor Code section 246(i).

Ms. Saunders and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant time period, PROPARK scheduled Ms. Saunders and other aggrieved employees to work six (6) or more hours per day and seven (7) consecutive days in a workweek. Because Ms. Saunders and other aggrieved employees worked over 30 hours per week and over six (6) hours per day in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Ms. Saunders and other aggrieved employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid. Thus, PROPARK willfully caused Ms. Saunders and other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552.

Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11090(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other

words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

PROPARK’s California locations are generally similar in their layout and design and there was, and continues to be, space behind valet podiums and kiosks to allow for the presence and use of a seat or stool by other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. PROPARK could provide other aggrieved employees with a seat or stool at its valet podiums and kiosks, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Other aggrieved employees spent a substantial portion of their day behind or at these valet podiums and kiosks. The nature of the work of an employee performing certain valet duties, such as selling parking vouchers, checking parking customers in and out at host stands can reasonably be accomplished from a seated position. However, as set forth herein, PROPARK systematically, and on a company-wide basis, does not provide seats or stools at or near the host stands, forcing other aggrieved employees to stand throughout their work shifts.

PROPARK violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11090(14)(A) because other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. PROPARK’s management did not inform other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of PROPARK’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other aggrieved employees were forced to stand during shifts and denied seats. PROPARK’s failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 9-2001, subdivision 14(A).

Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring PROPARK into compliance with California’s seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11090(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that subdivision 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When

taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during “lulls in operation.” *Id.*

As stated, PROPARK’s California locations are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by other aggrieved employees during lulls in operation. PROPARK could have provided other aggrieved employees with a seat or stool in its work areas, but instead denied, and continues to deny, employees seating, forcing them to stand throughout the day.

PROPARK did not provide other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent other aggrieved employees engaged in duties in which the nature of the work required standing, PROPARK denied them the use of seats nearby during lulls in their work duties. Moreover, PROPARK did not inform other aggrieved employees of their rights to a seat or stool under California law.

As a result of PROPARK’s company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, other aggrieved employees were forced to stand during shifts and denied seats. PROPARK’s failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 9-2001, subdivision 14(B).

Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring PROPARK into compliance with California’s seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11090 Subdivision 4(C) – Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11090(4)(C) provides that, “When an employee works a split shift, one (1) hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.” California Code of Regulations, Title 8, defines a split shift as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

PROPARK willfully violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11090(4)(C), because PROPARK failed to pay other aggrieved employees a split-shift premium when they returned to work for an additional shift in the same day,

after having been clocked out for more than an hour. For example, other aggrieved employees were required to report to work for their scheduled morning shifts, and then return two (2) hours later to complete their scheduled afternoon shifts. Accordingly, PROPARK required other aggrieved employees to work split shifts but failed to pay them an additional hour at minimum wage, in violation of California Labor Code section 1198.

PROPARK's failure to provide other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, section 11090(4)(C). Other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

During the relevant time period, PROPARK, on a company-wide basis, required Ms. Saunders and other aggrieved employees to use their own personal mobile devices, including, but not limited to cellular phones, and/or mobile data to carry out their job duties, but failed to fully reimburse them for the cost of their work-related mobile device expenses. Specifically, Ms. Saunders used her personal cellular phone to complete their work-related tasks, such as writing reports, communicating with management, and contacting equipment vendors. Although PROPARK required Ms. Saunders and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, PROPARK failed to fully reimburse them for these costs.

Further, during the relevant time period, PROPARK had a company-wide policy of requiring Ms. Saunders and other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. For example, on several occasions, Ms. Saunders drove 4 miles from the premises to a UPS store in order to drop off equipment for repair, but she was not compensated for her travel expenses or mileage.

Additionally, during the relevant time period, PROPARK expected Ms. Saunders and other aggrieved employees to report to work wearing clean and presentable uniforms bearing the company logo, including uniform shirts and jackets, on a daily basis. However, PROPARK did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, PROPARK only provided Ms. Saunders with two (2) shirts and one (1) jacket at the beginning of her employment. Because PROPARK failed to provide Ms. Saunders with an adequate number of uniform items in relation to her scheduled shifts and for the tasks she was required to perform, Ms.

Saunders was forced to wash her uniform items more frequently than she would otherwise do laundry and incur expenses in doing so. Thus, PROPARK failed to maintain the uniforms it required Ms. Saunders and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

PROPARK could have provided Ms. Saunders and other aggrieved employees with the actual equipment for use on the job, such company mobile devices, company vehicles, and an adequate number of uniforms or access to laundering services. Or, PROPARK could have reimbursed employees for the costs of their mobile device usage, travel expenses, mileage, and laundering expenses or provided a uniform maintenance allowance. Instead, PROPARK passed these operating costs off onto Ms. Saunders and other aggrieved employees. At all relevant times, Ms. Saunders did not earn at least two (2) times the minimum wage.

Thus, PROPARK had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Saunders and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” PROPARK, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Saunders’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Saunders seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Saunders, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against PROPARK for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Saunders seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Jezzette Ron
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "J. Ron". The signature is stylized with a large, looped "J" and a cursive "Ron".

Jezzette Ron

Copy: PROPARK AMERICA WEST, LLC (via U.S. Certified Mail); PROPARK LA, LLC (via U.S. Certified Mail); PRO PARK, INC. (via U.S. Certified Mail); Blair C. Senesi, Esq., Mel M.C Cole, Esq., Littler Mendelson, P.C., 333 Bush Street, 34th Floor, San Francisco, California 94104-1298 (via U.S. Certified Mail); NOAH J. WOODS, Esq., Littler Mendelson, P.C., 501 W. Broadway, Suite 900, San Diego, California 92101-3577 (via U.S. Certified Mail)

Capstone
LAW APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067

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PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
 - Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103

9590 9402 7420 2055 3568 18

2. Article Number (Transfer from service label)

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PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:



3. Service Type

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☐ Certified Mail Restricted Delivery

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PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103



9590 9402 7420 2055 3568 56

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3495

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☒ Adult Signature Restricted Delivery
- ☐ Certified Mail[®]
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Insured Mail
- ☐ Registered Mail
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation[™]
- ☐ Signature Confirmation Restricted Delivery
- ☐ Priority Mail Express[®]
- ☐ Registered Mail[™]
- ☐ Registered Mail Restricted Delivery
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☐ Adult Signature Restricted Delivery \$

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Postage

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PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103

PS Form 3800, April 2015 PSN 7530-02-000-9067 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103



9590 9402 7420 2055 3568 49

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3501

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail[®]
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express[®]
- ☐ Registered Mail[™]
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation[™]
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL

7021 1970 0001 8870 3518

NOAH J. WOODS
LITTLER MENDELSON, P.C.
501 W. BROADWAY, SUITE 900
SAN DIEGO, CA 92101.3577

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Postage

NOAH J. WOODS
LITTLER MENDELSON, P.C.
501 W. BROADWAY, SUITE 900
SAN DIEGO, CA 92101.3577

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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■ **Print your name and address on the reverse so that we can return the card to you.**

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

NOAH J. WOODS
LITTLER MENDELSON, P.C.
501 W. BROADWAY, SUITE 900
SAN DIEGO, CA 92101.3577

9590 9402 7420 2055 3568 32

2. Article Number (Transfer from service label)

2021 1970 0001 8870 3518

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name,

C. Date of Delivery

D. Is delivery address different from Item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

13. **Service Type**☐ Adult Signature Restricted Delivery

☐ Certified Mail®
☐ Registered Mail®

☐ Confirmed Mail Restricted Delivery
☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery

Insured Mail Restricted Delivery

☐ Priority Mail Express®☐ Registered Mail Restricted

Delivery
Signature Confidentiality™

☐ Signature Confirmation

Restricted Delivery

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Extra Services & Fees (check box, add fee as appropriate)

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☐ Return Receipt (electronic) \$
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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
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MEL M.C. COLE
BLAIR C. SENESE
LITTLE MENDELSON, P.C.
333 BUSH STREET, 34TH FLOOR
SAN FRANCISCO, CA 94104

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

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BLAIR C. SENESE
LITTLE MENDELSON, P.C.
333 BUSH STREET, 34TH FLOOR
SAN FRANCISCO, CA 94104
9590 9402 7420 2055 3568 25

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☐ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
- ☐ Adult Signature Restricted Delivery
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
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PS Form 3811, July 2020 PSN 7530-02-000-9053

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BLAIR C. SENESI
LITTLER MENDELSON, P.C.
333 BUSH STREET, 34TH FLOOR
SAN FRANCISCO, CA 94104



9590 9402 7420 2055 3568 25

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7021 1970 0001 8870 3525

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail

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Insured Mail Restricted Delivery
over \$500

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1. Article Addressed to:

PROPARK LA, LLC
1 UNION PLACE
HARTFORD CT 06103



9590 9402 7420 2055 3568 56

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3495

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Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Agent
☐ Addressee☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Agent
☐ Addressee☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
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- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
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- ☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

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1. Article Addressed to:

PROPARK AMERICA WEST, LLC
1 UNION PL
HARTFORD CT 06103



9590 9402 7420 2055 3568 18

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3488

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Agent
☐ Addressee☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
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1. Article Addressed to:

NOAH J. WOODS
LITTLER MENDELSON, P.C.
501 W. BROADWAY, SUITE 900
SAN DIEGO, CA 92101.3577



9590 9402 7420 2055 3568 32

2. Article Number (Transfer from service label)

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A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Agent
☐ Addressee☐ Yes
☐ No

3. Service Type

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- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

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- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

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1. Article Addressed to:

PRO PARK, INC.
ONE UNION PL
HARTFORD CT 06103



9590 9402 7420 2055 3568 49

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3501

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Agent
☐ Addressee☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **February 10, 2023**, I served the document described as: **SECOND AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Mel M.C. Cole
Blair C. Senesi
LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104
mmcole@littler.com
bsenesi@littler.com
nwoods@littler.com
lponce@littler.com
mramosflores@littler.com

Attorneys for Defendants
PROPARK AMERICA WEST, LLC;
PROPARK LA, LLC; and PRO PARK, INC.

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **February 10, 2023**, at Los Angeles, California.

Sophia Flores
Type/Print Name


Signature