

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Melissa A. Huether, Esq. (SBN 316604)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
mhuether@lelawfirm.com
wht3@lelawfirm.com

Electronically Filed
12/2/2022 2:51 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Emily Prom, Deputy
\$435.00 FEE PD

Attorneys for Plaintiff VALERIE SCHEEL,
on behalf of herself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

VALERIE SCHEEL, on behalf of herself and
other aggrieved employees,

Plaintiff,

vs.

PNC BANK NATIONAL ASSOCIATION; and
DOES 1 to 100, inclusive,

Defendants.

Case No.: CV-22-005535

PAGA ACTION

**PLAINTIFF VALERIE SCHEEL'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

This case has been assigned to Judge Sandhu, Sonny S.
Department 24 Dept. 24 for all purposes including Trial.

COMES NOW Plaintiff VALERIE SCHEEL ("Plaintiff"), who alleges and complains
against Defendants PNC BANK NATIONAL ASSOCIATION; and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys' General Act of 2004, Lab. Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage and all overtime hours worked; overtime hours worked at the
2 proper overtime rate of pay; failure to authorize or permit all legally required and/or compliant
3 meal periods or pay meal period premium wages; failure to authorize or permit all legally
4 required and/or compliant rest periods or pay rest period premium wages; statutory penalties for
5 failure to timely produce requested employment records; indemnification for all necessary
6 expenditures or losses incurred by employees in direct consequence of discharging their duties;
7 statutory penalties for failure to timely pay earned wages during employment; statutory penalties
8 for failure to provide accurate wage statements; statutory waiting time penalties in the form of
9 continuation wages for failure to timely pay employees all wages due upon separation of
10 employment. Plaintiff seeks on a representative basis, following notice to the Labor and
11 Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor
12 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
13 others aggrieved.

14 **II. JURISDICTION AND VENUE**

15 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
16 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
17 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
18 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
19 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
20 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
21 aggrieved California-based hourly non-exempt employees occurred in locations throughout
22 California, including but not limited to Stanislaus County, at 2601 Odel Road., Suite T, Modesto,
23 California 95355.

24 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
25 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
26 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
27 tolled from April 6, 2020, until October 1, 2020.

28 **III. PARTIES**

1 4. Plaintiff brings this action as a representative of the Labor and Workforce
2 Development Agency on behalf of herself and other current and former employees subject to
3 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
4 filed include current, former and/or future employees of Defendants who work, worked, or will
5 work for Defendants as direct employees as well as temporary employees employed through temp
6 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
7 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
8 employed by Defendants in an hourly position at Defendants' location in Stanislaus from
9 approximately October 2021, until on or about May 11, 2022.

10 5. Plaintiff is informed and believes and thereon alleges that Defendant PNC BANK
11 NATIONAL ASSOCIATION is authorized to do business within the State of California and is
12 doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times
13 relevant hereto were persons acting on behalf of Defendant PNC BANK NATIONAL
14 ASSOCIATION in the establishment of, or ratification of, the aforementioned illegal wage and
15 hour practices or policies. Defendant PNC BANK NATIONAL ASSOCIATION operates in
16 Stanislaus County and employed Plaintiff and putative class members in Stanislaus County,
17 including but not limited to, at 2601 Odel Road., Suite T, Modesto, California 95355.

18 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
19 through 50 are corporations, or are other business entities or organizations of a nature unknown to
20 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
21 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
22 working conditions of employment of Plaintiff and aggrieved employees.

23 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
24 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
25 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
26 supervisor, independent contractor and/or employee of each defendant who violated or caused to
27 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
28 the Industrial Welfare Commission's wage orders regulating hours and days of work.

1 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
2 sues said defendants by said fictitious names, and will amend this complaint when the true names
3 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
4 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
5 named defendants is in some manner responsible for the events and allegations set forth in this
6 complaint.

7 9. Plaintiff makes the allegations in this complaint without any admission that, as to
8 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
9 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

10 **FIRST CAUSE OF ACTION**

11 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**
12 **GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

13 **(Against all Defendants by Plaintiff)**

14 10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

15 11. During the period beginning one (1) year preceding Plaintiff sending the initial
16 PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
17 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, 2802, and Sections 14 and 15 of the
18 applicable Wage Orders.

19 12. Specifically, Defendants have committed the following violations of California
20 Labor Code:

21 13. **Failure to pay wages for all hours worked at the legal minimum wage:**
22 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
23 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
24 which includes all time that an employee is under control of the employer and all time the
25 employee is suffered and permitted to work. This includes the time an employee spends, either
26 directly or indirectly, performing services which inure to the benefit of the employer.

27 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
28 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the

1 Wage Orders.

2 15. In this case, Plaintiff and other current and former aggrieved California-based
3 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
4 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
5 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
6 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
7 not limited to:

8 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
9 non-exempt employees who worked at a single-teller locations and/or who worked single-teller
10 shifts to remain on-duty during their off-the-clock meal breaks without paying Plaintiff and other
11 current and former aggrieved California-based hourly non-exempt employees for that time;

12 (b) Since the COVID-19 outbreak, requiring Plaintiff and other current and former
13 aggrieved California-based hourly non-exempt employees to undergo temperature checks and
14 respond to medical questionnaires on their personal cellphone prior to being permitted to clock-in
15 for their start shift.

16 16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
17 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
18 control without paying wages for that time. This resulted in Plaintiff and other current and former
19 aggrieved California-based hourly non-exempt employees working time for which they were not
20 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
21 Wage Order.

22 17. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
23 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
24 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
25 which includes all time that an employee is under control of the employer and all time the
26 employee is suffered and permitted to work. This includes the time an employee spends, either
27 directly or indirectly, performing services that inure to the benefit of the employer.'

28 18. Labor Code sections 510 and 1194 require an employer to compensate employees a

1 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
2 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

3 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
4 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
5 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
6 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
7 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
8 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
9 seventh day of a workweek shall be compensated at the rate of no less than twice the
10 regular rate of pay of an employee.

11 Labor Code section 510.

12 19. In this case, Defendants failed to pay Plaintiff and other current and former
13 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
14 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

15 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
16 non-exempt employees who worked at a single-teller locations and/or who worked single-teller
17 shifts to remain on-duty during their off-the-clock meal breaks without paying Plaintiff and other
18 current and former aggrieved California-based hourly non-exempt employees for that time;

19 (b) Since the COVID-19 outbreak, requiring Plaintiff and other current and former
20 aggrieved California-based hourly non-exempt employees to undergo temperature checks and
21 respond to medical questionnaires on their personal cellphone prior to being permitted to clock-in
22 for their start shift.

23 20. Additionally, Plaintiff alleges that during pay periods she and other current and
24 former aggrieved California-based hourly non-exempt employees earned overtime wages,
25 Defendants failed to pay them overtime wages at the proper overtime rate of pay due to
26 Defendants' failure to include all remuneration when calculating the overtime rate of pay.
27 Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all
28 remuneration such as, for example, incentive pay that Plaintiff and other current and former
aggrieved California-based hourly non-exempt employees received for opening new accounts for
Defendants when calculating Plaintiff and other current and former aggrieved California-based
hourly non-exempt employees regular rate of pay for the purpose of paying regular rate of pay.

1 21. The foregoing policies, practices, and/or procedures resulted in time during each
2 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
3 employees were under the control of Defendants but were not compensated. To the extent that the
4 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
5 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
6 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
7 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
8 sections 510 and 1194 and the applicable Wage Order.

9 22. **Failure to pay wages to hourly non-exempt employees for workdays that**
10 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
11 current and former aggrieved California-based hourly non-exempt employees regularly worked
12 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

13 23. California law requires an employer to authorize or permit an employee an
14 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
15 all duties and the employer relinquishes control over the employee's activities prior to the
16 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 4 at §11; *Brinker*
17 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
18 employee for a work period of more than ten (10) hours per day without providing the employee
19 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
20 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
21 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
22 period is only permitted when: (1) the nature of the work prevents an employee from being
23 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

24 24. If an employer fails to provide an employee a meal period in accordance with the
25 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
26 for each workday that a legally required and compliant meal period was not provided. Labor Code
27 section 226.7; Wage Order 4 at §11.

28 25. In this case, Defendants failed to authorize or permit legally required and compliant

1 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
2 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
3 limited to:

4 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
5 non-exempt employees who worked at a single-teller locations and/or who worked single-teller
6 shifts to remain on-duty during their off-the-clock meal breaks without paying Plaintiff and other
7 current and former aggrieved California-based hourly non-exempt employees for that time.

8 26. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
9 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
10 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
11 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
12 employees did not receive legally required and compliant meal periods, in violation of Labor Code
13 section 226.7.

14 27. Finally, on occasions when Defendants paid Plaintiff and other current and former
15 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed,
16 short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1)
17 additional hour of pay at Plaintiff and other current and former aggrieved California-based hourly
18 non-exempt employees regular rate of compensation. Specifically, Defendants maintained a
19 policy, practice, and/or procedure of failing to include all remuneration such as, for example,
20 incentive pay that Plaintiff and other current and former aggrieved California-based hourly non-
21 exempt employees received for opening new accounts for Defendants when calculating Plaintiff
22 and other current and former aggrieved California-based hourly non-exempt employees regular
23 rate of pay for the purpose of paying meal period premium wages.

24 28. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
25 and other current and former aggrieved California-based hourly non-exempt employees not
26 receiving wages to compensate them for workdays during which Defendants did not provide them
27 with meal periods in compliance with California law.

28 29. **Failure to pay wages to hourly non-exempt employees for workdays that**

1 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
2 current and former aggrieved California-based hourly non-exempt employees regularly worked
3 shifts of more than three-and-a-half (3.5) hours.

4 30. California law requires every employer to authorize and permit an employee a rest
5 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
6 Code section 226.7; Wage Order 4 at §12. Under California law, “[e]mployees are entitled to 10
7 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
8 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
9 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
10 section 226.7; Wage Order 4 at §12. Rest periods, insofar as practicable, shall be in the middle of
11 each work period. Wage Order 4 at §12. Additionally, the rest period requirement “obligates
12 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
13 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
14 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

15 31. If the employer fails to authorize or permit a required rest period, the employer
16 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
17 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
18 Wage Order 4 at § 12.

19 32. In this case, Defendants failed to authorize or permit all legally required and
20 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
21 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
22 limited to:

23 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
24 non-exempt employees who worked at a single-teller locations and/or single-teller shifts to remain
25 on-duty during their rest breaks without paying Plaintiff and other current and former aggrieved
26 California-based hourly non-exempt employees for that time.

27 33. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
28 procedure of failing to compensate Plaintiff and other current and former aggrieved California-

1 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
2 workday they did not receive legally required and compliant rest periods, in violation of Labor
3 Code section 226.7.

4 34. Finally, on occasions when Defendants did pay Plaintiff and other current and
5 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
6 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
7 one (1) additional hour of pay at Plaintiff and other current and former aggrieved California-based
8 hourly non-exempt employees regular rate of compensation. Specifically, Defendants maintained a
9 policy, practice, and/or procedure of failing to include all remuneration such as, for example,
10 incentive pay that Plaintiff and other current and former aggrieved California-based hourly non-
11 exempt employees received for opening new accounts for Defendants when calculating Plaintiff
12 and other current and former aggrieved California-based hourly non-exempt employees regular
13 rate of pay for the purpose of paying rest period premiums.

14 35. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
15 and other current and former aggrieved California-based hourly non-exempt employees not
16 receiving wages to compensate them for workdays in which Defendants did not provide them with
17 rest periods in compliance with California law.

18 36. **Failure to Indemnify for Losses and Expenditures Incurred as Part of**
19 **Employment:** California law requires that every employer must indemnify its employees for all
20 necessary expenditures or losses incurred by the employee in discharge of his or her duties or at
21 the obedience of the directions of the employer. Moreover, an employer is prohibited from passing
22 the ordinary business expenses and losses of the employer onto the employee. (Lab. Code, §
23 2802.)

24 37. Defendants have violated Labor Code Section 2802 by failing to indemnify
25 Plaintiff and other current and former aggrieved California-based non-exempt hourly employees’
26 necessary expenditures they incurred in the discharge of their duties. Specifically, Defendants
27 employed a policy, practice, and procedure whereby Plaintiff and aggrieved employees were
28 required to use or purchase their own tools and/or resources in order to work for Defendants,

1 including but not limited to cell phone for COVID-19 checks (including both telephone use and
2 cellular data use) for work-related purposes - without reimbursing Plaintiff and other current and
3 former aggrieved California-based hourly non-exempt employees for such use.

4 38. Moreover, Defendants employed policies and procedures which ensured Plaintiff
5 and aggrieved employees would not receive indemnification for their employment related
6 expenses. This practice resulted in Plaintiff and aggrieved employees not receiving such
7 indemnification in compliance with California law.

8 39. Therefore, Defendants are liable to Plaintiff and aggrieved employees for their
9 employment related expenses, including but not limited to costs related to use of their personal
10 cell phones and costs associated with their uniforms pursuant to Labor Code section 2802.

11 40. **Failure to timely pay earned wages during employment:** In California, wages
12 must be paid at least twice during each calendar month on days designated in advance by the
13 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
14 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
15 16th and the 26th day of that month and wages earned between the 16th and the last day,
16 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
17 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
18 paid within seven (7) calendar days following the close of the payroll period in which wages were
19 earned. Labor Code section 204(d).

20 41. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
21 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
22 exempt employees' earned wages (including minimum wages, overtime wages, meal period
23 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
24 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
25 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
26 their earned wages within the applicable time frames outlined in Labor Code section 204.

27 42. **Failure to provide complete and accurate wage statements:** Labor Code section
28 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an

1 employee his or her wages, the employer must “furnish each of his or her employees ... an
2 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
3 employee, except for any employee whose compensation is solely based on a salary and who is
4 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
5 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
6 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
7 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
8 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
9 name of the employee and his or her social security number, (8) the name and address of the legal
10 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
11 the corresponding number of hours worked at each hourly rate by the employee.”

12 43. Defendants committed direct violations of Labor Code section 226, through their
13 policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiff and
14 other current and former aggrieved California-based hourly non-exempt employees accurate
15 itemized wage statements which failed to reflect the hours worked for incentive pay.

16 44. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
17 and other current and former aggrieved California-based hourly non-exempt employees all wages
18 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
19 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
20 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
21 section 226.

22 45. **Failure to pay employees all wages due at time of termination/resignation:** An
23 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
24 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
25 hours of resignation (Labor Code section 202).

26 46. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
27 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
28 all their earned wages (including minimum wages, overtime wages, meal period premium wages,

1 and/or rest period premium wages), Defendants failed to pay those employees timely after each
2 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

3 47. Defendants' violations of Wage Order 4 constituted violations of Labor Code
4 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

5 48. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
6 employee, on behalf of himself or herself and other current or former employees, to bring a civil
7 action to recover civil penalties against all Defendants pursuant to the procedures specified in
8 Labor Code section 2699.3.

9 49. Plaintiff has complied with the procedures for bringing suit specified in Labor
10 Code section 2699.3. On September 19, 2022, Plaintiff filed a PAGA Claim Notice with the
11 LWDA and provided notice to Defendants by certified mail which provided notice of the specific
12 provisions of the Labor Code alleged to have been violated, including the facts and theories to
13 support the violations alleged.

14 50. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
15 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
16 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
17 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
18 to investigate Plaintiff's claims.

19 51. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
20 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510,
21 512, 1194, 1197, 1198, and 2802, beginning one (1) year preceding Plaintiff sending the initial
22 PAGA Claim Notice to the LWDA to the present, in the following amounts:

23 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 2802, 512,
24 and 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
25 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
26 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

27 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
28 for each employee for each pay period for the initial violation, and for each subsequent violation,

one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558] and any unpaid wages.

d. For violations of Labor Code section 1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

52. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with her claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to section 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate

//

//

//

1 Dated: December 2, 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

2
3 By: *Vincent C. Granberry*
4 Joseph Lavi, Esq.
5 Vincent C. Granberry, Esq.
6 Melissa A. Huether, Esq.
7 Attorneys for Plaintiff
8 VALERIE SCHEEL
9 on behalf of herself and current and former
10 aggrieved employees
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28