

By: Octavio Aceves, Deputy Clerk

Assigned to Judicial Officer
Nathan D Ide

For All Purposes

Case Management Conference

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Orlando Villalba (SBN 232165)
Orlando.Villalba@capstonelawyers.com
Helga Hakimi (SBN 257381)
Helga.Hakimi@capstonelawyers.com
Roxanna Tabatabaeepour (SBN 260187)
Roxanna.Taba@capstonelawyers.com
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Attorneys for Plaintiff Jonatan Quiroz

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TULARE

JONATAN QUIROZ, as an aggrieved
employee pursuant to the Private
Attorneys General Act ("PAGA"), on
behalf of the State of California and
other non-party Aggrieved
Employees,

Plaintiff,

vs.

AMERICAN INCORPORATED, a
California corporation; CROSSFIRE
CONSTRUCTION COMPANY, a
California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: VCU293698

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

- (1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Jonatan Quiroz, as an aggrieved employee and on behalf of the State of
2 California and all other non-party Aggrieved Employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on August 3, 2022, until judgment (“non-party Aggrieved
14 Employees”). Plaintiff’s share of civil penalties sought in this action does not exceed
15 \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because, on information and
20 belief, Defendants are either citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render
22 the exercise of jurisdiction over them by the California courts consistent with traditional
23 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
24 in this action given that the State of California, as the real party in interest in this action, is not
25 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
26 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
27 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
28 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the

1 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

2 4. Venue is proper in this Court, because Defendants filed Statement of
3 Information forms with the Secretary of State designating a principal place of business in
4 Visalia, County of Tulare, in accordance with California Corporation Code section 2105(a)(3).
5 Cal. Code Civ. P. § 395.5. Venue is also proper in this Court because Defendants employ
6 persons in this county, and thus a substantial portion of the transactions and occurrences
7 related to this action occurred in this county.

8 5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private
9 Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private
10 attorneys general their current or former employers for various civil penalties for violations of
11 various provisions in the California Labor Code.

12 **THE PARTIES**

13 6. Plaintiff Jonatan Quiroz is a resident of Fresno, in Fresno County, California.
14 Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately
15 January 2022 to June 2022. Plaintiff worked as a Company Driver and Saw Cutter for
16 Defendants out of their location in Fresno, California. Plaintiff typically worked twelve (12)
17 or more hours per day, five (5) to seven (7) days per week. At the time Plaintiff’s
18 employment with Defendants ended, he was compensated approximately \$18.50 per hour.
19 Plaintiff’s job duties included, without limitation, driving to various assigned job sites, cutting
20 concrete and asphalt, and communicating with customers and management.

21 7. On information and belief, Defendants required some employees, including
22 Plaintiff, to execute an arbitration agreement at the time of their hire or during their
23 employment. On further information and belief, Defendants’ arbitration agreement was and is
24 both procedurally and substantively unconscionable. Specifically, Defendants presented
25 employees with an “Arbitration Agreement” during the onboarding process, which had to be
26 reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was one of
27 several documents presented to new employees for signature during the orientation process,
28 including the Confidentiality Agreement; Company Code of Safe Practice; and Harassment-

1 Free Work Environment, among other documents. Also, employees did not have a
2 meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was
3 provided to Defendants' employees for them to sign on a take-it or leave-it basis, along with
4 all of the other on-boarding documents. Further, Defendants did not set forth in the agreement
5 or otherwise provide employees with the rules which will govern the arbitration, instead
6 forcing employees to seek this information out on their own.

7 8. AMERICAN INCORPORATED was and is, upon information and belief, a
8 California corporation, and at all times hereinafter mentioned, an employer whose employees
9 are engaged throughout this county, the State of California.

10 9. CROSSFIRE CONSTRUCTION COMPANY was and is, upon information and
11 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
12 employees are engaged throughout this county, the State of California.

13 10. Plaintiff is unaware of the true names or capacities of the Defendants sued
14 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
15 amend the complaint and serve such fictitiously named Defendants once their names and
16 capacities become known.

17 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
18 were the partners, agents, owners, or managers of AMERICAN INCORPORATED and
19 CROSSFIRE CONSTRUCTION COMPANY at all relevant times.

20 12. Plaintiff is informed and believes, and thereon alleges, that each and all of the
21 acts and omissions alleged herein was performed by, or is attributable to, AMERICAN
22 INCORPORATED; CROSSFIRE CONSTRUCTION COMPANY; and/or DOES 1 through 10
23 (collectively, "Defendants" or "AI"), each acting as the agent, employee, alter ego, and/or
24 joint venturer of, or working in concert with, each of the other co-Defendants and was acting
25 within the course and scope of such agency, employment, joint venture, or concerted activity
26 with legal authority to act on the others' behalf. The acts of any and all Defendants were in
27 accordance with, and represent, the official policy of Defendants.

28 13. At all relevant times, Defendants, and each of them, ratified each and every act

1 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
2 and abetted the acts and omissions of each and all the other Defendants in proximately causing
3 the damages herein alleged.

4 14. Plaintiff is informed and believes, and thereon alleges, that each of said
5 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
6 omissions, occurrences, and transactions alleged herein.

7 15. Under California law, Defendants are jointly and severally liable as employers
8 for the violations alleged herein because they have each exercised sufficient control over the
9 wages, hours, working conditions, and employment status of Plaintiff and other non-party
10 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
11 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
12 of employment, determined their rate of pay, and maintained their employment records.
13 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
14 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
15 common-law employment relationship. As joint employers of Plaintiff and other non-party
16 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
17 available to Plaintiff and other non-party Aggrieved Employees under the law.

18 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
19 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
20 non-party Aggrieved Employees because Defendants have:

- 21 (a) jointly exercised meaningful control over the work performed by
22 Plaintiff and other non-party Aggrieved Employees;
- 23 (b) jointly exercised meaningful control over Plaintiff’s and other non-party
24 Aggrieved Employees’ wages, hours, and working conditions, including
25 the quantity, quality standards, speed, scheduling, and operative details
26 of the tasks performed by Plaintiff and other non-party Aggrieved
27 Employees;
- 28 (c) jointly required that Plaintiff and other non-party Aggrieved Employees

perform work which is an integral part of Defendants' businesses; and
(d) jointly exercised control over Plaintiff and other non-party Aggrieved Employees as a matter of economic reality in that Plaintiff and other non-party Aggrieved Employees were dependent on Defendants, who shared the power to set the wages of Plaintiff and other non-party Aggrieved Employees and determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

18. AMERICAN INCORPORATED; CROSSFIRE CONSTRUCTION COMPANY; and/or DOES 1 through 10 are therefore alter egos of each other.

19. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by them under the name AI.

20. Plaintiff further alleges, upon information and belief, that the Defendants AMERICAN INCORPORATED and CROSSFIRE CONSTRUCTION COMPANY are alter egos of each other for the following reasons:

(a) According to the most recent "Statement of Information" form filed with the California Secretary of State, AMERICAN INCORPORATED and CROSSFIRE CONSTRUCTION COMPANY have the same principal address, which is "1345 N. American Street, Visalia, CA 93291";

(b) According to the most recent "Statement of Information" forms filed with the California Secretary of State, AMERICAN INCORPORATED and CROSSFIRE CONSTRUCTION COMPANY share a common

1 director, including, but not limited to, Warren Oldfield; and
2 (c) On information and belief, AMERICAN INCORPORATED and
3 CROSSFIRE CONSTRUCTION COMPANY utilize the same
4 standardized employment forms and issue the same employment
5 policies.

6 **PAGA REPRESENTATIVE ALLEGATIONS**

7 21. Defendants serve the western United States providing services in all aspects of
8 planning, engineering, design, construction, fabrication, and service maintenance. Upon
9 information and belief, Defendants maintain a single, centralized Human Resources (HR)
10 department at their corporate headquarters in Visalia, California, for all non-exempt, hourly
11 paid employees working for Defendants in California, which is responsible for the recruiting
12 and hiring of new employees, and communicating and implementing Defendants' company-
13 wide policies, including timekeeping policies and meal and rest period policies, to employees
14 throughout California.

15 22. In particular, Plaintiff and other non-party Aggrieved Employees, on
16 information and belief, received the same standardized documents and/or written policies.
17 Upon information and belief, the usage of standardized documents and/or written policies,
18 including new-hire documents, indicate that Defendants dictated policies at the corporate level
19 and implemented them company-wide, regardless of their employees' assigned locations or
20 positions. Upon information and belief, Defendants set forth uniform policies and procedures
21 in several documents provided at an employee's time of hire.

22 23. Upon information and belief, Defendants maintain a centralized Payroll
23 department at their corporate headquarters in Visalia, California, which processes payroll for
24 all non-exempt, hourly paid employees working for Defendants at their various locations and
25 jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based
26 upon information and belief, Defendants issue the same formatted wage statements to all non-
27 exempt, hourly paid employees in California, irrespective of their work locations. Upon
28 information and belief, Defendants process payroll for departing employees in the same

manner throughout the State of California, regardless of the manner in which each employee's employment ends.

24. Defendants continue to employ non-exempt or hourly paid employees in California.

25. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors knowledgeable about California labor and wage law, employment and personnel practices, and about the requirements of California law.

26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other non-party Aggrieved Employees were not paid for all hours worked because all hours worked were not recorded.

27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to be paid at a regular rate of pay, and corresponding rates of pay for overtime wages and/or meal, rest, and recovery period premiums that included as eligible income all remuneration required by law, including but not limited to, all income derived from incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of compensation, but failed to include all forms of remuneration in calculating the regular rate of pay for Plaintiff and other non-party Aggrieved Employees.

29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for work that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at

1 least minimum wages for work done off-the-clock.

2 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
4 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
5 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
6 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
7 other non-party Aggrieved Employees were not provided with all meal periods or payment of
8 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
9 uninterrupted, thirty (30) minute meal period.

10 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
12 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
13 payment of one (1) additional hour of pay at their regular rates of pay when they were not
14 authorized and permitted to take a compliant rest period. In violation of the California Labor
15 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted
16 to take compliant rest periods, nor did Defendants provide Plaintiff and other non-party
17 Aggrieved Employees with payment of one (1) additional hour of pay at their regular rates of
18 pay when they were not authorized and permitted to take a compliant rest period.

19 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
21 receive heat recovery periods in accordance with California law. In violation of the California
22 Labor Code, Plaintiff and other non-party Aggrieved Employees were not provided heat
23 recovery periods or heat recovery period premiums for all missed heat recovery periods.

24 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
26 receive complete and accurate wage statements in accordance with California law. In
27 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
28 were not provided complete and accurate wage statements.

1 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that they had a duty to maintain accurate and complete payroll records in
3 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
4 and intentionally failed to do so.

5 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
7 timely payment of wages during their employment. In violation of the California Labor Code,
8 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
9 including, but not limited to, overtime wages; minimum wages; meal, rest, and recovery
10 period premiums; and/or reporting time pay, within permissible time periods.

11 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
13 timely payment of all wages earned upon termination of employment. In violation of the
14 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
15 payment of all wages due, including, but not limited to, overtime wages; minimum wages;
16 meal, rest, and recovery period premiums; and/or reporting time pay, within permissible time
17 periods.

18 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
20 receive itemized wage statements or separate written statements showing the amount of paid
21 sick leave available, or paid time off provided in lieu of sick leave. In violation of the
22 California Labor Code, Defendants failed to provide Plaintiff and other non-party Aggrieved
23 Employees with written itemized wage statements or separate written statements showing this
24 information.

25 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that other non-party Aggrieved Employees were entitled to be paid
27 reporting time pay when they reported to work for their usual or scheduled shift but were put
28 to work for less than half of the usual or scheduled shift. In violation of the California Labor

Code, Defendants did not pay other non-party Aggrieved Employees all reporting time pay due.

39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive reimbursement for all business-related expenses and costs they incurred during the course and scope of their employment and that they did not receive reimbursement of applicable business-related expenses and costs incurred.

40. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants knew or should have known that they had a duty to provide Plaintiff and other non-party Aggrieved Employees with safety devices and safeguards to protect their life, safety, and health in the workplace, but failed to do so.

41. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees that they were properly denied wages, all in order to increase Defendants' profits.

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

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

44. Plaintiff and other current and former employees of Defendants are "aggrieved employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current

1 or former employees and one or more of the alleged violations were committed against them.

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

- 5 (a) The aggrieved employee shall give written notice by online filing
6 (hereinafter "Employee's Notice") to the LWDA and by certified mail
7 to the employer of the specific provisions of the California Labor Code
8 alleged to have been violated, including the facts and theories to support
9 the alleged violations.
- 10 (b) An aggrieved employee's notice filed with the LWDA pursuant to
11 2699.3(a) and any employer response to that notice shall be
12 accompanied by a filing fee of seventy-five dollars (\$75).
- 13 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
14 employer and the aggrieved employee by certified mail that it does not
15 intend to investigate the alleged violation within sixty (60) calendar
16 days of the postmark date of the Employee's Notice. Upon receipt of
17 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
18 five (65) calendar days of the postmark date of the Employee's Notice,
19 the aggrieved employee may commence a civil action pursuant to
20 California Labor Code section 2699 to recover civil penalties in addition
21 to any other penalties to which the employee may be entitled.

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

- 26 (a) The aggrieved employee or representative shall give written notice by
27 online filing to the LWDA and by certified mail to the employer of the
28 specific provisions of the California Labor Code alleged to have been

1 violated (other than those listed in Section 2699.5), including the facts
2 and theories to support the alleged violation.

3 (b) An aggrieved employee's notice filed with the LWDA pursuant to
4 2699.3(c) and any employer response to that notice shall be
5 accompanied by a filing fee of seventy-five dollars (\$75).

6 (c) The employer may cure the alleged violation within thirty-three (33)
7 calendar days of the postmark date of the notice. The employer shall
8 give written notice by certified mail within that period of time to the
9 aggrieved employee or representative and the agency if the alleged
10 violation is cured, including a description of actions taken, and no civil
11 action pursuant to Section 2699 may commence. If the alleged violation
12 is not cured within the 33-day period, the employee may commence a
13 civil action pursuant to Section 2699.

14 47. On August 3, 2022, Plaintiff provided written notice by online filing to the
15 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
16 Code alleged to have been violated, including facts and theories to support the alleged
17 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
18 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
19 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
20 Plaintiff PAGA Case Number LWDA-CM-899451-22. A true and correct copy of Plaintiff's
21 written notice to the LWDA and Defendants dated August 3, 2022, is attached hereto as
22 "Exhibit 1."

23 48. As of the filing date of this complaint, over 65 days have passed since Plaintiff
24 sent the written notice described above, and the LWDA has not responded that it intends to
25 investigate Plaintiff's claims, and Defendants have not cured the violations.

26 49. Thus, Plaintiff has satisfied the administrative prerequisites under California
27 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
28 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a),

1 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403.

2 50. Labor Code section 558(a) provides “[a]ny employer or other person acting on
3 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
4 provision regulating hours and days of work in any order of the Industrial Welfare
5 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
6 dollars (\$50) for each underpaid employee for each pay period for which the employee was
7 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
8 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
9 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
10 to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest
11 as a private attorney general, seeks assessment and collection of civil penalties under Labor
12 Code section 558 for himself, all other non-party Aggrieved Employees, and the State of
13 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198,
14 and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private
15 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
16 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the
17 applicable IWC Wage Order.

18 51. Defendants, at all times relevant to this complaint, were employers or persons
19 acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved
20 Employees’ rights by violating various sections of the California Labor Code as set forth
21 above.

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

25 53. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
26 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
27 private attorney general, seeks assessment and collection of civil penalties for himself, all
28 other non-party 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, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403.

FIRST CAUSE OF ACTION

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

(Against all Defendants)

54. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

55. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 246, 516, 1182.12, 6401, and 6403.

56. Defendants’ conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other non-party Aggrieved Employees with all required overtime pay, as set forth below;
- (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants’ failure to include all forms of remuneration in the “regular rate” of pay as required by law for purposes of paying overtime wages and/or meal, rest, and recovery period premiums, to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate

1 Plaintiff and other non-party Aggrieved Employees with at least
2 minimum wages for all hours worked, as set forth below;

3 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
4 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
5 and other non-party Aggrieved Employees with meal periods, as set
6 forth below;

7 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
8 applicable IWC Wage Order for Defendants' failure to authorize and
9 permit Plaintiff and other non-party Aggrieved Employees to take rest
10 periods, as set forth below;

11 (f) Violation of Labor Code sections 226.7, 516, and 1198 for failure to
12 provide heat recovery periods to Plaintiff and other non-party Aggrieved
13 Employees, as set forth below;

14 (g) Violation of Labor Code sections 226(a) and 1198, and the applicable
15 IWC Wage Order for failure to provide accurate and complete wage
16 statements to Plaintiff and other non-party Aggrieved Employees, as set
17 forth below;

18 (h) Violation of Labor Code sections 1174(d) and 1198, and the applicable
19 IWC Wage Order for failure to maintain payroll records, as set forth
20 below;

21 (i) Violation of Labor Code sections 204 for failure to pay all earned wages
22 during employment, as set forth below;

23 (j) Violation of Labor Code section 201 and 202 for failure to pay all
24 earned wages upon termination, as set forth below;

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

- 1 (l) Violation of Labor Code section 1198 and the applicable IWC Wage
2 Order for failure to pay reporting time pay when other non-party
3 Aggrieved Employees were put to work for less than half of their
4 regular scheduled shifts, as set forth below;
- 5 (m) Violation of Labor Code sections 2802 for failure to reimburse Plaintiff
6 and other non-party Aggrieved Employees for all business expenses
7 necessarily incurred, as set forth below; and
- 8 (n) Violation of Labor Code sections 6401 and 6403 for failure to provide
9 Plaintiff and other non-party Aggrieved Employees with safety devices
10 and safeguards for the workplace, as set forth below.

11 **FAILURE TO PAY OVERTIME**

12 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

13 57. Labor Code section 1198 makes it illegal to employ an employee under
14 conditions of labor that are prohibited by the applicable wage order. California Labor Code
15 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
16 be the . . . standard conditions of labor for employees. The employment of any employee . . .
17 under conditions of labor prohibited by the order is unlawful.”

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

22 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
23 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
24 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
25 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
26 (40) hours in a workweek.

27 60. The applicable IWC Wage Order further provides that Defendants are and were
28 required to pay Plaintiff and other non-party Aggrieved 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.

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

62. During the relevant time period, Defendants willfully failed to pay all overtime wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time period, Plaintiff and other non-party 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 worked were not recorded.

63. First, during the relevant period, Defendants had a policy and/or practice of discouraging and impeding Plaintiff and other non-party Aggrieved Employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. In doing so, Defendants failed to implement a timekeeping system at their jobsites and do not provide employees with any mechanism, such as a time clock or electronic timekeeping system, to accurately track and record their hours worked. Instead, Defendants' policy and/or practice is to require employees, including Plaintiff and other non-party Aggrieved Employees, to fill out handwritten timesheets and to submit them to management at the end of each day for review and approval. Upon information and belief, management has subsequently and frequently interlineated, altered, and/or falsified timesheets to reflect scheduled shift start-times and shift end-times instead of their actual hours worked and/or rounded clock-in and clock-out times to the nearest quarter of an hour to limit overtime hours employees were eligible to be compensated for. Upon

1 information and belief, Defendants' timekeeping policies are, and continue to be, unfair and
2 have, over time, resulted in the underpayment of wages to Plaintiff and other non-party
3 Aggrieved Employees. To the extent Defendants' timekeeping policies have taken away time
4 worked that was eligible for overtime, Plaintiff and other non-party Aggrieved Employees
5 have been denied overtime pay for all hours worked. Further, once timesheets were submitted
6 for the day, employees had no way of recording any additional time worked.

7 64. For instance, on one occasion after Plaintiff had already finished work and
8 submitted his timesheet, he was contacted by his supervisor and required to return to a job site
9 to complete a job. Plaintiff drove to the company yard, picked up his company vehicle, drove
10 to the job site, completed the necessary tasks, returned to the company yard to drop off the
11 company vehicle, and drove home which took him a total of four (4) hours. Because
12 Defendants did not provide him with a mechanism to record this time worked, Plaintiff was
13 never paid for this time. As another example, Plaintiff and other non-party Aggrieved
14 Employees were required to attend company meetings after their shifts. Management frowned
15 upon employees recording this time worked and pressured employees to attend these meetings
16 off-the-clock. Plaintiff attended about four (4) meetings throughout his employment which
17 took about one (1) hour each occurrence, time for which he was not paid. Because Defendants
18 prohibited Plaintiff and other aggrieved employees from recording their actual hours worked,
19 Plaintiff and other non-party Aggrieved Employees were not paid for all hours worked.

20 65. Second, Defendants have, systematically, and on a company-wide basis,
21 scheduled and dispatched their employees to complete time-sensitive jobs, which included
22 traveling to various locations, cutting asphalt or concrete, and communicating with customers,
23 without building in sufficient time to allow for 30-minute meal periods, such that Plaintiff and
24 other non-party Aggrieved Employees were prevented from taking all timely, uninterrupted
25 30-minute meal periods, and were also forced to work off-the-clock during their meal periods
26 to complete their assigned routes. Completing the jobs could take longer than the time
27 Defendants allotted for them, such that Plaintiff and other non-party Aggrieved Employees
28 were unable to take compliant meal periods. In conjunction with varying job durations, travel

1 time between job sites could take longer than anticipated due to traffic conditions, which
2 further impeded Plaintiff and other non-party Aggrieved Employees from taking compliant
3 meal periods. And, upon information and belief, Defendants had no mechanism in place to
4 permit Plaintiff and other non-party Aggrieved Employees to take meal periods when the
5 schedule was thrown off because one or more of their jobs took longer than the scheduled
6 time, or if travel time between job sites was extended by traffic conditions. Defendants also
7 had a practice of failing to schedule meal periods, which further caused Plaintiff and other
8 non-party Aggrieved Employees to not be relieved of their duties for compliant meal periods.
9 In addition, even when Plaintiff and other non-party Aggrieved Employees were able to take
10 their meal periods, Defendants pressured them to eat their meals while driving between
11 customer sites.

12 66. Third, Defendants had, and continue to have, a company-wide policy and/or
13 practice of requiring employees to use personal mobile devices to communicate with dispatch
14 and supervisors at all times, including during unpaid meal periods. Defendants expected that
15 Plaintiff and other non-party Aggrieved Employees respond to calls and text messages
16 promptly to discuss work-related matters. For example, Plaintiff had his meal periods
17 interrupted by calls from dispatch to discuss current job status, estimated time of completion,
18 and other work-related matters. However, Defendants did not compensate Plaintiff and other
19 non-party Aggrieved Employees for the time they spent communicating with dispatch and
20 supervisors regarding work-related issues during meal periods while off-the-clock.

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

1 Thus, Defendants did not record all hours worked during meal periods, and Plaintiff and other
2 non-party Aggrieved Employees performed work during meal periods for which they were not
3 paid.

4 68. Defendants knew or should have known that, as a result of these company-wide
5 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
6 their assigned duties off-the-clock and/or during meal periods, and were suffered or permitted
7 to perform work for which they were not paid. Because Plaintiff and other non-party
8 Aggrieved Employees worked shifts of eight (8) hours a day or more, or forty (40) hours a
9 week or more, some of this off-the-clock work qualified for overtime premium pay.
10 Therefore, Plaintiff and other non-party Aggrieved Employees were not paid overtime wages
11 for all of the overtime hours they actually worked.

12 69. Furthermore, Defendants did not pay Plaintiff and other non-party Aggrieved
13 Employees the correct overtime rate for the recorded overtime hours that they generated. In
14 addition to an hourly wage, Defendants paid Plaintiff and other non-party Aggrieved
15 Employees incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of
16 remuneration. However, in violation of the California Labor Code, Defendants failed to
17 incorporate all compensation, including incentive pay, nondiscretionary bonuses, fringe
18 benefit pay, and/or other forms of remuneration, into the calculation of the regular rate of pay
19 for purposes of calculating the overtime wage rate. Therefore, during times when Plaintiff
20 and other non-party Aggrieved Employees worked overtime and received these other forms of
21 pay, Defendants failed to pay all overtime wages by paying a lower overtime rate than
22 required.

23 70. For example, Defendants paid Plaintiff and other non-party Aggrieved
24 Employees fringe benefit pay. On information and belief, fringe benefit payments were listed
25 on Plaintiff's and other non-party Aggrieved Employees' wage statements as "CshFrg."
26 During pay periods that Plaintiff and other non-party Aggrieved Employees were paid
27 overtime wages, Defendants failed to incorporate fringe benefit pay into Plaintiff's and other
28 non-party Aggrieved Employees' regular rate of pay and, as a result, paid them at incorrect

1 and lower rates of pay for overtime hours worked. Specifically, Defendants paid Plaintiff and
2 other non-party Aggrieved Employees 1.5 times their hourly rate of pay instead of 1.5 times
3 their regular rate of pay. Defendants' failure to properly calculate the overtime rates of pay
4 based on all remuneration paid has resulted in an underpayment of overtime wages to Plaintiff
5 and other non-party Aggrieved Employees on a company-wide basis.

6 71. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
7 the balance of overtime compensation as required by California law, violates the provisions of
8 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
9 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
10 558 and/or 2699(a), (f), and (g).

11 **FAILURE TO PAY MINIMUM WAGES**

12 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

13 72. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
14 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment
15 of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in
16 IWC Wage Order No. 16-2001 as "the time during which an employee is subject to the control
17 of an employer, and includes all the time the employee is suffered or permitted to work,
18 whether or not required to do so." Cal. Code. Regs. tit. 8, § 11160(2)(J) (defining "Hours
19 Worked").

20 73. As stated above, during the relevant time period, Defendants failed to provide
21 Plaintiff and other non-party Aggrieved Employees with an appropriate timekeeping
22 mechanism, such as a time clock or electronic timekeeping system, to accurately track and
23 record their hours worked. Instead, Defendants maintained a policy and/or practice of
24 altering, adjusting, and/or falsifying employee handwritten timesheets to reflect scheduled
25 hours rather than hours actually worked, thereby shorting Plaintiff and other non-party
26 Aggrieved Employees for work performed outside their scheduled shifts. Moreover, due to
27 Defendants' policy of rounding or underreporting Plaintiff's and other non-party Aggrieved
28 Employees' clock-in and clock-out times in their timekeeping system to the nearest quarter-

1 hour, Defendants failed to compensate Plaintiff and other non-party Aggrieved Employees
2 fully for all hours worked.

3 74. Further, as stated above, due to Defendants' policies and/or practices of
4 assigning heavy workloads while allowing insufficient time to complete assigned jobs, failing
5 to schedule meal periods, requiring employees to take their meal periods while driving, and
6 requiring employees to respond to calls at all times, Plaintiff and other non-party Aggrieved
7 Employees were forced to forego meal periods, have their meal periods interrupted, and/or
8 were otherwise not relieved of all duties during meal periods. Moreover, as stated, in order to
9 prevent employees from accruing meal period penalties, upon information and belief,
10 Defendants' management pressured employees to record compliant meal periods, adjusted
11 employee time records to reflect compliant meal periods, and/or automatically deducted 30-
12 minute meal periods from Plaintiff's and other non-party Aggrieved Employees' time records
13 even when meal periods were missed, short, and/or interrupted. Thus, Defendants
14 systematically failed to pay Plaintiff and other non-party Aggrieved Employees for actual
15 hours worked during unpaid meal periods because these hours were not always correctly
16 recorded.

17 75. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
18 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
19 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
20 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
21 1194, 1197, and 1198.

22 76. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
23 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
24 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
25 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

26 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
27 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

28 77. At all relevant times herein set forth, the applicable IWC Wage Order and

California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and non-party Aggrieved Employees' employment by Defendants.

78. At all relevant times herein set forth, California Labor Code section 512(a) provides that 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 a 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).

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

80. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198, 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.

81. First, during the relevant time period, as stated, Defendants had, and continue to have, a company-wide policy and/or practice of assigning heavy workloads and scheduling time-sensitive jobs while allowing insufficient time for the employees to actually complete the jobs, which resulted in a lack of meal period coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, Defendants had company-wide practices and/or policies of failing to schedule meal periods, pressuring employees to eat their meals while driving between customers' sites, and requiring employees to use personal mobile devices to communicate with dispatch and supervisors during meal periods, which further caused

1 Plaintiff and other non-party Aggrieved Employees to not be relieved of their duties for
2 compliant meal periods. For example, Plaintiff worked through most of his meal periods, in
3 order to complete his jobs within Defendants' management's expectations. On a rare occasion
4 when Plaintiff was able to take a meal period, he was required to drive while eating or respond
5 to phone calls from dispatch about his location and estimated time of arrival at the next job
6 site. Thus, as a result of Defendants' policies and/or practices, Plaintiff and other non-party
7 Aggrieved Employees were forced to work in excess of five (5) hours before taking a meal
8 period and, most of the time, had their meal periods interrupted, and/or had to forgo their meal
9 periods altogether.

10 82. Defendants also did not provide Plaintiff and other non-party Aggrieved
11 Employees with second 30-minute meal periods on days that they worked in excess of ten (10)
12 hours in one day. During his employment, Plaintiff worked shifts in excess of ten (10) or
13 more hours per day but was never provided a second 30-minute meal period. Plaintiff and
14 other non-party Aggrieved Employees did not sign valid meal period waivers on days that
15 they were entitled to meal periods and were not relieved of all duties.

16 83. At all times herein mentioned, Defendants knew or should have known that, as
17 a result of these policies, Plaintiff and other non-party Aggrieved Employees were prevented
18 from being relieved of all duties and required to perform some of their assigned duties during
19 meal periods. Defendants further knew or should have known that Defendants did not pay
20 Plaintiff and other non-party Aggrieved Employees meal period premiums when meal periods
21 were late, interrupted, shortened, or missed.

22 84. As set forth above, on information and belief, because Defendants frowned
23 upon employees accruing meal period penalties, Defendants' management pressured Plaintiff
24 and other non-party Aggrieved Employees to record that they took meal periods on their
25 timesheets regardless of whether they had received a compliant meal period or not, in order to
26 strictly limit meal penalties that would need to be paid by Defendants. Alternatively,
27 Defendants' management would adjust employees' time records to reflect compliant meal
28 periods or would automatically deduct 30-minute meal periods from Plaintiff's and other non-

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

7 85. Moreover, 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 this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
10 have not received premium pay for all missed, late, and interrupted meal periods.
11 Alternatively, to the extent that Defendants did pay Plaintiff and other non-party Aggrieved
12 Employees premium pay for missed, late, and interrupted meal periods, Defendants did not
13 pay Plaintiff and other non-party Aggrieved Employees at the correct rate of pay for
14 premiums because Defendants systematically failed to include all forms of compensation,
15 such as incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of
16 remuneration, in the regular rate of pay.

17 86. Defendants' conduct violates the applicable IWC Wage Order, and California
18 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
19 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
20 558 and/or 2699(a), (f), and (g).

21 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

22 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

23 87. At all relevant times herein set forth, the applicable IWC Wage Order and
24 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
25 non-party Aggrieved Employees' employment by Defendants.

26 88. At all relevant times, the applicable IWC Wage Order provides that "[e]very
27 employer shall authorize and permit all employees to take rest periods, which insofar as
28 practicable shall be in the middle of each work period" and that the "rest period time shall be

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

4 89. At all relevant times, California Labor Code section 226.7 provides that no
5 employer shall require an employee to work during any rest period mandated by an applicable
6 order of the California IWC. To comply with its obligation to authorize and permit rest
7 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
8 employer must “relinquish any control over how employees spend their break time, and
9 relieve their employees of all duties—including the obligation that an employee remain on
10 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
11 *Inc.*, 2 Cal. 5th 257, 269-270 (2016).

12 90. Pursuant to the applicable IWC Wage Order and California Labor Code section
13 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
14 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
15 required rest period was not authorized and permitted.

16 91. During the relevant time period, Defendants regularly failed to authorize and
17 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
18 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
19 Defendants’ company-wide scheduling policies and practices, while simultaneously assigning
20 heavy workloads, prevented Plaintiff and other non-party Aggrieved Employees from being
21 able to take rest periods. Defendants also failed to schedule rest periods, which, coupled with
22 Defendants’ failure to provide adequate rest period coverage, further led to Plaintiff and other
23 non-party Aggrieved Employees not being authorized and permitted to take rest periods.
24 Moreover, as stated, Plaintiff and other non-party Aggrieved Employees were required to
25 respond to communications from dispatch or management on their personal mobile devices at
26 all times, including during rest periods.

27 92. Furthermore, on information and belief, Defendants maintained and
28 implemented a company-wide on-premises rest period policy, which mandated that Plaintiff

1 and/or other non-party Aggrieved Employees remain on the premises during their rest periods.
2 Because Plaintiff and/or other non-party Aggrieved Employees were restricted from leaving
3 Defendants' premises during rest periods, they were denied the ability to use their rest periods
4 freely for their own purposes, such as running personal errands. Thus, Defendants effectively
5 maintained control over Plaintiff and/or other non-party Aggrieved Employees during rest
6 periods.

7 93. As a result of Defendants' practices and policies, Plaintiff and other non-party
8 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
9 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
10 were entitled. For example, Plaintiff had to forego his rest periods altogether, due to
11 Defendants' policy of assigning heavy workloads and management's expectation that all
12 employees would work through their rest periods.

13 94. Defendants have also engaged in a company-wide practice and/or policy of not
14 paying all rest period premiums owed when compliant rest periods are not authorized and
15 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
16 Employees have not received premium pay for all missed rest periods. Alternatively, to the
17 extent that Defendants did pay Plaintiff and other non-party Aggrieved Employees one (1)
18 additional hour of premium pay for missed rest periods, Defendants did not pay Plaintiff and
19 other non-party Aggrieved Employees at the correct rate of pay for premiums because
20 Defendants failed to include all forms of compensation, such as incentive pay,
21 nondiscretionary bonuses, fringe benefit pay, and/or other forms of remuneration, in the
22 regular rate of pay.

23 95. Accordingly, Defendants failed to authorize and permit all compliant rest
24 periods and failed to pay the full rest period premiums due. Defendants' conduct violates the
25 applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198.
26 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
27 penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

28 //

FAILURE TO PROVIDE HEAT RECOVERY PERIODS
VIOLATION OF LABOR CODE §§ 226.7, 516, AND 1198, AND CALIFORNIA
CODE OF REGULATIONS TITLE 8, SECTION 3395

96. At all relevant times herein set forth, the applicable General Industry Safety Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other non-party Aggrieved Employees' employment by Defendants.

97. At all relevant times, 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 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.*

98. During the relevant time period, Defendants violated California Labor Code section 226.7 and California Code of Regulations, Title 8, sections 3395(c) and (d), because Defendants failed to provide Plaintiff and other non-party Aggrieved Employees with recovery periods. For example, Plaintiff worked in high temperatures, was not provided with drinking water close to his work areas, was not provided an adequate shaded area for recovery near his work areas, and was not permitted to take recovery periods in a shaded area while working at various job sites due to a heavy workload and Defendants' expectations.

1 99. Defendants also has engaged in a company-wide practice and/or policy of not
2 paying all recovery period premiums owed when compliant recovery periods are not provided.
3 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
4 have not received premium pay for all missed recovery periods. Alternatively, to the extent
5 that Defendants did pay Plaintiff and other non-party Aggrieved Employees for missed
6 recovery periods, Defendants did not pay Plaintiff and other non-party Aggrieved Employees
7 at the correct rate of pay, because Defendants systematically failed to include all
8 compensation, such as incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or
9 other forms of remuneration, in the regular rate of pay.

10 100. Defendants' conduct violates the applicable General Industry Safety Order and
11 California Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
12 Employees are therefore entitled to civil penalties pursuant to Labor Code sections 558 and/or
13 2699(a), (f)-(g).

14 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
15 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

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

21 102. During the relevant time period, Defendants have knowingly and intentionally
22 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
23 inaccurate wage statements. For example, Defendants issued uniform wage statements to
24 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
25 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
26 the pay period, including rates of pay for overtime wages and/or meal, rest, and recovery
27 period premiums, and the corresponding number of hours worked at each hourly rate.
28 Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

103. Because Defendants did not record the time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock, improperly rounded their total hours worked, 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), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and other non-party 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).

104. Additionally, because Defendants did not calculate Plaintiff's and other non-party Aggrieved Employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal, rest, and recovery period premiums, Defendants did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal, rest, and recovery period premiums in violation of section 226(a)(9).

105. 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.

106. 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), Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party 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 Plaintiff’s and other non-party Aggrieved Employees’ total hours worked.

107. 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, Defendants 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, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Plaintiff and other non-party Aggrieved Employees, in violation of section 1198. Furthermore, in light of Defendants’ failure to provide Plaintiff and other non-party Aggrieved Employees with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

108. Defendants’ conduct violates California Labor Code 226(a), 1174(d), and 1198.

1 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
2 penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

3 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

4 **VIOLATION OF LABOR CODE SECTION 204**

5 109. At all relevant times herein set forth, California Labor Code section 204
6 requires that all wages earned by any person in any employment between the 1st and the 15th
7 days, inclusive, of any calendar month, other than those wages due upon termination of an
8 employee, are due and payable between the 16th and the 26th day of the month during which
9 the labor was performed. Labor Code section 204 further provides that all wages earned by
10 any person in any employment between the 16th and the last day, inclusive, of any calendar
11 month, other than those wages due upon termination of an employee, are due and payable
12 between the 1st and the 10th day of the following month.

13 110. At all relevant times herein, California Labor Code section 204 also requires
14 that all wages earned for labor in excess of the normal work period shall be paid no later than
15 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
16 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
17 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
18 more than seven (7) calendar days following the close of the payroll period.

19 21. During the relevant time period, Defendants willfully failed to pay Plaintiff and
20 other non-party Aggrieved Employees all wages due to them within any time period specified
21 by California Labor Code section 204 including, but not limited to, overtime wages; minimum
22 wages; meal, rest, and recovery period premiums; and/or reporting time pay.

23 111. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
24 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

25 **FAILURE TO PAY WAGES UPON TERMINATION**

26 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

27 112. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
28 that if an employer discharges an employee, the wages earned and unpaid at the time of

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

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

11 113. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
12 who are no longer employed by Defendants their wages earned and unpaid at the time of
13 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
14 Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are
15 therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or
16 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE WRITTEN NOTICE OF PAID SICK LEAVE BENEFITS**
18 **VIOLATION OF LABOR CODE SECTION 246**

19 114. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
20 provide employees who have worked in California for 30 or more days from the
21 commencement of employment with paid sick days, to be accrued at least one hour for every
22 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must
23 provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or
24 paid time off) in each year of the employee's employment. Codified at California Labor Code
25 sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an
26 employer must provide an employee with written notice that sets forth the amount of paid sick
27 leave available, or paid time off that an employer provides in lieu of sick leave, for use on
28 either the employee's itemized wage statement or in a separate written statement provided on

1 the designated pay date with the employee's wages.

2 115. During the relevant time period, Defendants have failed to provide Plaintiff and
3 other non-party Aggrieved Employees written notice on wage statements and/or other separate
4 written statements that listed the amount of paid sick leave (or equivalent paid leave or paid
5 time off) available to them. Defendants' ongoing and systematic failure to provide written
6 notice of sick leave benefits to Plaintiff and other non-party Aggrieved Employees violates
7 California Labor Code section 246(i).

8 116. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to
9 recover civil penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

10 **FAILURE TO PAY REPORTING TIME PAY**

11 **VIOLATION OF LABOR CODE SECTION 1198**

12 117. California Labor Code section 1198 makes it illegal to employ an employee
13 under conditions of labor that are prohibited by the applicable wage order. California Labor
14 Code section 1198 requires that ". . . the standard conditions of labor fixed by the commission
15 shall be the . . . standard conditions of labor for employees. The employment of any employee
16 . . . under conditions of labor prohibited by the order is unlawful."

17 118. California Code of Regulations, Title 8, section 11160(5)(B) provides that
18 "[e]ach workday an employee is required to report for work and does report, but is not put to
19 work or is furnished less than half said employee's usual or scheduled day's work, the
20 employee shall be paid for half the usual or scheduled day's work, but in no event for less
21 than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which
22 shall not be less than the minimum wage." The "primary purpose of the reporting time
23 regulation" is "to guarantee at least partial compensation for employees who report to work
24 expecting to work a specified number of hours, and who are deprived of that amount because
25 of inadequate scheduling or lack of proper notice by the employer." *Aleman v. AirTouch*
26 *Cellular*, 209 Cal. App. 4th 556 (2012).

27 119. On information and belief, Defendants violated California Labor Code section
28 1198 and California Code of Regulations, Title 8, section 11160(5), because Defendants failed

1 to pay other non-party Aggrieved Employees reporting time pay when they reported to work
2 for their usual or scheduled shifts, but were put to work for less than half of the usual or
3 scheduled shift. For example, on occasions when employees reported to work for their
4 scheduled shifts, Defendants' management sent employees home within the first half of their
5 scheduled shifts because business was slow. When this would occur, Defendants did not pay
6 other non-party Aggrieved Employees for at least half of their usual or scheduled day's work
7 or the minimum reporting time pay when they were subject work for less than half of the usual
8 or scheduled shift. Although other non-party Aggrieved Employees reported to work based on
9 the schedule that Defendants provided to them, Defendants would send them home before
10 they had worked at least half of their scheduled shifts without giving them reporting time pay.

11 120. Accordingly, other non-party Aggrieved Employees were not properly
12 compensated with reporting time pay in violation of California Labor Code section 1198 and
13 California Code of Regulations, Title 8, section 11050(5). Other non-party Aggrieved
14 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
15 2699(a), (f), and (g).

16 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

17 **VIOLATION OF LABOR CODE SECTION 2802**

18 121. At all times herein set forth, California Labor Code section 2802 provides that
19 an employer must reimburse employees for all necessary expenditures and losses incurred by
20 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
21 to prevent employers from passing off their cost of doing business and operating expenses on
22 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
23 (2014). The applicable wage order, IWC Wage Order No. 16-2001, provides that: "[w]hen
24 tools or equipment are required by the employer or are necessary to the performance of a job,
25 such tools and equipment shall be provided and maintained by the employer, except that an
26 employee whose wages are at least two (2) times the minimum wage provided herein may be
27 required to provide and maintain hand tools and equipment customarily required by the trade
28 or craft." IWC Wage Order No. 16-2001 provides that: "[w]hen uniforms are required by the

1 employer to be worn by the employee as a condition of employment, such uniforms shall be
2 provided and maintained by the employer.”

3 122. First, during the relevant time period, Plaintiff and other non-party Aggrieved
4 Employees were required to use their personal mobile devices, including, but not limited to,
5 cellular phones, and/or mobile data to carry out their job duties, but Defendants failed to
6 reimburse them for the costs of their work-related mobile device expenses. For example,
7 Plaintiff was required to use his personal cellular phone to navigate to customer sites and to
8 converse with his supervisors and dispatch about work-related matters. Further, Plaintiff was
9 required to download an “Openpath Mobile Access” mobile application on his personal
10 mobile device which he used to unlock the gate at the company location in order to access his
11 company vehicle. Although Defendants required Plaintiff and other non-party Aggrieved
12 Employees to utilize their personal mobile devices and/or mobile data to carry out their work-
13 related responsibilities, Defendants failed to reimburse them for these costs.

14 123. Second, during the relevant time period, Defendants, on a company-wide basis,
15 expected Plaintiff and other non-party Aggrieved Employees to wear uniform shirts bearing
16 the company logo. However, Defendants did not provide its employees with sufficient
17 uniforms to wear for their shifts throughout the week. For example, Defendants only provided
18 Plaintiff with three shirts at the time of hire. Because Defendants failed to provide Plaintiff
19 with an adequate number of uniform items, Plaintiff had to wash his uniforms more frequently
20 than he would otherwise do laundry, and incur expenses in doing so. For example, due to the
21 nature of construction work, Plaintiff’s uniforms would become riddled with dust and pieces
22 of concrete, and/or acquire an unpleasant odor such that he was unable to mix these clothes in
23 with his other laundry. As a result, Plaintiff had to wash his uniform items separately from his
24 regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms.
25 Thus, Defendants failed to maintain the uniforms they required Plaintiff and other non-party
26 Aggrieved Employees to wear during their shifts and forced them to incur the cost of
27 maintaining employee uniforms.

28 124. Third, during the relevant time period, Defendants, on a company-wide basis,

1 required Plaintiff and other non-party Aggrieved Employees to wear special safety shoes such
2 as steel-toed boots, which they were required to wear while at work and necessary for the
3 completion of their work-related duties. For example, Plaintiff spent around \$450 on two
4 pairs of steel-toed boots throughout his employment with Defendants, but was not reimbursed
5 for his costs. Thus, Defendants failed to provide or reimburse Plaintiff and other non-party
6 Aggrieved Employees for the steel-toed boots they required employees to wear during their
7 shifts.

8 125. Defendants could have provided Plaintiff and other non-party Aggrieved
9 Employees with the actual equipment for use on the job, such as company mobile devices,
10 steel-toed boots, and an adequate number of uniform items or access to laundering services.
11 Or, Defendants could have reimbursed employees for the costs of their mobile device usage,
12 boot expenses, and laundering expenses or provided a uniform maintenance allowance.
13 Instead, Defendants passed these operating costs off onto Plaintiff and other non-party
14 Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two (2) times the
15 minimum wage.

16 126. Defendants' company-wide policy and/or practice of not reimbursing
17 employees for expenses necessarily incurred and passing on their operating costs to Plaintiff
18 and other non-party Aggrieved Employees violates California Labor Code section 2802.
19 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
20 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

21 **FAILURE TO PROVIDE SAFETY DEVICES AND SAFEGUARDS**

22 **VIOLATION OF LABOR CODE SECTIONS 6401 AND 6403**

23 127. At all relevant times herein, California Labor Code section 6401 provides that
24 employers must furnish and use safety devices and safeguards, and adopt and use practices,
25 means, methods, operations, and processes which are reasonably adequate to render the
26 employment and place of employment safe and healthy. California Labor Code Section 6401
27 further provides that an employer must do everything reasonably necessary to protect the life,
28 safety and health of its employees.

128. During the relevant period, as stated above, Defendants failed to provide Plaintiff and other non-party Aggrieved Employees with personal protective equipment, such as steel-toed boots to keep them safe in the workplace. Despite the fact that Defendants required Plaintiff and other non-party Aggrieved Employees to wear certain personal protective equipment, including steel-toed boots, while engaged in their work-related duties, Defendants failed to provide such reasonably necessary equipment to Plaintiff and other non-party Aggrieved Employees to keep them safe.

129. Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with safety devices and safeguards for the workplace violates Labor Code sections 6401 and 6403. Plaintiff and other non-party Aggrieved Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f), and (g).

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars (\$25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing to include all forms of remuneration in the “regular rate” of pay for purposes of paying overtime wages and/or meal, rest, and recovery period premiums; 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to

1 authorize and permit all rest periods); 226.7, 516, and 1198 (by failing to provide heat
2 recovery periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements
3 and maintain accurate payroll records); 204 (by failing to timely pay all earned wages during
4 employment); 201 and 202 (by failing to timely pay all earned wages upon termination); 246
5 (by failing to provide written notice of paid sick leave or paid time off available); 1198 and
6 the applicable IWC Wage Order (by failing to provide reporting time pay); 2802 (by failing to
7 reimburse business expenses); and 6401 and 6403 (by failing to provide safety devices and
8 safeguards);

9 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3,
10 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections
11 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198,
12 2802, 6401, and 6403;

13 4. For attorneys' fees and costs pursuant to California Labor Code section
14 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
15 Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12,
16 1194, 1197, 1198, 2802, 6401, and 6403;

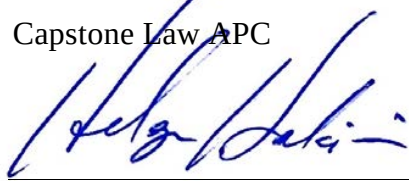
17 5. For pre-judgment and post-judgment interest as provided by law; and

18 6. For such other and further relief as the Court may deem equitable and
19 appropriate.
20

21 Dated: October 10, 2022

Respectfully submitted,

Capstone Law APC

22
23
24 By: 

25 Orlando Villalba
26 Helga Hakimi
27 Roxanna Tabatabaeepour

28 Attorneys for Plaintiff Jonatan Quiroz

EXHIBIT “1”



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

NINEL KOCHARYAN
310.712.8146 Direct
Ninel.Kocharyan@capstonelawyers.com

August 3, 2022

VIA ONLINE SUBMISSION

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

Subject: *Jonatan Quiroz v. American Incorporated, et al.*

Dear PAGA Administrator:

This office represents Jonatan Quiroz in connection with his claims under the California Labor Code. Mr. Quiroz was an employee of AMERICAN INCORPORATED and/or CROSSFIRE CONSTRUCTION COMPANY. For the purpose of this letter, Mr. Quiroz collectively refers to these entities as "AI."

The employers may be contacted directly at the addresses below:

AMERICAN INCORPORATED
1345 N. AMERICAN STREET
VISALIA, CA 93291

CROSSFIRE CONSTRUCTION COMPANY
1345 N. AMERICAN STREET
VISALIA, CA 93291

CROSSFIRE CONSTRUCTION COMPANY
5211 W. GOSHEN AVE #179
VISALIA, CA 93291

Mr. Quiroz 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. Quiroz seeks relief on behalf of himself, the State of California, and other persons who are or were employed by AI 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.

AI employed Mr. Quiroz as an hourly paid, non-exempt Company Driver and Saw Cutter from approximately January 2022 to June 2022. During his employment, Mr. Quiroz typically worked twelve (12) or more hours per day and five (5) to seven (7) days per week. By the end of his employment, Mr. Quiroz was compensated approximately \$18.50 per hour. His job duties included,

without limitation, driving to various assigned job sites, cutting concrete and asphalt, and communicating with customers and management.

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

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

AMERICAN INCORPORATED and CROSSFIRE CONSTRUCTION COMPANY are California corporations that serve the western United States providing services in all aspects of planning, engineering, design, construction, fabrication, and service maintenance. Upon information and belief, AI maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Visalia, California, for all non-exempt, hourly paid employees working for AI in California, including Mr. Quiroz and other aggrieved employees. At all relevant times, AI issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Quiroz and other aggrieved employees, regardless of their location or position.

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

AI willfully failed to pay all overtime wages owed to Mr. Quiroz and other aggrieved employees. During the relevant time period, Mr. Quiroz 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 ten (10) 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 period, AI had a policy and/or practice of discouraging and impeding Mr. Quiroz 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. In doing so, AI failed to implement a timekeeping system at its jobsites and does not provide employees with any mechanism, such as a time clock or electronic timekeeping system, to accurately track and record their hours worked. Instead, AI's policy and/or practice is to require employees, including Mr. Quiroz and other aggrieved employees, to fill out handwritten timesheets and to submit them to management at the end of each day for review and approval. Upon information and belief, management has subsequently and frequently interlineated, altered, and/or falsified timesheets to reflect scheduled shift start-times and shift end-times instead of their actual hours worked and/or rounded clock-in and clock-out times to the nearest quarter of an hour to limit overtime hours employees were eligible to be compensated for. Upon information and belief, AI's timekeeping policies are, and continue to be, unfair and have, over time, resulted in the underpayment of wages to Mr. Quiroz and other aggrieved employees. To the extent AI's timekeeping policies have taken away time worked that was eligible for overtime, Mr. Quiroz and other aggrieved employees have been denied overtime pay for all hours worked. Further, once timesheets were submitted for the day, employees had no way of recording any additional time worked.

For instance, on one occasion after Mr. Quiroz had already finished work and submitted his timesheet, he was contacted by his supervisor and required to return to a job site to complete a job. Mr. Quiroz drove to the company yard, picked up his company vehicle, drove to the job site, completed the necessary tasks, returned to the company yard to drop off the company vehicle, and drove home which took him a total of four (4) hours. Because AI did not provide him with a mechanism to record this time worked, Mr. Quiroz was never paid for this time. As another example, Mr. Quiroz and other aggrieved employees were required to attend company meetings after their shifts. Management frowned upon employees recording this time worked and pressured employees to attend these meetings off-the-clock. Mr. Quiroz attended about four (4) meetings throughout his employment which took about one (1) hour each occurrence, time for which he was not paid. Because AI prohibited Mr. Quiroz and other aggrieved employees from recording their actual hours worked, Mr. Quiroz and other aggrieved employees were not paid for all hours worked.

Second, AI has, systematically, and on a company-wide basis, scheduled and dispatched its employees to complete time-sensitive jobs, which included traveling to various locations, cutting asphalt or concrete, and communicating with customers, without building in sufficient time to allow for 30-minute meal periods, such that Mr. Quiroz and other aggrieved employees were prevented from taking all timely, uninterrupted 30-minute meal periods, and were also forced to work off-the-clock during their meal periods to complete their assigned routes. Completing the jobs could take longer than the time AI allotted for them, such that Mr. Quiroz and other aggrieved employees were unable to take compliant meal periods. In conjunction with varying job durations, travel time between job sites could take longer than anticipated due to traffic conditions, which further impeded Mr. Quiroz and other aggrieved employees from taking compliant meal periods. And, upon information and belief, AI had no mechanism in place to permit Mr. Quiroz and other aggrieved employees to take meal periods when the schedule was thrown off because one or more of their jobs

took longer than the scheduled time, or if travel time between job sites was extended by traffic conditions. AI also had a practice of failing to schedule meal periods, which further caused Mr. Quiroz and other aggrieved employees to not be relieved of their duties for compliant meal periods. In addition, even when Mr. Quiroz and other aggrieved employees were able to take their meal periods, AI pressured them to eat their meals while driving between customer sites.

Third, AI had, and continues to have, a company-wide policy and/or practice of requiring employees to use personal mobile devices and/or personal cellular phones to communicate with dispatch and supervisors at all times, including during unpaid meal periods. AI expected that Mr. Quiroz and other aggrieved employees respond to calls and text messages promptly to discuss work-related matters. For example, Mr. Quiroz had his meal periods interrupted by calls from dispatch to discuss current job status, estimated time of completion, and other work-related matters. However, AI did not compensate Mr. Quiroz and other aggrieved employees for the time they spent communicating with dispatch and supervisors regarding work-related issues during meal periods while off-the-clock.

Fourth, on information and belief, because AI frowned upon employees accruing meal period penalties, AI's management pressured Mr. Quiroz 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 AI. Alternatively, AI's management would adjust employees' time records to reflect compliant meal periods or would automatically deduct 30-minute meal periods from Mr. Quiroz's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Thus, AI did not record all hours worked during meal periods, and Mr. Quiroz and other aggrieved employees performed work during meal periods for which they were not paid.

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

Furthermore, AI did not pay Mr. Quiroz and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, AI paid Mr. Quiroz and other aggrieved employees incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of remuneration. However, in violation of the California Labor Code, AI failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, fringe benefit pay, 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 Mr. Quiroz and other aggrieved employees worked overtime and received these other forms of pay, AI failed to pay all overtime wages by paying a lower overtime rate than required.

For example, AI paid Mr. Quiroz and other aggrieved employees fringe benefit pay. On information and belief, fringe benefit payments were listed on Mr. Quiroz's and other aggrieved employees' wage statements as "CshFrg." During pay periods that Mr. Quiroz and other aggrieved employees were paid overtime wages, AI failed to incorporate fringe benefit pay into Mr. Quiroz's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, AI paid Mr. Quiroz and other aggrieved employees 1.5

times their hourly rate of pay instead of 1.5 times their regular rate of pay. AI's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Quiroz and other aggrieved employees on a company-wide basis.

AI's failure to pay Mr. Quiroz 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. Mr. Quiroz 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 IWC Wage Order No. 16-2001 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, § 11160(2)(J) (defining "Hours Worked").

As set forth above, during the relevant time period, AI failed to provide Mr. Quiroz and other aggrieved employees with an appropriate timekeeping mechanism, such as a time clock or electronic timekeeping system, to accurately track and record their hours worked. Instead, AI maintained a policy and/or practice of altering, adjusting, and/or falsifying employee handwritten timesheets to reflect scheduled hours rather than hours actually worked, thereby shorting Mr. Quiroz and other aggrieved employees for work performed outside their scheduled shifts. Moreover, due to AI's policy of rounding or underreporting Mr. Quiroz's and other aggrieved employees' clock-in and clock-out times in its timekeeping system to the nearest quarter-hour, AI failed to compensate Mr. Quiroz and other aggrieved employees fully for all hours worked.

Further, as stated above, due to AI's policies and/or practices of assigning heavy workloads while allowing insufficient time to complete assigned routes, failing to schedule meal periods, requiring employees to take their meal periods while driving, and requiring employees to respond to calls at all times, Mr. Quiroz and other aggrieved employees were forced to forego meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Moreover, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, AI'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 Mr. Quiroz's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Thus, AI systematically failed to pay Mr. Quiroz and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, AI did not pay at least minimum wages for all hours worked by Mr. Quiroz and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, AI 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, AI regularly failed to pay at least minimum wages to Mr. Quiroz 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. Quiroz 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.

As stated, AI had, and continues to have, a company-wide policy and/or practice of assigning heavy workloads and scheduling time-sensitive jobs while allowing insufficient time for the employees to actually complete the jobs, which resulted in a lack of meal period coverage and prevented Mr. Quiroz and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, AI had company-wide practices and/or policies of failing to schedule meal periods, pressuring employees to eat their meals while driving between customers' sites, and requiring employees to use personal mobile devices and/or personal cellular phones to communicate with dispatch and supervisors during meal periods, which further caused Mr. Quiroz and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Quiroz worked through most of his meal periods, in order to complete his jobs within AI's management's expectations. On a rare occasion when Mr. Quiroz was able to take a meal period, he was required to drive while eating or respond to phone calls from dispatch about his location and estimated time of arrival at the next job site. Thus, as a result of AI's policies and/or practices, Mr. Quiroz and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, most of the time, had their meal periods interrupted, and/or had to forgo their meal periods altogether.

AI also did not provide Mr. Quiroz and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During his employment, Mr. Quiroz worked shifts in excess of ten (10) or more hours per day but was never provided a second 30-minute meal period. Mr. Quiroz 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.

At all times herein mentioned, AI knew or should have known that, as a result of these policies, Mr. Quiroz and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. AI further knew or should have known

that AI did not pay Mr. Quiroz and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, or missed.

As set forth above, on information and belief, because AI frowned upon employees accruing meal period penalties, AI's management pressured Mr. Quiroz 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 AI. Alternatively, AI's management would adjust employees' time records to reflect compliant meal periods or would automatically deduct 30-minute meal periods from Mr. Quiroz's and other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Further, to the extent that AI's rounding policy reported that Mr. Quiroz 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, Mr. Quiroz and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Moreover, AI 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 this practice and/or policy, Mr. Quiroz and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that AI did pay Mr. Quiroz and other aggrieved employees premium pay for missed, late, and interrupted meal periods, AI did not pay Mr. Quiroz and other aggrieved employees at the correct rate of pay for premiums because AI systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, AI failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Quiroz 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, AI regularly failed to authorize and permit Mr. Quiroz 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, AI's company-wide scheduling policies and practices, while simultaneously assigning heavy workloads, prevented Mr. Quiroz and other aggrieved employees from being able to take rest periods. AI also failed to schedule rest periods, which, coupled with AI's failure to provide adequate rest period coverage, further led to Mr. Quiroz and other aggrieved employees not being authorized and permitted to take rest periods. Moreover, as stated, Mr. Quiroz and other aggrieved employees were required to respond to communications from dispatch or management on their personal mobile devices and/or personal cellular phones at all times, including during rest periods.

Furthermore, AI maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Quiroz and/or other aggrieved employees remain on the premises during their rest periods. Because Mr. Quiroz and/or other aggrieved employees were restricted from leaving AI's 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, AI effectively maintained control over Mr. Quiroz and/or other aggrieved employees during rest periods.

As a result of AI's practices and policies, Mr. Quiroz and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Quiroz had to forego his rest periods altogether, due to AI's policy of assigning heavy workloads and management's expectation that all employees would work through their rest periods.

AI has also 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 of this practice and/or policy, Mr. Quiroz and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that AI did pay Mr. Quiroz and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, AI did not pay Mr. Quiroz and other aggrieved employees at the correct rate of pay for premiums because AI failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, AI failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Quiroz 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 "[e]mployees shall have access to potable

drinking water . . . located as close as practicable to the areas where employees are working.” Cal. Code of Reg., Title 8, § 3395(c). The applicable GIS Order further 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, AI violated California Labor Code section 226.7 and California Code of Regulations, Title 8, sections 3395(c) and (d), because AI failed to provide Mr. Quiroz and other aggrieved employees with recovery periods. For example, Mr. Quiroz worked in high temperatures, was not provided with drinking water close to his work areas, was not provided an adequate shaded area for recovery near his work areas, and was not permitted to take recovery periods in a shaded area while working at various job sites due to a heavy workload and AI’s expectations.

AI 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, Mr. Quiroz and other aggrieved employees have not received premium pay for all missed recovery periods. Alternatively, to the extent that AI did pay Mr. Quiroz and other aggrieved employees for missed recovery periods, AI did not pay Mr. Quiroz and other aggrieved employees at the correct rate of pay, because AI systematically failed to include all compensation, such as incentive pay, nondiscretionary bonuses, fringe benefit pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, AI 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. Mr. Quiroz 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. AI has not provided Mr. Quiroz 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, AI has knowingly and intentionally provided Mr. Quiroz and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, AI issued uniform wage statements to Mr. Quiroz 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, AI violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because AI did not record the time Mr. Quiroz 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), AI did not list the correct amount of gross wages and net wages earned by Mr. Quiroz and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, AI failed to accurately list the total number of hours worked by Mr. Quiroz 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)).

Additionally, because AI did not calculate Mr. Quiroz's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal, rest, and recovery period premiums, AI did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, AI failed to list the correct amount of net wages in violation of section 226(a)(5). AI also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, and/or meal and rest premiums, 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. . . .” At all relevant times, and in violation of Labor Code section 1174(d), AI willfully failed to maintain accurate payroll records for Mr. Quiroz 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. Quiroz'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, AI 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, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Quiroz and other aggrieved employees, in violation of section 1198. Furthermore, in light of AI's failure to provide Mr. Quiroz and other aggrieved employees with second 30-minute meal periods to which they were entitled, AI kept no records of meal start and end times for second meal periods.

Because AI failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Quiroz 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. Quiroz 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. Quiroz 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, AI willfully failed to pay Mr. Quiroz and other aggrieved employees all wages due including, but not limited to, overtime wages; minimum wages; meal, rest, and recovery period premiums; and/or reporting time pay, within the time periods specified by California Labor Code section 204.

Mr. Quiroz 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.

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

Mr. Quiroz 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, AI has failed to provide Mr. Quiroz and 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. AI's ongoing and systematic failure to provide written notice of sick leave benefits to Mr. Quiroz and other aggrieved employees violates California Labor Code section 246(i).

Mr. Quiroz and 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(f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11160 Subdivision 5(B) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates 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 11160(5)(B) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of

inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

On information and belief, AI violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11160(5), because AI failed to pay other aggrieved employees reporting time pay when they reported to work for their usual or scheduled shifts, but were put to work for less than half of the usual or scheduled shift. For example, on occasions when employees reported to work for their scheduled shifts, AI’s management sent employees home within the first half of their scheduled shifts because business was slow. When this would occur, AI did not pay other aggrieved employees for at least half of their usual or scheduled day’s work or the minimum reporting time pay when they were subject work for less than half of the usual or scheduled shift. Although other aggrieved employees reported to work based on the schedule that AI provided to them, AI would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11160(5).

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).

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 No. 16-2001, 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. 5-2001 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.”

First, during the relevant time period, Mr. Quiroz and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but AI failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Quiroz was required to use his personal cellular phone to navigate to customer sites and to converse with his supervisors and dispatch about work-related matters. Further, Mr. Quiroz was required to download an “Openpath Mobile Access” mobile application on his personal mobile device which he used to unlock the gate at the company location in order to access his company vehicle. Although AI required Mr. Quiroz and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, AI failed to reimburse them for these costs.

Second, during the relevant time period, AI, on a company-wide basis, expected Mr. Quiroz and other aggrieved employees to wear uniform shirts bearing the company logo. However, AI did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, AI only provided Mr. Quiroz with three shirts at the time of hire. Because AI failed to

provide Mr. Quiroz with an adequate number of uniform items, Mr. Quiroz had to wash his uniforms more frequently than he would otherwise do laundry, and incur expenses in doing so. For example, due to the nature of construction work, Mr. Quiroz's uniforms would become riddled with dust and pieces of concrete, and/or acquire an unpleasant odor such that he was unable to mix these clothes in with his other laundry. As a result, Mr. Quiroz had to wash his uniform items separately from his regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms. Thus, AI failed to maintain the uniforms they required Mr. Quiroz and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

Third, during the relevant time period, AI, on a company-wide basis, required Mr. Quiroz and other aggrieved employees to wear special safety shoes such as steel-toed boots, which they were required to wear while at work and necessary for the completion of their work-related duties. For example, Mr. Quiroz spent around \$450 on two pairs of steel-toed boots throughout his employment with AI, but was not reimbursed for his costs. Thus, AI failed to provide or reimburse Mr. Quiroz and other aggrieved employees for the steel-toed boots they required employees to wear during their shifts.

AI could have provided Mr. Quiroz and other aggrieved employees with the actual tools for use on the job, such as company mobile devices, steel-toed boots, and an adequate number of uniform items or access to laundering services. Or, AI could have reimbursed employees for the costs of their mobile device usage, boot expenses, and laundering expenses or provided a uniform maintenance allowance. Instead, AI passed these operating costs off onto Mr. Quiroz and other aggrieved employees. At all relevant times, Mr. Quiroz did not earn at least two (2) times the minimum wage.

Thus, AI 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. Quiroz 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).

Violation of California Labor Code §§ 6401 and 6403 – Failure to Provide Safety Devices and Safeguards

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

During the relevant period, as stated above, AI failed to provide Mr. Quiroz and other aggrieved employees with personal protective equipment, such as steel-toed boots to keep them safe in the workplace. Despite the fact that AI required Mr. Quiroz and other aggrieved employees to wear certain personal protective equipment, including steel-toed boots, while engaged in their work-related duties, AI failed to provide such reasonably necessary equipment to Mr. Quiroz and other aggrieved employees to keep them safe.

AI's failure to provide Mr. Quiroz and other aggrieved employees with safety devices and safeguards for the workplace violates Labor Code sections 6401 and 6403. Mr. Quiroz and other aggrieved employees

are entitled to recover 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." AI, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Quiroz's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Quiroz 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 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Quiroz, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against AI for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 6401, and 6403.

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

Pre-Litigation Demand

This notice shall further serve as Mr. Quiroz's reasonable attempt to settle her dispute with AI prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform AI of Mr. Quiroz's aforementioned grievances and the proposed remedies as detailed below, while affording AI a reasonable opportunity to satisfy Mr. Quiroz's demands.

Demand is hereby made that AI shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. AI shall pay Mr. Quiroz and all other aggrieved employees employed by AI at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. AI shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal, rest, and recovery periods, and paid all reporting time pay.
3. AI shall conduct a survey or interview all current and former aggrieved employees in California who worked for AI in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; the number of

recovery periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device expenses; uniform maintenance expenses; steel-toed boots, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. AI shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. AI also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198. Additionally, AI also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more recovery periods, as required by Labor Code sections 226.7, 516, and 1198.
5. AI shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for AI's benefit, including, but not limited to, costs of mobile device usage; uniform maintenance expenses; steel-toed boots expenses; or other expenditures, as required by Labor Code section 2802.
6. AI shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. AI shall provide all aggrieved employees employed by AI at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. AI shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
9. AI shall implement and maintain one or more work areas with shade at all times while aggrieved employees are present that are either open to the air or provided with ventilation or cooling, shall provide drinking water near work areas, and shall provide heat recovery periods to aggrieved employees.
10. AI shall provide all aggrieved employees with written notice of sick leave benefits, as set forth in Labor Code section 246(i).
11. AI shall provide all aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
12. AI shall provide all aggrieved employees with safety devices and safeguards reasonably adequate to render the employment and place of employment safe, pursuant to Labor Code sections 6401 and 6403.
13. AI shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 248.5, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 16-2001, section 18.

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

Ninel Kocharyan
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 "Ninel", with a stylized flourish at the end.

Ninel Kocharyan

Copy: AMERICAN INCORPORATED (via U.S. Certified Mail), CROSSFIRE CONSTRUCTION COMPANY (via U.S. Certified Mail)

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

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9590 9402 7420 2055 3569 48

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3. Service Type

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☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
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☐ Adult Signature Restricted Delivery \$

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CROSSFIRE CONSTRUCTION COMPANY
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VISALIA, CA 93291



9590 9402 7420 2055 3569 62

2. Article Number (Transfer from service label)

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

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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™
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CROSSFIRE CONSTRUCTION COMPANY
5211 W. GOSHEN AVE #179
VISALIA, CA 93291

SENDER: COMPLETE THIS SECTION

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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.
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CROSSFIRE CONSTRUCTION COMPANY
5211 W. GOSHEN AVE #179
VISALIA, CA 93291

9590 9402 7420 2055 3569 55

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3419

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

- ☐ 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
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
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2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

Kevin V.

C. Date of Delivery

8-5-22

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 (over \$500)
- ☐ Priority Mail Express®
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A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

K. Anderson

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 (over \$500)
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2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addresssee

B. Received by (Printed Name)

K. Anderson

C. Date of Delivery

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

3. Service Type

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- ☐ Insured Mail (over \$500)
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