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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

MISTY GOODMAN, on behalf of the State
of California and all Aggrieved Employees,

Plaintiff,

v.

W.K.S. FROSTY CORPORATION, a
California Corporation; and DOES 1-100,
inclusive,

Defendants.

Case No.: **CVRI 2504396**

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

1 Plaintiff, MISTY GOODMAN, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants W.K.S.
3 FROSTY CORPORATION, a California Corporation; and DOES 1-100, inclusive. PLAINTIFF is
4 informed and believes and thereon alleges as follows:

5 **INTRODUCTION**

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

10 **JURISDICTION AND VENUE**

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

13 3. Venue is proper in this judicial district and the County of Riverside pursuant to
14 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
15 this judicial district, DEFENDANTS employed Aggrieved Employees, including but not limited to,
16 PLAINTIFF, to work in Riverside County, and conduct alleged by PLAINTIFF herein occurred in
17 this judicial district. *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60
18 Cal.App.5th 1069 (venue in a PAGA action is proper in any county where the defendants committed
19 Labor Code violations against some of its employees). Venue is also proper pursuant to section 393
20 of the California Code of Civil Procedure because the cause, or some part of the cause, arose in the
21 County of Riverside.

22 **THE PARTIES**

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

25 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job
26 title(s) of non-exempt assistant manager and/or a similar job title and/or job position, from in or
27 around 2021 through in or around March 2025. DEFENDANTS assigned PLAINTIFF to work at
28 one of its fast-food restaurants, stores, facilities and/or other locations in Murietta, California, which

operates under the name "Wendy's."

6. Defendant, W.K.S. FROSTY CORPORATION, is a California Corporation that at all relevant times was authorized to do business in California and is doing business in California.

7. DEFENDANTS own, operate, manage and/or staff its employees to work at the fast-food restaurants, stores, facilities and/or other location(s) in California, including but not limited to, in Murietta and other cities located throughout the State of California. DEFENDANTS operate business in California under including but not limited to the following brand names: "Wendy's." Based on information and belief, DEFENDANTS operate at least approximately fifty (50) Wendy's locations throughout California. DEFENDANTS, through its various locations, serve the restaurant and/or fast-food industry.¹

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

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

¹ See <https://www.wksusa.com/>. Last visited on July 21, 2025.

1 **JOINT LIABILITY**

2 10. Under California law, the definition of the terms “to employ” are broadly construed
3 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
4 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
5 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
6 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
7 was to reach situations in which multiple entities control different aspects of the employment
8 relationship. Supervision of the work, in the specific sense of exercising control over how services
9 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
10 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
11 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
12 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
13 California, applying a less stringent standard to what constitutes sufficient control by a business
14 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
15 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
16 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
17 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
18 employment,” *Id.* at 875 [emphasis added].

19 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
20 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
21 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
22 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
23 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)
24 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
25 PLAINTIFF and Aggrieved Employees to work for them.

26 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
27 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
28 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices

1 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
2 policies and practices regardless of the location(s) where they worked. Among other things,
3 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
4 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
5 over the day-to-day operations and employment matters, including the power to hire and fire, set
6 schedules, issue employee policies, and determine rates of compensation across its locations in
7 California; (3) DEFENDANTS utilize the same policies and procedures for all California
8 employees, including issuing the same employee handbooks and other form agreements; (4)
9 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
10 employment matters; and, (6) DEFENDANTS share employees.

11 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
12 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
13 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
14 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
15 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
16 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
17 Employees.

18 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
19 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
20 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
21 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
22 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
23 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
24 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
25 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
26 and Aggrieved Employees' employment with or without cause. Upon information and belief,
27 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
28 writing the details of their compensation, and the manner in which they were to take meal and rest

1 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
2 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
3 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

4 15. For example, DEFENDANTS, and each of them, share the same principal place of
5 business/ mailing address as provided to the California Secretary of State, share similar names and
6 type of business as provided to the California Secretary of State and based on information and belief,
7 utilize some of the same attorneys and/or human resources personnel to oversee employment-related
8 matters.

9 16. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
10 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
11 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
12 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
13 PLAINTIFF seeks relief in this Complaint.

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

17 **PAGA ALLEGATIONS**

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

22 All current and former non-exempt employees that worked either directly or via a
23 staffing agency for any one or more DEFENDANTS at any location in California at
24 any time from one year plus 65 days from the filing of the initial Complaint through
25 the present ("PAGA Period").

26 19. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
27 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
28 limitations period and suffered all of the Labor Code violations set forth herein. Accordingly,

1 PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the
2 civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has
3 standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as
4 PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged
5 violations.

6 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

7 20. PLAINTIFF, on April 9, 2025, through counsel, gave written notice by online filing
8 with the California Labor and Workforce Development Agency (“LWDA”) informing it that
9 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
10 in this Complaint (“PAGA Notice”). The PAGA Notice was also sent to DEFENDANTS via
11 certified mail.

12 21. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
13 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
14 Employees.

15 22. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
16 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
17 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
18 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
19 Consequently, PLAINTIFF’s right to file the instant lawsuit has duly accrued.

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

23 **FACTUAL ALLEGATIONS**

24 24. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
25 worked for DEFENDANTS in the State of California. At all times referenced herein,
26 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
27 permitted them to work.

28 25. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job

1 title(s) of non-exempt assistant manager and/or a similar job title and/or job position, from in or
2 around 2021 through in or around March 2025. DEFENDANTS assigned PLAINTIFF to work at
3 one of its fast-food restaurants, stores, facilities and/or other locations in Murietta, California, which
4 operates under the name “Wendy’s.” DEFENDANTS paid PLAINTIFF an hourly rate for time
5 counted by DEFENDANTS as hours worked.

6 26. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
7 worked shifts of more than five (5) hours, entitling them to at least one meal period.

8 27. At times, PLAINTIFF and other Aggrieved Employees would not receive legally
9 compliant thirty (30) minute first meal breaks.

10 28. For example, Aggrieved Employees were forced to work during meal periods, take
11 interrupted, late, shortened meal periods and/or were restricted to their worksite and/or otherwise
12 required to remain on-duty during unpaid meal periods due to including but not limited to, the need
13 to complete assigned job duties.

14 29. For example, PLAINTIFF was typically interrupted and required to return to work
15 while clocked out for meal periods due to the need to complete assigned job duties and/or lack of
16 relief workers. DEFENDANTS did not pay PLAINTIFF a meal period premium for each missed,
17 worked through and/or otherwise legally noncompliant meal period.

18 30. Also, based on information and belief, at times, DEFENDANTS required Aggrieved
19 Employees to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS
20 failed to take into account when scheduling meal periods for Aggrieved Employees. Based on
21 information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock
22 work.

23 31. Based on information and belief, Aggrieved Employees were at times suffered and
24 permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted,
25 cut short, restricted to DEFENDANTS’ premises and/or otherwise on duty due to commentary from
26 supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet
27 DEFENDANTS’ goals and expectations.

28 32. Based on information and belief, at times, DEFENDANTS implemented policies

1 and/or practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS'
2 control during unpaid meal periods.

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

7 34. Based on information and belief, per DEFENDANTS' uniform policy and practice,
8 Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally
9 compliant thirty (30) minute second meal break.

10 35. Based on information and belief, despite DEFENDANTS' failure to provide lawful
11 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
12 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
13 deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods
14 (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or
15 constructive knowledge that PLAINTIFF and other Aggrieved Employees did not receive lawful
16 meal periods.

17 36. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
18 additional hour of wages at their respective regular rates of compensation for each workday a lawful
19 meal period was not provided.

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

24 38. Aggrieved Employees' rest periods were interrupted, cut short, on duty, restricted to
25 premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due
26 to commentary from supervisors/ managers pressuring Aggrieved Employees to skip rest breaks
27 completely or otherwise take non-compliant rest periods.

28 39. For example, PLAINTIFF was usually required to work during any rest periods due

1 to the need to complete assigned job duties.

2 40. Based on information and belief, Aggrieved Employees' rest periods were
3 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
4 constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring
5 Aggrieved Employees to skip rest breaks completely or otherwise take non-compliant rest periods.

6 41. Based on information and belief, DEFENDANTS failed to provide any form of a
7 third rest period on shifts lasting longer than ten hours.

8 42. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
10 DEFENDANTS' control during rest periods.

11 43. Based on information and belief, Aggrieved Employees were pressured to complete
12 their work duties according to a designated schedule such that rest breaks were only taken once tasks
13 were completed, and/or as time permitted.

14 44. Furthermore, DEFENDANTS failed to pay a rest period premium at PLAINTIFF's
15 and other Aggrieved Employees' respective regular rates of pay for each day in which they
16 experienced a missed/unlawful rest period in violation of California law.

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

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

22 47. For example, DEFENDANTS required, suffered and/or permitted Aggrieved
23 Employees to complete off-the-clock work tasks prior to clocking in for the start of their shifts, after
24 clocking out for the end of their shifts and/or during unpaid meal periods, resulting in
25 DEFENDANTS' failure to compensate Aggrieved Employees for all hours worked and the
26 underpayment of wages owed to those Aggrieved Employees.

27 48. For example, DEFENDANTS did not compensate PLAINTIFF and other Aggrieved
28 Employees for all time spent responding to work-related communications, including but not limited

1 to, communications from supervisors regarding scheduling and/or other work tasks, all time spent
2 donning and doffing personal protective equipment and/or uniforms (e.g., gloves, Wendy's hats,
3 and/or face masks), and/or completing other off-the-clock work tasks, resulting in DEFENDANTS'
4 failure to compensate PLAINTIFF and other Aggrieved Employees for all hours worked and the
5 underpayment of wages owed.

6 49. For example, DEFENDANTS frequently required PLAINTIFF to respond to work-
7 related phone calls/messages while off-the-clock, however, DEFENDANTS did compensate
8 PLAINTIFF for all time spent making/responding to work-related phone calls and/or messages,
9 resulting in consistent off-the-clock work, DEFENDANTS' failure to compensate PLAINTIFF for
10 all hours worked and the underpayment of wages owed.

11 50. Moreover, as explained herein, PLAINTIFF was regularly required to complete work
12 tasks during unpaid meal periods, resulting in DEFENDANTS' failure to compensate PLAINTIFF
13 for all hours worked and the underpayment of wages.

14 51. Based on information and belief, DEFENDANTS engaged in systemic time record
15 manipulation to shave time worked off PLAINTIFF and other Aggrieved Employees' workdays,
16 by, for example, editing electronic time records to delete portions of total hours worked or otherwise
17 understate actual hours worked and avoid the payment of overtime premiums.

18 52. At times, DEFENDANTS failed to pay Aggrieved Employees all owed reporting
19 time pay wages and/or failed to pay split shift compensation whenever their work schedules were
20 interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a
21 violation of the applicable Wage Order.

22 53. For example, on at least approximately three (3) to four (4) occasions during
23 PLAINTIFF's employment, PLAINTIFF's work schedule was interrupted by non-paid non-working
24 periods established by DEFENDANTS, yet DEFENDANTS failed to pay split shift compensation,
25 in violation of the applicable Wage Order.

26 54. Based on further information and belief, at times, DEFENDANTS implemented a
27 time-rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
28 Employees of compensable time because the time-rounding system implemented by

1 DEFENDANTS would almost always, if not always, result in understating actual compensable work
2 time. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding practices
3 resulted in the underpayment of minimum wages owed to PLAINTIFF and Aggrieved Employees
4 as well as unpaid overtime wages for those Aggrieved Employees who worked more than eight (8)
5 hours in a day and/or more than forty (40) hours in a week.

6 55. DEFENDANTS' failure to pay for all time worked by virtue of their unlawful
7 policies and practices described herein, resulted in the underpayment of minimum wages owed to
8 PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages for those Aggrieved
9 Employees who worked more than eight (8) hours in a day and/or more than forty (40) hours in a
10 week.

11 56. DEFENDANTS failed and continue to fail to pay the lawful premium wage rate for
12 all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

13 57. Based on information and belief, DEFENDANTS had actual and/or constructive
14 knowledge that its off-the-clock work policies and practices and other unlawful policies and
15 practices described herein resulted in the underpayment of minimum wages and overtime wages
16 owed to Aggrieved Employees, in violation of California's minimum and overtime wage laws.

17 58. Based on information and belief, DEFENDANTS failed to incorporate all non-
18 discretionary remuneration, including but not limited to, bonus pay/incentive pay, and/or other non-
19 discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting
20 in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
21 Aggrieved Employees.

22 59. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
23 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
24 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
25 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
26 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
27 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
28 applicable hourly rates in effect during the pay period and the corresponding number of hours

1 worked at each hourly rate by the employee.

2 60. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
3 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
4 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
5 Aggrieved Employees (by virtue of off-the-clock work policies and practices and failure to provide
6 duty-free meal periods) which results in a violation of Labor Code section 226(a).

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

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

14 63. **Unreimbursed Business Expenses.** DEFENDANTS required PLAINTIFF and
15 Aggrieved Employees to incur business expenses as a direct consequence of the performance of
16 their job duties without providing reimbursement, in violation of Labor Code section 2802.

17 64. DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by
18 requiring them to pay for their business expenses, including but not limited to, uniforms/work
19 clothing/work shoes/personal protective/safety gear/hand tools/equipment, the use of Aggrieved
20 Employees and/or EXEMPT AGGRIEVED EMPLOYEES' personal vehicles and/or personal cell
21 phones/mobile devices, internet and/or data usage for work-related purposes.

22 65. For example, Aggrieved Employees were required to receive and respond to work-
23 related calls and/or messages on their personal cellphones/devices from supervisors and/or other
24 employees regarding scheduling and/or other work tasks but were not reimbursed by
25 DEFENDANTS at all and/or in full for these business expenses.

26 66. For example, DEFENDANTS required PLAINTIFF to buy non-slip work shoes and
27 use PLAINTIFF's personal cell phone/mobile device to carry out PLAINTIFF's assigned job duties
28 including without limitation, for receiving and responding to work-related calls and/or messages

1 from supervisors and/or other employees regarding scheduling and/or other work tasks, however,
2 DEFENDANTS did not reimburse PLAINTIFF for these business expenses.

3 67. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
4 for all reasonable expenses associated with carrying out their duties required that Aggrieved
5 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
6 2802.

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

12 69. Upon separation of employment, Aggrieved Employees' final paychecks were not
13 timely provided, were not timely provided with all owed vacation pay and/or paid time off and/or
14 did not include all wages owed as they were devoid of, including but not limited to, all owed
15 minimum wages, overtime wages, premium wages, vacation pay, all owed paid time off wages at
16 the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at
17 the final rate including non-discretionary compensation, including but not limited to, shift
18 differentials).

19 70. These violations subject DEFENDANTS to damages, civil penalties, interest, and
20 attorneys' fees and costs under Labor Code sections 203, 210, and/or 256 and 2699.

21 71. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
22 engaged in these same herein described unlawful practices, which led to violations of the California
23 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
24 unlawful practices to all of its employees that it applied to PLAINTIFF.

25 **FIRST CAUSE OF ACTION**
26 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
27 **2698, ET SEQ.**

28 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all Defendants)**

72. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

1 **Meal Period Violations**

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

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

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

18 76. Employers must pay employees an additional hour of wages at the employees’
19 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
20 meal period, first meal period provided after five (5) hours, second meal period provided after 10
21 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
22 provide an employee a meal period in accordance with the applicable provision of this Order, the
23 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
24 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

25 77. As explained above, PLAINTIFF and other Aggrieved Employees were unable to
26 take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to work during
27 their meal periods / take interrupted meal periods due to the nature and constraints of their job duties,
28 and/or commentary from supervisors pressuring them to take non-compliant meal periods or skip

1 meal periods completely.

2 78. Also, DEFENDANTS implemented policies and practices that failed to relieve
3 Aggrieved Employees of all duties and DEFENDANTS' control during meal periods, in violation
4 of California meal period law.

5 79. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
6 actual and/or constructive knowledge that their unlawful policies and practices resulted in the denial
7 of compliant meal periods in violation of California's meal period laws.

8 80. DEFENDANTS also failed to pay all owed premiums at Aggrieved Employees'
9 respective regular rates of pay for missed/otherwise unlawful meal periods in violation of California
10 law.

11 81. These unlawful meal period policies and practices result in violations of Labor Code
12 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
13 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
14 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
15 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

16 **Rest Period Violations**

17 82. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
18 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
19 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
20 "insofar as practicable." In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
21 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
22 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
23 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
24 1029). The rest period requirement obligates employers to permit and authorize employees to take
25 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
26 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
27 257. If the employer fails to provide any required rest period, the employer must pay the employee
28 one hour of pay at the employee's regular rate of compensation for each workday the employer did

1 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
2 applicable IWC Wage Order, §12(B).

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

13 84. PLAINTIFF and the Aggrieved Employees were not allowed to take legally
14 compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction thereof.
15 As explained above, rest periods were interrupted, cut short, on duty, and/or otherwise subject to
16 DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
17 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
18 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

19 85. DEFENDANTS implemented policies and/or practices that failed to relieve
20 PLAINTIFF and other Aggrieved Employees of all duties and employer control during rest periods.
21 Aggrieved Employees were pressured to complete their work duties according to a designated
22 schedule such that rest periods were only taken once tasks were completed, and/or as time permitted.

23 86. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
24 rest periods as required by California law.

25 87. Moreover, DEFENDANTS failed to pay a rest period premium to PLAINTIFF and
26 other Aggrieved Employees at their respective regular rates of pay for each workday in which there
27 was a missed or otherwise unlawful rest period.

28 88. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and

1 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
2 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

3 **Minimum and Overtime Wage Violations**

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

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

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

21 92. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
22 Aggrieved Employees for all hours worked.

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

28 94. Based on information and belief, DEFENDANTS failed and continue to fail to pay

1 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
2 in a week.

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

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

14 **Business Expense Violations**

15 97. California law requires employers to indemnify their employees for all necessary
16 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
17 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
18 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
19 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
20 incurred by the employee enforcing the rights granted by this section."

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

27 99. Further, "any contract or agreement, express or implied, made by any employee to
28 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive

1 any employee or his personal representative of any right or remedy to which he is entitled to under
2 the laws of this State.” See Cal. Lab. Code section 2804.

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

5 101. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
6 full reimbursement for all reasonable expenses associated with carrying out their duties required
7 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
8 expenses in violation of Labor Code section 2802.

9 102. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
10 Employees have suffered injury in that they were not completely reimbursed as mandated by
11 California law.

12 103. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
13 full reimbursement for all reasonable expenses associated with carrying out their duties required
14 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
15 expenses in violation of Labor Code section 2802.

16 104. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
17 Employees have suffered injury in that they were not completely reimbursed as mandated by
18 California law.

19 105. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
20 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
21 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
22 Code § 2802 and the applicable Wage Order.

23 **Wage Statement Violations**

24 106. California law requires every employer semi-monthly or at the time of each payment
25 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
26 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
27 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
28 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee

1 is paid; (7) the name of the employee and only the last four digits of his or her social security number
2 or an employee identification number other than a social security number; (8) the name and address
3 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
4 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

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

13 108. Moreover, due to violations detailed above, including but not limited to,
14 DEFENDANTS' failure to pay regular and overtime wages for all hours worked and failure to
15 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
16 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized
17 wage statements that listed the gross and net wages earned and the correct applicable rates of pay
18 for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all
19 forms of non-discretionary compensation earned during the pay period into the regular rate of pay
20 for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime
21 rate(s) for each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

22 109. As explained above, wage statements issued by DEFENDANTS failed to list the
23 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of off-the-clock work
24 policies and practices described above), which results in a violation of Labor Code section 226(a).
25 Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor
26 Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

27 110. Also, wage statements issued by DEFENDANTS failed to list all applicable hourly
28 rates in effect during the pay period and the corresponding number of hours worked at each hourly

1 rate by the employee, in violation of, including but not limited to, Labor Code section 226(a)(9).

2 111. DEFENDANTS' failure to accurately list all hours worked on all wage statements
3 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
4 Employees over whether they received all wages owed to them.

5 112. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
6 they could not easily determine whether they received all wages owed to them and whether they
7 were paid for all hours worked.

8 113. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
9 Aggrieved Employees with accurate, itemized wage statements.

10 114. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
11 Employees have suffered injury. The absence of accurate information on their wage statements has
12 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
13 mathematical computations to determine the amount of wages owed, and will cause difficulty and
14 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
15 submission of inaccurate information about wages and amounts deducted from wages to state and
16 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
17 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
18 and pay records than if DEFENDANT had complied with its legal obligations.

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

22 **Untimely Payment of Final Wages**

23 116. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
24 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
25 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
26 employee not having a written contract for a definite period quits his or her employment, his or her
27 wages shall become due and payable not later than 72 hours thereafter, unless the employee has

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

1 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
2 to his or her wages at the time of quitting.”

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

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

14 119. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
15 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
16 256.

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

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

25 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
26 violations without a civil penalty recoverable under the PAGA, all in the default amounts provided
27 by Labor Code section 2699(f).

28 121. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,

1 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

2 **PRAYER FOR RELIEF**

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

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

11
12 Dated: July 29, 2025

CROSNER LEGAL, PC

13
14 By: 

15 Jamie K. Serb, Esq.
16 Brandon Brouillette, Esq.
17 Zachary M. Crosner, Esq.
18 Attorneys for Plaintiff
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