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Superior Court of California
County of Fresno
By: I. Herrera, Deputy

Attorneys for Plaintiff
EDUARDO VELAZQUEZ,
on behalf of himself and on behalf of all other
aggrieved employees

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

EDUARDO VELAZQUEZ, on behalf of
himself and on behalf of all other aggrieved
employees,

Plaintiff,

vs.

CARLUCCI TRANSPORT dba CARLUCCI
TRANSPORT INC., a California corporation;
and DOES 1 through 50, inclusive

Defendants.

Case No.: 22CECG03945

Assigned for All Purposes To:
Hon. Kristi Culver Kapetan
Dept.: 403

**FIRST AMENDED COMPLAINT FOR
REPRESENTATIVE ACTION FOR
PENALTIES UNDER PRIVATE
ATTORNEYS GENERAL ACT, LABOR
CODE § 2698 *et seq.* FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Failure to Reimburse Necessary Business Expenditures Under Labor Code § 2802
6. Violation of Labor Code §§ 226(a), 1174; and
7. Violation of Labor Code §§ 203, 204

DEMAND FOR JURY TRIAL

1 Plaintiff EDUARDO VELAZQUEZ (hereinafter “Plaintiff”) on behalf of himself and all
2 other similarly Aggrieved Employees complains of Defendants, and each of them, as follows:

3 **INTRODUCTION**

4 1. This is a Representative Action, pursuant to the Private Attorneys General Act of
5 2004 (“PAGA”), Labor Code § 2698 *et seq.*, on behalf of Plaintiff and similarly situated aggrieved
6 non-exempt employees (“Aggrieved Employees” or “Employees”) who currently work or
7 formerly worked for Defendants CARLUCCI TRANSPORT dba CARLUCCI TRANSPORT
8 INC., and DOES 1 through 50 (all defendants being collectively referred to herein as
9 “Defendants”) during the liability period. From at least one (1) year prior to the filing of this
10 action and at least one (1) year prior to the date Plaintiff began the process of exhausting the
11 administrative requirements pursuant to Labor Code § 2698 *et seq.* on **September 15, 2022** and
12 **December 13, 2022**, and continuing to the present (the “liability period”), Defendants have had a
13 consistent policy of failing to pay all wages due to its California Employees during the course of
14 employment and timely upon separation from employment, failing to provide Employees with
15 meal and rest periods, failing to reimburse necessary business expenses, and failing to issue
16 accurately itemized wage statements to its California employees. Plaintiff alleges that Defendants,
17 and each of them, violated various provisions of the California Labor Code and relevant orders of
18 the Industrial Welfare Commission, and seeks redress for these violations.

19 2. Plaintiff is a resident of California, and during the time period relevant to this
20 Complaint, was employed by Defendants as a non-exempt hourly employee based out of
21 Defendants’ office in Firebaugh, California.

22 3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared
23 similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3)
24 endured similar violations at the hands of Defendants as the other Aggrieved Employees who
25 served in similar and related positions.

26 4. Plaintiff and the other similarly situated Employees of Defendants consistently
27 worked at Defendants’ behest without being paid all wages due. More specifically, Defendants
28 failed to record accurate time worked, failed to pay them at the appropriate rates for all hours

1 worked, requiring them to work off the clock. Additionally, Defendants failed to reimburse
2 necessary business expenses, and provided Aggrieved Employees with inaccurate wage
3 statements that prevented them from learning of these unlawful practices. Defendants also failed to
4 provide Aggrieved Employees with lawful meal and rest periods, as Employees were not provided
5 with the opportunity to take full uninterrupted and duty-free rest periods and meal breaks as
6 required by the Labor Code.

7 5. Defendant CARLUCCI TRANSPORT dba CARLUCCI TRANSPORT INC.,
8 (“CT”) is a California corporation with its principle executive offices in Firebaugh, California, and
9 has been listed as the employer on the wage statements issued to Plaintiff during the relevant time
10 period. CT lists a California address in Firebaugh, California with the California Secretary of
11 State, and employs Plaintiff and the Class members in Fresno County, including at Defendants’
12 offices and facilities in Firebaugh, California, and throughout California and Defendants conduct
13 business throughout California.

14 6. This Court has jurisdiction over this Action pursuant to California Code of Civil
15 Procedure § 410.10. This Action is brought as a PAGA representative action on behalf of similarly
16 situated Aggrieved Employees of Defendants pursuant to California Labor Code § 2698 *et seq.*
17 Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil
18 Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to
19 this lawsuit occurred in the County of Fresno and Defendants maintain and operate facilities in
20 Firebaugh, California, thus employing Plaintiff and other Aggrieved Employees in Fresno County
21 and in California.

22 7. The true names and capacities, whether individual, corporate, associate, or
23 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
24 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
25 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
26 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
27 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
28 this Complaint to reflect the true names and capacities of the Defendants designated herein as

Does 1 through 50 when their identities become known.

8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, or suffered or permitted Employees to work, or engaged, thereby creating a common law employment relationship, with Employees. Therefore, Defendants, and each of them, employed or jointly employed the Employee Aggrieved Employees.

FACTUAL BACKGROUND

9. The Aggrieved Employees, including Plaintiff, are non-exempt employees pursuant to the applicable Wage Order of the IWC. Defendants hire Employees who work in non-exempt positions at the direction of Defendants in the State of California. Plaintiff and the Aggrieved Employees were either not paid by Defendants for all hours worked. Plaintiff also contends that Defendants failed to pay Plaintiff and the Aggrieved Employees all wages due and owing, including by requiring them to work off the clock, failing to provide meal and rest breaks, failing to reimburse necessary business expenses, and failing to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable Wage Orders.

10. Additionally, Plaintiff and the Aggrieved Employees were not paid all wages they were owed, including for all work performed and for all overtime hours worked resulting in off the clock work. More specifically, Defendants required Plaintiff and the Aggrieved Employees to work pre-shift and post-shift in excess of their scheduled shifts for which they were not paid wages as Employees had to conduct pre-trip inspections, prepared trucks for trips, unloaded trucks post-trip, performed other post trip duties such as completing reports and spent time working while clocked out for meal breaks caused Aggrieved Employee.

11. As a result of the above described requirements to work off the clock, and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were

1 not properly paid all wages earned and all wages owed to them by Defendants, including when
2 working more than eight (8) hours in any given day and/or more than forty (40) hours in any given
3 week. As a result of Defendants' unlawful policies and practices, Plaintiff and Aggrieved
4 Employees incurred overtime hours worked for which they were not adequately and completely
5 compensated, in addition to the hours they were required to work off the clock. To the extent
6 applicable, Defendants also failed to pay Plaintiff and the Aggrieved Employees at an overtime
7 rate of 1.5 times the regular rate for the first eight hours of the seventh consecutive work day in a
8 week and overtime payments at the rate of 2 times the regular rate for hours worked over eight (8)
9 on the seventh consecutive work day, as required under the Labor Code and applicable IWC Wage
10 Orders.

11 12. Therefore, from at least one (1) year prior to the filing of this lawsuit and
12 continuing to the present, Defendants had a consistent policy or practice of failing to pay
13 Employees for all hours worked, and failing to pay minimum wages for all time worked, as
14 required by California law. Also, from at least one (1) year prior to the filing of this lawsuit and
15 continuing to the present, Defendants had a consistent policy or practice of failing to pay
16 Employees overtime compensation at correctly calculated premium overtime rates for all hours
17 worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time rates for
18 all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510 and the
19 corresponding sections of IWC Wage Orders.

20 13. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
21 meal periods and all the legally required paid, off-duty rest periods to Plaintiff and the other
22 Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Defendants did
23 not have a policy or practice which provided or recorded all the legally required unpaid, off-duty
24 meal periods and all the legally required paid, off-duty rest periods to the Plaintiff and the
25 Aggrieved Employees. Plaintiff and Aggrieved Employees were required to perform work as
26 ordered by Defendants for more than five (5) hours during a shift, but were often required to do so
27 without receiving a meal break. In fact, as addressed above, Defendants followed a practice of
28 under-reporting hours worked in an effort to ensure that the timekeeping records for Employees

1 reflected a shift of less than six hours when in fact the Employee worked more than six hours in an
2 effort to avoid the meal period requirements under the Labor Code and applicable IWC Wage
3 Orders through an alleged meal period waiver. As a result, Defendants' failure to provide the
4 Plaintiff and Aggrieved Employees with all the legally required off-duty, unpaid meal periods and
5 all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business
6 records, or lack thereof. From at least one (1) year prior to the filing of this lawsuit and continuing
7 to the present, Defendants have regularly required Employees to work shifts in excess of five (5)
8 hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes,
9 and shifts in excess of ten (10) hours without providing them with second meal periods of not less
10 than thirty minutes; nor did Defendants pay Employees "premium pay," i.e. one hour of wages at
11 each Employee's effective hourly rate of pay, for each meal period that Defendants failed to
12 provide or deficiently provided.

13 14. Therefore, for at least one (1) year prior to the filing of this action and through to
14 the present, Plaintiff and the Aggrieved Employees were unable to take off-duty breaks or were
15 otherwise not provided with the opportunity to take required breaks due to Defendants' policies
16 and practices. On the occasions when Plaintiff and the Aggrieved Employees were provided with a
17 meal period, it was often untimely or interrupted, or was impermissibly shortened, and Employees
18 were not provided with one (1) hour's wages in lieu thereof. Meal period violations thus occurred
19 in one or more of the following manners:

- 20 (a) Aggrieved Employees were not provided full thirty-minute duty free meal
21 periods for work days in excess of five (5) hours and were not
22 compensated one (1) hour's wages in lieu thereof, all in violation of,
23 among others, Labor Code §§ 226.7, 512, and the applicable Industrial
24 Welfare Commission Wage Order(s);
- 25 (b) Aggrieved Employees were not provided second full thirty-minute duty
26 free meal periods for work days in excess of ten (10) hours;
- 27 (c) Aggrieved Employees were required to work through at least part of their
28 daily meal period(s);

(d) Meal periods were provided after five (5) hours of continuous work during a shift; and

(e) Aggrieved Employees were restricted in their ability to take a full thirty-minute meal period.

15. Plaintiff and the Defendants' Aggrieved Employees were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one (1) hour's wages in lieu thereof. They were required to remain on-duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the premises during rest breaks under Defendants' policies. Rest period violations therefore arose in one or more of the following manners:

(a) Aggrieved Employees were required to work without being provided a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;

(b) Aggrieved Employees were not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and

(c) Aggrieved Employees were required to remain on-duty during rest periods or otherwise had their rest periods interrupted by work demands.

16. Additionally, from at least one (1) year prior to the filing of this lawsuit and continuing to the present, Defendants required Plaintiff, and upon information and belief other similarly situated Employees, to incur business expenses in the course of performing their required job duties for Defendants. Specifically, from time to time Employees were required to use their cell phones and purchase a helmet, hammer, gloves, and safety goggles for business purposes. These expenses incurred by Plaintiff and the Aggrieved Employees were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Plaintiff and the Aggrieved Employees for all such necessary expenditures, thus entitling them to

1 reimbursement according to proof as required under Labor Code § 2802 and the applicable
2 provisions of the IWC Wage Orders.

3 17. As a result of these illegal policies and practices, Defendants engaged in and
4 enforced the following additional unlawful practices and policies against Plaintiff and the
5 Aggrieved Employees he seeks to represent:

- 6 a. failing to pay all wages owed to Aggrieved Employees who either were
7 discharged, laid off, or resigned in accordance with the requirements of Labor
8 Code §§ 201, 202, 203;
- 9 b. failing to pay all wages owed to the Aggrieved Employees twice monthly in
10 accordance with the requirements of Labor Code § 204;
- 11 c. failing to pay Aggrieved Employees all wages owed, including all meal and rest
12 period premium wages; and
- 13 d. failing to maintain accurate records of Aggrieved Employees' earned wages and
14 meal periods in violation of Labor Code §§ 226 and 1174(d) and Section 7 of the
15 applicable IWC Wage Orders.

16 18. From at least one (1) year prior to the filing of this lawsuit, and continuing to the
17 present, Defendants have also consistently failed to provide Employees with timely, accurate, and
18 itemized wage statements, in writing, as required by California wage-and-hour laws. More
19 specifically, the wage statements also failed to account for unpaid wages and overtime due to off
20 the clock work, namely when Employees were required to work off the clock. Additionally, the
21 wage statements given to Employees failed to accurately account for premium pay for deficiently
22 provided meal periods and rest breaks, as discussed above. This violates Labor Code § 226(a)(9).
23 Plaintiff and Aggrieved Employees are therefore entitled to penalties not to exceed \$4,000.00 for
24 each employee pursuant to Labor Code § 226(b).

25 19. From at least one (1) year prior to filing this lawsuit and continuing to the present,
26 Defendants have thus also had a consistent policy of failing to pay all wages owed to Plaintiff and
27 other similarly situated Employees at the time of their termination of within seventy-two (72)
28 hours of their resignation, as required by California wage-and-hour laws.

20. In light of the foregoing, Plaintiff and the Aggrieved Employees bring this action pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 1670.5, 2698, 2699, *et seq.*, and 2802., and pursuant to the applicable IWC Wage Order provisions and California Code of Regulations, Title 8, section 11000 *et seq.*

PAGA NOTICE AND ALLEGATIONS

21. Plaintiff brings this PAGA representative action on behalf of herself and all others similarly situated Aggrieved Employees employed by Defendants during the liability period pursuant to Labor Code § 2698 *et seq.* Plaintiff and Employees are aggrieved employees as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either were or are employed by the alleged violators, Defendants. Upon information and belief, at all times during the liability period, Plaintiff and the Aggrieved Employees were employees subject to the protections of the California Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Orders, including IWC Wage Order No. 9-2001 regulating the wages, hours and working conditions in the Transportation Industry (“Wage Order No. 9”).

22. In failing to pay Aggrieved Employees minimum wages and overtime, not providing proper meal and rest periods, failing to reimburse necessary business expenses, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all addressed herein, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC Wage Orders.

23. As such, Plaintiff and the Aggrieved Employees seek wages and penalties under Labor Code §§ 2698 and 2699 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5, which includes the penalty provisions, without limitation, based *inter alia* on the following California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 1670.5, 2698,

1 2699, *et seq.*, and 2802.

2 24. More specifically, after complying with the notice procedures of Labor Code §
3 2699.3, Plaintiff asserts as a representative action on behalf of the California Attorney General and
4 the other similarly Aggrieved Employees a PAGA claim for violations of the underlying claims
5 addressed herein and seeking penalties as specified by the applicable corresponding provisions,
6 including as follows:

7 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
8 earned regular pay and minimum wages for regular hours worked and for failure to pay
9 overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a),
10 1197, and 1198, and Sections 2(K), 3(A) and 4 of the applicable IWC Wage Order(s)
11 seeking all civil and statutory penalties available and applicable, and wages, under Labor
12 Code §§ 510, 558, 1194.2, 1197.1, 2699(f)(2), and 2699.5, and also for attorneys' fees and
13 costs pursuant to Labor Code § 2699(g)(1);

14 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
15 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit
16 them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu
17 thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A) and 12(B) of
18 the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and
19 applicable, and wages, under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-
20 (3), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code §
21 2699(g)(1);

22 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
23 provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements
24 and failure to maintain employment records for Plaintiff and Aggrieved Employees under
25 Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable
26 IWC Wage Order(s) seeking all civil and statutory penalties and wages available and
27 applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, and 2699(f)(2), and also for
28 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages, under Labor Code §§ 201, 202, 203, 204, 210, 558, 1197, and 2699(f)(2), and Section 20 of the applicable IWC Wage Order(s), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(e) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

25. The penalties shall be allocated under Labor Code § 2699(i) as follows: 75% to the Labor and Workforce Development Agency (LWDA) and 25% to the affected employees.

26. As also addressed above, Plaintiff on behalf of the Aggrieved Employees also seeks the penalties and remedies set forth in Labor Code § 558, which states:

(a) Any 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 in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

1 27. Plaintiff has exhausted her administrative remedy by sending certified letters to the
2 LWDA and Defendants postmarked on **September 15, 2022** and **December 13, 2022** addressing
3 in detail the specific provisions of the Labor Code Defendants have violated and addressing the
4 facts and legal theories to support the alleged violations. The LWDA has not provided notice of its
5 intent to investigate the alleged violations within 65 calendar days of the postmark date of the
6 letter. As a result, as a matter of law, Plaintiff is entitled to file this Complaint for full compliance
7 and exhaustion of the notice requirements under the PAGA and seeks civil penalty assessments
8 against Defendants as a Representative of the State of California as hereinafter alleged and in
9 accordance with the law, in addition to costs and reasonable attorneys' fees as provided by the
10 PAGA statute. A true and correct copy of the **September 15, 2022** and **December 13, 2022**
11 Notices to the LWDA and the Defendants is attached hereto **Exhibit A** and is expressly
12 incorporated into this Complaint as if set forth in full. Plaintiff alleges that the notice period
13 provided by statute has expired and amendment is proper pursuant to Labor Code §
14 2699.3(a)(2)(C).

15 28. This action has been brought and may properly be maintained as a representative
16 action under the provisions of Labor Code § 2698 *et seq.* seeking civil and statutory penalties and
17 wages based, *inter alia*, on the following claims addressed in detail herein:

- 18 a. Defendants failed to pay Employees minimum wages and wages for all hours
19 worked;
- 20 b. Defendants failed to pay Employees overtime as required under Labor Code § 510;
- 21 c. Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage
22 Orders, by failing to provide Employees with requisite meal periods or premium
23 pay in lieu thereof;
- 24 d. Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders,
25 by failing to authorize and permit Employees to take requisite rest breaks or
26 provide premium pay in lieu thereof;
- 27 e. Defendants violated Labor Code § 226(a) by providing Employees with inaccurate
28 wage statements;

- 1 f. Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and
2 compensation due and owing at the time of termination of employment;
- 3 g. Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by
4 failing to maintain accurate records of Aggrieved Employees' earned wages and
5 work periods;
- 6 h. Defendants violated Labor Code § 1194 by failing to compensate all Employees
7 during the relevant time period for all hours worked, whether regular or overtime;
- 8 i. Defendants violated Labor Code § 204 by failing to pay Employees all wages
9 earned at least twice monthly; and
- 10 j. Defendants failed to reimburse necessary business expenses incurred by Employees
11 in connection with performing their job duties under Labor Code § 2802.

12 **FIRST CAUSE OF ACTION**

13 **PENALTIES UNDER THE PAGA FOR FAILURE TO PAY MINIMUM WAGES**

14 **(Against All Defendants)**

15 29. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 30. Defendants failed to pay Employees minimum wages for all hours worked.
18 Defendants had a consistent policy of requiring Employees to work off the clock and without
19 compensation. Employees would work hours and not receive wages, including as alleged above in
20 connection with off the clock work and requiring Aggrieved Employees to remain on duty and
21 under Defendants' control during breaks and due to the demands placed upon them by
22 Defendants'. During the liability period, Defendants thus regularly failed to pay minimum wages
23 to Plaintiff and the Aggrieved Employees. Defendants' uniform pattern of unlawful wage and hour
24 practices manifested, without limitation, applicable to all Aggrieved Employees, as a result of
25 implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the
26 other Aggrieved Employees as to minimum wage pay.

27 31. Pursuant to Labor Code § 2699, Plaintiff seeks all applicable PAGA civil penalties
28 and remedies for each Aggrieved Employee for each pay period in the applicable statute of

1 limitations in which the Aggrieved Employee was not paid for all hours worked for each pay
2 period, plus reasonable attorneys' fees and costs.

3 32. The Private Attorneys General Act of 2004 ("PAGA") provides that:

4 ... an aggrieved employee may recover the civil penalty described in subdivision
5 (I) in a civil action pursuant to the procedures specified in Section 2699.3 filed on
6 behalf of himself or herself and other current or former employees against whom
7 one or more of the alleged violations was committed. Any employee who prevails
8 in any action shall be entitled to an award of reasonable attorney's fees and costs.
Nothing in this part shall operate to limit an employee's right to pursue or recover
other remedies available under state or federal law, either separately or
concurrently with an action taken under this part.

9 California Labor Code § 2699(g)(1).

10 33. Plaintiff is an "aggrieved employee" under the PAGA, as he was employed by
11 Defendants during the applicable statutory period and suffered one or more of the California Labor
12 Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all
13 other current and former aggrieved non-exempt employees, as defined above, the civil penalties
14 provided by the PAGA, plus reasonable attorneys' fees and costs.

15 34. Plaintiff, by virtue of the Notices correspondence dated **September 15, 2022** and
16 **December 13, 2022 December 13, 2022**, attached hereto as **Exhibit A**, has satisfied all
17 prerequisites to serve as a representative of the general public to enforce California's labor laws,
18 including without limitation, the penalty provisions identified in California Labor Code § 2699.5.
19 Because the LWDA took no steps within the applicable time period required to intervene, and
20 because Defendants took no corrective actions to remedy the allegations set forth above, Plaintiff,
21 as a representative of the people of the State of California, will seek, and hereby does seek, any
22 and all civil penalties otherwise capable of being collected by the Labor Commission and/or the
23 Department of Labor Standards Enforcement ("DLSE").

24 35. Any civil penalties recovered herein will be distributed in accordance with the
25 PAGA, with at least 75% of the penalties recovered being reimbursed to the State of California
26 and the LWDA, where applicable. *See* Labor Code § 2699(i).

27 36. Specifically, Plaintiff seeks to recover civil penalties pursuant to the PAGA that
28 arise from the policies, practices and business acts of Defendants to the extent provided by law as

1 a Representative Action, including reasonable attorneys' fees and costs, and underpayment of
2 wages as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute.
3 Labor Code § 558 provides in pertinent part:

4 (a) Any employer or other person acting on behalf of an employer
5 who violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the Industrial
7 Welfare Commission shall be subject to a civil penalty as follows: (1) For
8 any initial violation, fifty dollars (\$50) for each underpaid employee for
9 each pay period for which the employee was underpaid in addition to an
10 amount sufficient to recover underpaid wages. (2) For each subsequent
11 violation, one hundred dollars (\$100) for each underpaid employee for
12 each pay period for which the employee was underpaid in addition to an
13 amount sufficient to recover underpaid wages. (3) Wages recovered
14 pursuant to this section shall be paid to the affected employee....

15 (c) The civil penalties provided for in this section are in addition to
16 any other civil or criminal penalty provided by law.

17 37. Plaintiff seeks civil penalties against Defendants for failure to provide Plaintiff and
18 other aggrieved non-exempt employees proper regular pay and minimum wages for regular hours
19 worked and/or overtime premium pay for overtime hours worked during the applicable statutory
20 period.

21 38. Section 4 of IWC Wage Order No. 9 provides in pertinent part: "(A) Every
22 employer shall pay to each employee wages not less than the following: (1) Any employer who
23 employs 26 or more employees shall pay to each employee wages not less than the following: (a)
24 Ten dollars and fifty cents (\$10.50) per hour for all hours worked, effective January 1, 2017; (b)
25 Eleven dollars (\$11.00) per hour for all hours worked, effective January 1, 2018; (c) Twelve
26 dollars (\$12.00) per hour for all hours worked, effective January 1, 2019;.... (B) Every employer
27 shall pay to each employee, on the established payday for the period involved, not less than the
28 applicable minimum wage for all hours worked in the payroll period, whether the remuneration is
measured by time, piece, commission, or otherwise."

39. Section 2(K) of IWC Wage Order No. 9 defines "Hours worked" 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."

1 40. In California, employees must be paid at least the then applicable state minimum
2 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
3 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
4 timely pay its employees for all hours worked. Defendants failed to do so.

5 41. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:
6 “The minimum wage for employees fixed by the commission is the minimum wage to be paid to
7 employees, and the payment of a less wage than the minimum so fixed is unlawful.”

8 42. The minimum wage provisions of California Labor Code are enforceable by private
9 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
10 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
11 overtime compensation applicable to the employee is entitled to recover in a civil action the
12 unpaid balance of the full amount of this minimum wage or overtime compensation, including
13 interest thereon, reasonable attorney’s fees and costs of suit.”

14 43. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
15 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
16 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
17 Orders, entitle non-exempt employees to an amount equal to or greater than the minimum wage
18 for all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate
19 may be used as a credit against a minimum wage obligation.

20 44. In committing these violations of the California Labor Code, Defendants
21 inaccurately recorded, or calculated the correct time worked and consequently underpaid the
22 actual time worked by Plaintiff and other Aggrieved Employees. Defendants acted in an illegal
23 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
24 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
25 regulations. As a result of these violations, Defendant also failed to timely pay all wages earned in
26 accordance with California Labor Code § 1194.

27 45. California Labor Code § 1194.2 also provides for the following remedies: “In any
28 action under Section 1194 . . . to recover wages because of the payment of a wage less than the

1 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
2 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

3 46. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
4 1197.1, Plaintiff and Aggrieved Employees are entitled to recover a penalty of \$100.00 for the
5 initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent
6 failure to pay each employee minimum wages.

7 47. Pursuant to California Labor Code § 1194.2, Plaintiff and Aggrieved Employees
8 are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid
9 and interest thereon.

10 48. Labor Code § 1198 also requires that: “The maximum hours of work and the
11 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
12 standard conditions of labor for employees. The employment of any employee for longer hours
13 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
14 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
15 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
16 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

17 49. Additionally, Labor Code § 1199 provides that: “Every employer or other person
18 acting either individually or as an officer, agent, or employee of another person is guilty of a
19 misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100)..., who does
20 any of the following: (a) Requires or causes any employee to work for longer hours than those
21 fixed, or under conditions of labor prohibited by an order of the commission. (b) Pays or causes to
22 be paid to any employee a wage less than the minimum fixed by an order of the commission....”

23 50. Similarly, Section 20 of IWC Wage Order No. 9 addresses further penalties as
24 follows: “(A) In addition to any other civil penalties provided by law, any employer or any other
25 person acting on behalf of the employer who violates, or causes to be violated, the provisions of
26 this order, shall be subject to the civil penalty of: (1) Initial Violation — \$50.00 for each
27 underpaid employee for each pay period during which the employee was underpaid in addition to
28 the amount which is sufficient to recover unpaid wages. (2) Subsequent Violations — \$100.00 for

1 each underpaid employee for each pay period during which the employee was underpaid in
2 addition to an amount which is sufficient to recover unpaid wages. (3) The affected employee shall
3 receive payment of all wages recovered.”

4 51. Defendants have the ability to pay minimum wages for all time worked and have
5 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
6 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

7 52. Labor Code § 2699(f)(2) states: “For all provisions of this code except those
8 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
9 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
10 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
11 employee per pay period for the initial violation and two hundred dollars (\$200) for each
12 aggrieved employee per pay period for each subsequent violation.”

13 53. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
14 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
15 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
16 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
17 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 204,... 221,
18 ...510, 512,... 1194, 1197, 1197.1 and 1198...1199”, and these provisions of the Code allow for
19 recovery of civil penalties pursuant to the PAGA in this action.

20 54. Defendants’ conduct, as alleged herein, violates the aforementioned regulations
21 because Defendants failed to properly compensate Plaintiff and other aggrieved non-exempt
22 employees applicable minimum wages and contractually agreed upon wages for all hours they
23 were required to work and remain under Defendants’ control.

24 55. As a direct and proximate result of the Defendants’ unlawful acts, as alleged in
25 detail herein, Plaintiff and other aggrieved non-exempt employees have been deprived, and
26 continue to be deprived, of minimum wages and all wages owed for all hours they worked.

27 56. As such, Defendants are liable for PAGA penalties resulting from their failure to
28 provide Plaintiff and the other Aggrieved Employees minimum wages and all wages owed for all

1 hours worked. Accordingly, Plaintiff entitled to recover, and hereby seeks through this
2 representative action, all civil and statutory penalties authorized for violations of California Labor
3 Code §§ 510, 1194, 1197, 1197.1, 1198, 221 and 204 and Sections 2(K), 4, and 20 of the
4 applicable IWC Wage Order(s), and Plaintiff seeks all civil and statutory penalties available and
5 applicable, and wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and
6 2699.5, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

7 57. Plaintiff has fully complied with procedures specified in Labor Code § 2699.3. For
8 the purposes of this cause of action, recovery of civil penalties will include the recovery of
9 underpaid wages pursuant to Labor Code §§ 558(a)(1)-(3), in an amount according to proof and
10 subject to Court approval.

11 **SECOND CAUSE OF ACTION**

12 **CIVIL PENALTIES UNDER THE PAGA FOR FAILURE TO PAY WAGES AND**

13 **OVERTIME UNDER LABOR CODE § 510**

14 **(Against All Defendants)**

15 58. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 59. California Labor Code § 1194 provides that "any employee receiving less than the
18 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
19 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
20 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
21 may be maintained directly against the employer in an employee's name without first filing a
22 claim with the Division of Labor Standards and Enforcement.

23 60. By their conduct, as set forth herein, Defendants violated California Labor Code §
24 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Employees:
25 (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a
26 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
27 on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
28 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight

1 (8) hours on any seventh day of work in a workweek. Defendants had a consistent policy of not
2 paying Employees wages for all hours worked, including by requiring off the clock work and
3 under-reporting actual hours worked as addressed above.

4 61. Similar to Labor Code § 510, Section 3(A) of IWC Wage Order No. 9 also
5 provides: “(A) Daily Overtime-General Provisions (1) The following overtime provisions are
6 applicable to employees 18 years of age or over... Such employees shall not be employed more
7 than eight (8) hours in any workday or more than 40 in any workweek unless the employee
8 receives one and one half (1 1/2) times such employee’s regular rate of pay for all hours worked
9 over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment
10 beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible
11 provided the employee is compensated for such overtime at not less than: (a) One and one-half
12 (11/2) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up
13 to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the
14 seventh (7th) consecutive day of work in a workweek; and (b) Double the employee’s regular rate
15 of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in
16 excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek...”

17 62. Defendants had a consistent policy of violating these provisions by not paying
18 Employees wages for all hours worked, including requiring off the clock work as addressed and
19 under-reporting actual hours worked.

20 63. Defendants, and each of them, have required Plaintiff and the Aggrieved
21 Employees to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and
22 the Aggrieved Employees all earned and owed straight time and overtime and double time wages
23 and other benefits, in violation of the California Labor Code, the California Code of Regulations
24 and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and
25 Enforcement. Defendants have also violated these provisions by requiring Plaintiff and other
26 similarly situated non-exempt employees to work through meal periods when they were required
27 to be clocked out or to otherwise work off the clock to complete their daily job duties or to attend.
28 Therefore, Employees were not properly compensated, nor were they paid overtime rates for hours

1 worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on
2 information and belief, Defendants did not make available to Employees a reasonable protocol for
3 correcting time records when Employees worked overtime hours or to fix incorrect time entries to
4 the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff
5 and other similarly situated Aggrieved Employees to work through meal periods when they were
6 required to be clocked out or to otherwise work off the clock to complete their daily job duties.

7 64. Defendants' failure to pay Plaintiff and the Aggrieved Employees the unpaid
8 balance of regular wages owed and overtime compensation, as required by California law, violates
9 the provisions of Labor Code §§ 510 and 1198, and is therefore unlawful.

10 65. Pursuant to Labor Code § 2699, Plaintiff seeks all applicable PAGA civil penalties
11 and remedies for each Aggrieved Employee for each pay period in the applicable statute of
12 limitations in which the Aggrieved Employee was not paid at the correct overtime rate for all
13 hours worked for each pay period, plus reasonable attorneys' fees and costs.

14 66. The Private Attorneys General Act of 2004 ("PAGA") provides that:

15 ... an aggrieved employee may recover the civil penalty described in subdivision
16 (I) in a civil action pursuant to the procedures specified in Section 2699.3 filed on
17 behalf of himself or herself and other current or former employees against whom
18 one or more of the alleged violations was committed. Any employee who prevails
19 in any action shall be entitled to an award of reasonable attorney's fees and costs.
Nothing in this part shall operate to limit an employee's right to pursue or recover
other remedies available under state or federal law, either separately or
concurrently with an action taken under this part.

20 California Labor Code § 2699(g)(1).

21 67. Plaintiff is an "aggrieved employee" under the PAGA, as he was employed by
22 Defendants during the applicable statutory period and suffered one or more of the California Labor
23 Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all
24 other current and former aggrieved non-exempt employees, as defined above, the civil penalties
25 provided by the PAGA, plus reasonable attorneys' fees and costs.

26 68. Plaintiff, by virtue of the Notices correspondence dated **September 15, 2022** and
27 **December 13, 2022**, attached hereto as **Exhibit A**, has satisfied all prerequisites to serve as a
28 representative of the general public to enforce California's labor laws, including without

1 limitation, the penalty provisions identified in California Labor Code § 2699.5. Because the
2 LWDA took no steps within the applicable time period required to intervene, and because
3 Defendants took no corrective actions to remedy the allegations set forth above, Plaintiff, as a
4 representative of the people of the State of California, will seek, and hereby does seek, any and all
5 civil penalties otherwise capable of being collected by the Labor Commission and/or the
6 Department of Labor Standards Enforcement (“DLSE”).

7 69. Any civil penalties recovered herein will be distributed in accordance with the
8 PAGA, with at least 75% of the penalties recovered being reimbursed to the State of California
9 and the LWDA, where applicable. See Labor Code § 2699(i).

10 70. Specifically, Plaintiff seeks to recover civil penalties pursuant to the PAGA that
11 arise from the policies, practices and business acts of Defendants to the extent provided by law as
12 a Representative Action, including reasonable attorneys’ fees and costs, and underpayment of
13 wages as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute.
14 Labor Code § 558 provides in pertinent part:

15 (a) Any employer or other person acting on behalf of an employer
16 who violates, or causes to be violated, a section of this chapter or any
17 provision regulating hours and days of work in any order of the Industrial
18 Welfare Commission shall be subject to a civil penalty as follows: (1) For
19 any initial violation, fifty dollars (\$50) for each underpaid employee for
20 each pay period for which the employee was underpaid in addition to an
21 amount sufficient to recover underpaid wages. (2) For each subsequent
22 violation, one hundred dollars (\$100) for each underpaid employee for
23 each pay period for which the employee was underpaid in addition to an
24 amount sufficient to recover underpaid wages. (3) Wages recovered
25 pursuant to this section shall be paid to the affected employee....

26 (c) The civil penalties provided for in this section are in addition to
27 any other civil or criminal penalty provided by law.

28 71. Section 2(K) of IWC Wage Order No. 9 defines “Hours worked” 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.”

72. In California, employees must be paid at least the then applicable state minimum
wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California

1 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
2 timely pay its employees for all hours worked. Defendants failed to do so. Defendants' failure to
3 pay compensation in a timely fashion also constituted a violation of California Labor Code § 204,
4 which requires that all wages shall be paid semimonthly. During the liability period, Defendants
5 have failed to pay all wages and overtime compensation earned by Aggrieved Employees, and
6 each such failure to make a timely payment of compensation to Employees constitutes a separate
7 violation of California Labor Code § 204.

8 73. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:
9 "The minimum wage for employees fixed by the commission is the minimum wage to be paid to
10 employees, and the payment of a less wage than the minimum so fixed is unlawful."

11 74. The minimum wage provisions of California Labor Code are enforceable by private
12 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
13 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
14 overtime compensation applicable to the employee is entitled to recover in a civil action the
15 unpaid balance of the full amount of this minimum wage or overtime compensation, including
16 interest thereon, reasonable attorney's fees and costs of suit."

17 75. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
18 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
19 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
20 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
21 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
22 be used as a credit against a minimum wage obligation.

23 76. In committing the above addressed violations of the California Labor Code,
24 Defendants inaccurately recorded, or required Plaintiff and the Aggrieved Employees to input
25 times that did not reflect their actual hours worked, or calculated the incorrect time worked and
26 consequently underpaid the actual time worked by Plaintiff and other Aggrieved Employees.
27 Defendants acted in an illegal attempt to avoid the payment of all earned wages, and other benefits
28 in violation of the California Labor Code, the Industrial Welfare Commission requirements and

1 other applicable laws and regulations. As a result of these violations, Defendant also failed to
2 timely pay all wages earned in accordance with California Labor Code § 1194.

3 77. California Labor Code § 1194.2 also provides for the following remedies: “In any
4 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
5 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
6 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

7 78. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
8 1197.1, Plaintiff and Aggrieved Employees are entitled to recover a penalty of \$100.00 for the
9 initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent
10 failure to pay each employee minimum wages.

11 79. Pursuant to California Labor Code § 1194.2, Plaintiff and Aggrieved Employees
12 are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid
13 and interest thereon.

14 80. Labor Code § 1198 also requires that: “The maximum hours of work and the
15 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
16 standard conditions of labor for employees. The employment of any employee for longer hours
17 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
18 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
19 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
20 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

21 81. Additionally, Labor Code § 1199 provides that: “Every employer or other person
22 acting either individually or as an officer, agent, or employee of another person is guilty of a
23 misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100) . . . , who does
24 any of the following: (a) Requires or causes any employee to work for longer hours than those
25 fixed, or under conditions of labor prohibited by an order of the commission. (b) Pays or causes to
26 be paid to any employee a wage less than the minimum fixed by an order of the commission. . . .”

27 82. Similarly, Section 20 of IWC Wage Order No. 9 addresses further penalties as
28 follows: “(A) In addition to any other civil penalties provided by law, any employer or any other

1 person acting on behalf of the employer who violates, or causes to be violated, the provisions of
2 this order, shall be subject to the civil penalty of: (1) Initial Violation — \$50.00 for each
3 underpaid employee for each pay period during which the employee was underpaid in addition to
4 the amount which is sufficient to recover unpaid wages. (2) Subsequent Violations — \$100.00 for
5 each underpaid employee for each pay period during which the employee was underpaid in
6 addition to an amount which is sufficient to recover unpaid wages. (3) The affected employee shall
7 receive payment of all wages recovered.”

8 83. Defendants have the ability to pay overtime wages for all time worked and have
9 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
10 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

11 84. Labor Code § 2699(f)(2) states: “For all provisions of this code except those
12 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
13 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
14 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
15 employee per pay period for the initial violation and two hundred dollars (\$200) for each
16 aggrieved employee per pay period for each subsequent violation.”

17 85. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
18 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
19 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
20 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
21 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 204,...510,
22 512,... 1194, 1197, 1197.1 and 1198...1199” among the provisions of the Code that allow for
23 recovery of civil penalties pursuant to the PAGA.

24 86. Defendants’ conduct, as alleged herein, violates the aforementioned regulations
25 because Defendants failed to properly compensate Plaintiff and other aggrieved non-exempt
26 employees applicable minimum wages and contractually agreed upon wages for all hours they
27 were required to work and remain under Defendants’ control.

28 87. As a direct and proximate result of the Defendants’ unlawful acts, as alleged in

1 detail herein, Plaintiff and other aggrieved non-exempt employees have been deprived, and
2 continue to be deprived, of overtime wages owed for all hours they worked.

3 88. As such, Defendants are liable for PAGA penalties resulting from their failure to
4 timely provide Plaintiff and the other Aggrieved Employees overtime and premium wages for all
5 hours worked. Accordingly, Plaintiff entitled to recover, and hereby seeks through this
6 representative action, all civil and statutory penalties authorized for violations of California Labor
7 Code §§ 510, 1194, 1197, 1197.1, 1198, and 204 and Sections 2(K), 4, and 20 of the applicable
8 IWC Wage Order(s), and Plaintiff seeks all civil and statutory penalties available and applicable,
9 and wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also
10 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

11 89. Plaintiff has fully complied with procedures specified in Labor Code § 2699.3. For
12 the purposes of this cause of action, recovery of civil penalties will include the recovery of
13 underpaid wages pursuant to Labor Code §§ 558(a)(1)-(3), in an amount according to proof and
14 subject to Court approval.

15 **THIRD CAUSE OF ACTION**

16 **CIVIL PENALTIES UNDER THE PAGA FOR MEAL-PERIOD LIABILITY**

17 **UNDER LABOR CODE §§ 512, 226.7**

18 **(Against All Defendants)**

19 90. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
20 full herein.

21 91. Employees regularly worked shifts greater than five (5) hours and in some
22 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, an employer may not employ
23 someone for a shift of more than five (5) hours without providing him or her with a meal period of
24 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
25 her with a second meal period of not less than thirty (30) minutes.

26 92. Similar to Labor Code § 512, Section 11(A)-(D) of Wage Order No. 9 provides
27 that: "(A) No employer shall employ any person for a work period of more than five (5) hours
28 without a meal period of not less than 30 minutes, except that when a work period of not more

1 than six (6) hours will complete the day's work the meal period may be waived by mutual consent
2 of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute
3 meal period, the meal period shall be considered an "on duty" meal period and counted as time
4 worked.... (B) If an employer fails to provide an employee a meal period in accordance with the
5 applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the
6 employee's regular rate of compensation for each work day that the meal period is not
7 provided...."

8 93. Defendants failed to provide Employees with meal periods as required under the
9 Labor Code. Employees were often required to work or to otherwise remain under Defendants'
10 control during meal periods, or Defendants provided them after Employees worked beyond the
11 fifth hour of their shifts or Employees otherwise had them shortened and interrupted by work
12 demands and requirements. Furthermore, upon information and belief, on the occasions when
13 Employees worked more than ten (10) hours in a given shift, they did so without receiving a
14 second uninterrupted thirty (30) minute meal period, as required by law.

15 94. Defendants thus failed to provide Plaintiff and the Aggrieved Employees with meal
16 periods as required by the Labor Code, including by not providing them with the opportunity to
17 take meal breaks, by providing them late or for less than thirty (30) minutes, or by requiring them
18 to perform work during breaks.

19 95. Moreover, Defendants failed to compensate Employees for each meal period not
20 provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of the
21 applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee a
22 meal period in accordance with this section, the employer shall pay the employee one (1) hour of
23 pay at the employee's regular rate of compensation for each workday that the meal period is not
24 provided. Defendants failed to compensate Employees for each meal period not provided or
25 inadequately provided, as required under Labor Code § 226.7.

26 96. Plaintiff seeks civil penalties against Defendants for failure to provide Plaintiff and
27 other aggrieved non-exempt employees lawful off-duty unpaid meal periods, as well as
28 corresponding premium pay for denied meal periods, during the applicable statutory period.

1 97. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
2 policies, practices and business acts of Defendants to the extent provided by law as a
3 Representative Action, including reasonable attorneys' fees and costs, and underpayment of wages
4 as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute. Labor
5 Code § 558 provides in pertinent part:

6 (a) Any employer or other person acting on behalf of an employer
7 who violates, or causes to be violated, a section of this chapter or any
8 provision regulating hours and days of work in any order of the Industrial
9 Welfare Commission shall be subject to a civil penalty as follows: (1) For
10 any initial violation, fifty dollars (\$50) for each underpaid employee for
11 each pay period for which the employee was underpaid in addition to an
12 amount sufficient to recover underpaid wages. (2) For each subsequent
violation, one hundred dollars (\$100) for each underpaid employee for
each pay period for which the employee was underpaid in addition to an
amount sufficient to recover underpaid wages. (3) Wages recovered
pursuant to this section shall be paid to the affected employee....

13 (c) The civil penalties provided for in this section are in addition to
14 any other civil or criminal penalty provided by law.

15 98. Section 2(K) of IWC Wage Order No. 9 defines "Hours worked" as "the time
16 during which an employee is subject to the control of an employer, and includes all the time the
17 employee is suffered or permitted to work, whether or not required to do so."

18 99. Labor Code § 1198 also requires that: "The maximum hours of work and the
19 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
20 standard conditions of labor for employees. The employment of any employee for longer hours
21 than those fixed by the order or under conditions of labor prohibited by the order is unlawful."
22 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
23 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
24 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

25 100. Premium pay for denied lawful meal and rest periods is considered a "wage" rather
26 than a penalty. *See Murphy v. Kennefth Cole Prods., Inc.* (2007) 40 Cal. 4th 1094, 1114.

27 101. Specifically, Plaintiff seeks to recover civil penalties pursuant to the PAGA that
28 arise from the policies, practices, and business acts of Defendants to the extent provided by law as

1 a Representative Action, including reasonable attorneys' fees and costs, and underpayment of
2 wages as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute.

3 102. Upon information and belief, Plaintiff and other aggrieved non-exempt employees
4 did not enter into legally binding written agreements with Defendants agreeing to "on-duty" meal
5 periods, or waiving "off duty" meal periods. Nor does the nature of their work prevent the
6 Aggrieved Employees from being relieved of all duties during meal periods. To the contrary. Any
7 inability to take uninterrupted off-duty meal periods was, and is, attributable solely to Defendants'
8 own insufficient staffing models, rather than the general nature of the work performed by Plaintiff
9 and other Aggrieved Employees.

10 103. Labor Code § 2699(f)(2) states: "For all provisions of this code except those
11 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
12 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
13 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
14 employee per pay period for the initial violation and two hundred dollars (\$200) for each
15 aggrieved employee per pay period for each subsequent violation."

16 104. Labor Code § 2699.3 allows "(a) A civil action by an aggrieved employee pursuant
17 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
18 2699.5" to commence upon satisfaction of its written notice requirements. Additionally, Labor
19 Code § 2699.5 provides, in pertinent part that "[t]he provisions of subdivision (a) of Section
20 2699.3 apply to any alleged violation of the following provisions: "[Labor Code §§] 226.7,
21 ...512,...558,... and 1198" among the provisions of the Code that allow for recovery of civil
22 penalties pursuant to the PAGA.

23 105. Defendants' conduct, as alleged herein, violates the aforementioned regulations
24 because Defendants failed to properly provide Plaintiff and other aggrieved non-exempt
25 employees with lawful uninterrupted off-duty meal periods throughout the applicable statutory
26 period. Defendants also systematically denied Plaintiff and other Aggrieved Employees proper
27 premium pay at the rate of one hour of pay at their regular pay rates for each work shift they were
28 denied an unpaid, off-duty 30-minute meal period.

106. As such, Defendants are liable for PAGA penalties resulting from their failure to provide Plaintiff and other aggrieved non-exempt employees lawful meal periods and the corresponding meal period premium pay. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 226.7, 512, 558, and 1198, and Section 11(A)-(D) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

107. Aggrieved employees may recover penalties for denied meal periods under the PAGA, as the civil penalty under California Labor Code 558 applies to any provision regulating hours and days of work in any Order, and Plaintiff has fully complied with procedures specified in Labor Code § 2699.3. For the purposes of this cause of action, recovery of civil penalties will therefore also include the recovery of underpaid wages pursuant to Labor Code §§ 558(a)(1)-(3), in an amount according to proof and subject to Court approval.

FOURTH CAUSE OF ACTION

PENALTIES UNDER THE PAGA FOR REST-BREAK LIABILITY UNDER

LABOR CODE §§ 226.7, 512

(Against All Defendants)

108. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

109. Section 12(A)-(B) of IWC Wage Order No. 9 instructs that: "(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized 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. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer

1 shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for
2 each work day that the rest period is not provided."

3 110. Labor Code § 226.7 further instructs that: "(b) An employer shall not require an
4 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
5 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission,... (c) If
6 an employer fails to provide an employee a meal or rest or recovery period in accordance with a
7 state law,... the employer shall pay the employee one additional hour of pay at the employee's
8 regular rate of compensation for each workday that the meal or rest or recovery period is not
9 provided. (d) A rest or recovery period mandated pursuant to a state law,... shall be counted as
10 hours worked, for which there shall be no deduction from wages...."

11 111. Labor Code § 226.7 and paragraph 12 of the applicable IWC Wage Orders thus
12 provide that employers must authorize and permit all employees to take rest periods at the rate of
13 ten (10) minutes net rest time per four (4) work hours.

14 112. Employees consistently worked consecutive four (4) hour shifts and were generally
15 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
16 permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC Wage Order,
17 Employees were entitled to paid rest breaks of not less than ten (10) minutes for each consecutive
18 four (4) hour shift, and Defendants failed to provide Employees with timely rest breaks of not less
19 than ten (10) minutes for each consecutive four (4) hour shift. Employees were often required to
20 work or to otherwise remain under Defendants' control during rest periods, and had breaks
21 provided untimely as a result of the above described off the clock work. Defendants, and each of
22 them, have therefore intentionally and improperly denied rest periods to Plaintiff and the
23 Aggrieved Employees in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of the
24 applicable IWC Wage Orders.

25 113. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
26 policies, practices and business acts of Defendants to the extent provided by law as a
27 Representative Action, including reasonable attorneys' fees and costs, and underpayment of wages
28 as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute. Labor

1 Code § 558 provides in pertinent part:

2 (a) Any employer or other person acting on behalf of an employer
3 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
5 Welfare Commission shall be subject to a civil penalty as follows: (1) For
6 any initial violation, fifty dollars (\$50) for each underpaid employee for
7 each pay period for which the employee was underpaid in addition to an
8 amount sufficient to recover underpaid wages. (2) For each subsequent
violation, one hundred dollars (\$100) for each underpaid employee for
each pay period for which the employee was underpaid in addition to an
amount sufficient to recover underpaid wages. (3) Wages recovered
pursuant to this section shall be paid to the affected employee....

9 (c) The civil penalties provided for in this section are in addition to
10 any other civil or criminal penalty provided by law.

11 114. Section 2(G) of IWC Wage Order No. 9 defines “Hours worked” as “the time
12 during which an employee is subject to the control of an employer, and includes all the time the
13 employee is suffered or permitted to work, whether or not required to do so.”

14 115. Labor Code § 1198 also requires that: “The maximum hours of work and the
15 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
16 standard conditions of labor for employees. The employment of any employee for longer hours
17 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
18 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
19 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
20 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

21 116. Premium pay for denied lawful meal and rest periods is considered a “wage” rather
22 than a penalty. *See Murphy v. Kennefth Cole Prods., Inc.* (2007) 40 Cal. 4th 1094, 1114.

23 117. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
24 policies, practices, and business acts of Defendants to the extent provided by law as a
25 Representative Action, including reasonable attorneys’ fees and costs, and underpayment of wages
26 as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute.

27 118. Labor Code § 2699(f)(2) states: “For all provisions of this code except those
28 for which a civil penalty is specifically provided, there is established a civil penalty for a violation

1 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
2 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
3 employee per pay period for the initial violation and two hundred dollars (\$200) for each
4 aggrieved employee per pay period for each subsequent violation.”

5 119. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
6 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
7 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
8 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
9 2699.3 apply to any alleged violation of the following provisions: “[Labor Code §§] 226.7,
10 ...512,...558,... and 1198” among the provisions of the Code that allow for recovery of civil
11 penalties pursuant to the PAGA.

12 120. Defendants’ conduct, as alleged herein, violates the aforementioned regulations
13 because Defendants failed to properly provide Plaintiff and other aggrieved non-exempt
14 employees with lawful uninterrupted off-duty, net ten-minute rest periods throughout the
15 applicable statutory period. Defendants also systematically denied Plaintiff and other Aggrieved
16 Employees proper premium pay at the rate of one hour of pay at their regular pay rates for each
17 work shift they were denied one of their lawfully entitled rest periods.

18 121. As such, Defendants are liable for PAGA penalties resulting from their failure to
19 provide Plaintiff and other aggrieved non-exempt employees lawful rest periods and the
20 corresponding rest period premium pay. Accordingly, Plaintiff is entitled to recover, and hereby
21 seeks through this Representative Action, all civil and statutory penalties authorized for violations
22 of California Labor Code §§ 226.7, 512, 558, and 1198, and Section 12(A)-(B) of the applicable
23 IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable
24 under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), and 2699(f)(2), and also
25 attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

26 122. Aggrieved employees may recover penalties for denied rest periods under the
27 PAGA, as the civil penalty under California Labor Code 558 applies to any provision regulating
28 hours and days of work in any Order, and Plaintiff has fully complied with procedures specified in

1 Labor Code § 2699.3. For the purposes of this cause of action, recovery of civil penalties will
2 therefore also include the recovery of underpaid wages pursuant to Labor Code §§ 558(a)(1)-(3),
3 in an amount according to proof and subject to Court approval.

4 **FIFTH CAUSE OF ACTION**

5 **PENALTIES UNDER THE PAGA FOR FAILURE TO REIMBURSE NECESSARY**

6 **BUSINESS EXPENSES UNDER LABOR CODE § 2802**

7 **(Against All Defendants)**

8 123. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
9 full herein.

10 124. Plaintiff is informed and believes and based thereon alleges that throughout the
11 period applicable, Defendants required Plaintiff and the Aggrieved Employees to pay for
12 necessary work related expenses they incurred in performing their daily job duties, as addressed
13 above, and such expenses were necessary for performing those duties. Specifically, Plaintiff and
14 the Aggrieved Employees were required to use their cell phones and purchase a helmet, hammer,
15 gloves, and safety goggles for business purposes. Plaintiff and the Aggrieved Employees were not
16 reimbursed for those lawful and necessary work related expenses or losses incurred in direct
17 discharge of their job duties during employment with Defendants and at the direction of the
18 Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

19 125. Labor Code § 2802 provides that: “(a) An employer shall indemnify his or her
20 employee for all necessary expenditures or losses incurred by the employee in direct consequence
21 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,...
22 (b) All awards made by a court or by the Division of Labor Standards Enforcement for
23 reimbursement of necessary expenditures under this section shall carry interest at the same rate as
24 judgments in civil actions. Interest shall accrue from the date on which the employee incurred the
25 necessary expenditure or loss. (c) For purposes of this section, the term “necessary expenditures or
26 losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by
27 the employee enforcing the rights granted by this section....”

28 126. Defendants’ knowing and willful failure to reimburse lawful necessary work related

1 expenses and losses to Plaintiff and the Aggrieved Employees resulted in damages and loses
2 because, among other things, Defendants did not inform employees of their right to be reimbursed
3 for those work related expenses. As Defendants failed to inform and misled Plaintiff and the
4 Aggrieved Employees with regard to their rights, Plaintiff and the Aggrieved Employees were led
5 to believe that incurring those lawful and necessary expenses was an expected and essential
6 function of their employment with Defendants and that failure to incur those expenses would have
7 adverse consequences on their employment.

8 127. Labor Code § 2699(f)(2) states that: “For all provisions of this code except those
9 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
10 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
11 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
12 employee per pay period for the initial violation and two hundred dollars (\$200) for each
13 aggrieved employee per pay period for each subsequent violation.”

14 128. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
15 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
16 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
17 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
18 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 2802...”
19 among the provisions of the Code that allow for recovery of civil penalties pursuant to the PAGA.

20 129. As such, Defendants are liable for PAGA penalties resulting from their failure to
21 reimburse necessary business expenses incurred by the Aggrieved Employees. Accordingly,
22 Plaintiff is entitled to recover, and hereby seeks through this Representative Action, all civil and
23 statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and
24 Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory
25 penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys’
26 fees and costs pursuant to Labor Code § 2699(g)(1).

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1 **SIXTH CAUSE OF ACTION**

2 **PENALTIES UNDER THE PAGA FOR FAILURE TO PROVIDE ACCURATE**
3 **ITEMIZED WAGE STATEMENTS UNDER LABOR CODE § 226(a) AND KEEP**
4 **ACCURATE PAYROLL RECORDS UNDER LABOR CODE § 1174**

5 **(Against All Defendants)**

6 130. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
7 full herein.

8 131. Plaintiff seeks civil penalties against Defendants for failure to provide Plaintiff and
9 the other Aggrieved Employees accurate itemized wage statements during the applicable statutory
10 period.

11 132. California Labor Code § 226(a) requires an employer to furnish each of his or her
12 employees with an accurate, itemized statement in writing showing the gross and net earnings,
13 total hours worked, and the corresponding number of hours worked at each hourly rate; these
14 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
15 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
16 statements may be given to the employee separately from the payment of wages; in either case the
17 employer must give the employee these statements twice a month or each time wages are paid.

18 133. Similarly, Sections 7(A)-(B) of IWC Wage Order No. 9 provide: “ (A) Every
19 employer shall keep accurate information with respect to each employee including the following:
20 (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18
21 years, and designation as a minor. (3) Time records showing when the employee begins and ends
22 each work period. Meal periods, split shift intervals and total daily hours worked shall also be
23 recorded. Meal periods during which operations cease and authorized rest periods need not be
24 recorded. (4) Total wages paid each payroll period, including value of board, lodging, or other
25 compensation actually furnished to the employee. (5) Total hours worked in the payroll period and
26 applicable rates of pay. This information shall be made readily available to the employee upon
27 reasonable request. (6) When a piece rate or incentive plan is in operation, piece rates or an
28 explanation of the incentive plan formula shall be provided to employees. An accurate production

1 record shall be maintained by the employer. (B) Every employer shall semimonthly or at the time
2 of each payment of wages furnish each employee, either as a detachable part of the check, draft, or
3 voucher paying the employee's wages, or separately, an itemized statement in writing showing:
4 (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the
5 name of the employee or the employee's social security number; and (4) the name of the
6 employer, provided all deductions made on written orders of the employee may be aggregated and
7 shown as one item."

8 134. Sections 7(C) of IWC Wage Order No. 9 further requires that: "All required records
9 shall be in the English language and in ink or other indelible form, properly dated, showing month,
10 day, and year and shall be kept on file by the employer for at least three (3) years at the place of
11 employment or at a central location within the State of California. An employee's records shall be
12 available for inspection by the employee upon reasonable request."

13 135. Labor Code § 226.3 also instructs that: "Any employer who violates subdivision
14 (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars
15 (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per
16 employee for each violation in a subsequent citation, for which the employer fails to provide the
17 employee a wage deduction statement or fails to keep the records required in subdivision (a) of
18 Section 226. The civil penalties provided for in this section are in addition to any other penalty
19 provided by law."

20 136. Defendants failed to provide Employees with accurate itemized wage statements in
21 writing, as required by the Labor Code. The wage statements given to Employees failed to
22 accurately account for wages, overtime, and premium pay for deficient meal periods and rest
23 breaks. The wage statements provided to Employees were confusing and required Employees to
24 engage in discovery and refer to outside sources to verify whether their pay was correct and
25 potentially resulting in a miscalculation by the Aggrieved Employees. The wage statements also
26 failed to account for unpaid wages and overtime due to off the clock work. Additionally, the wage
27 statements given to Employees failed to accurately account for premium pay for deficiently
28 provided meal periods and rest breaks, as discussed above. Throughout the liability period,

1 Defendants intentionally failed to furnish to Plaintiff and the Aggrieved Employees, upon each
2 payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours
3 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
4 paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the
5 period for which the employee is paid, (7) the name of the employee and only the last four digits
6 of his or her social security number or an employee identification number other than a social
7 security number, (8) the name and address of the legal entity that is the employer and (9) all
8 applicable hourly rates in effect during the pay period and the corresponding number of hours
9 worked at each hourly rate by the employee pursuant to Labor Code § 226, amongst other
10 statutory requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the
11 Aggrieved Employees with such timely and accurate wage and hour statements.

12 137. Plaintiff and the Aggrieved Employees suffered injury as a result of Defendants’
13 knowing and intentional failure to provide them with the wage and hour statements as required by
14 law and are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e),
15 as the Defendants have failed to provide a wage statement, failed to provide accurate and complete
16 information as required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and
17 the Plaintiff and Aggrieved Employees cannot promptly and easily determine from the wage
18 statement alone one or more of the following: (i) The amount of the gross wages or net wages paid
19 to the employee during the pay period or any of the other information required to be provided on
20 the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a),
21 (ii) Which deductions the employer made from gross wages to determine the net wages paid to the
22 employee during the pay period, (iii) The name and address of the employer and, (iv) The name of
23 the employee and only the last four digits of his or her social security number or an employee
24 identification number other than a social security number. For purposes of Labor Code § 226(e)
25 “promptly and easily determine” means a reasonable person [i.e. an objective standard] would be
26 able to readily ascertain the information without reference to other documents or information.

27 138. Therefore, as a direct and proximate cause of Defendants’ violations of Labor Code
28 § 226(a), Employees suffered injuries, including among other things confusion over whether they

1 received all wages owed them and the total numbers of hours they worked in a pay period, the
2 difficulty and expense involved in reconstructing pay records, and forcing them to make
3 mathematical computations to analyze whether the wages paid in fact compensated them correctly
4 for all hours worked. Labor Code § 226(e)(1) further instructs that: "An employee suffering injury
5 as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is
6 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
7 in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
8 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and
9 is entitled to an award of costs and reasonable attorney's fees."

10 139. In addition to these statutory penalties under Section 226(e), Plaintiff also seeks
11 civil penalties under the PAGA against Defendants for providing inaccurate wage statements and
12 also for failure to maintain accurate Employee records during the applicable statutory period.

13 140. To this end, Labor Code § 1174 provides that: "Every person employing labor in
14 this state shall:....(c) Keep a record showing the names and addresses of all employees employed
15 and the ages of all minors. (d) Keep, at a central location in the state or at the plants or
16 establishments at which employees are employed, payroll records showing the hours worked daily
17 by and the wages paid to, and the number of piece-rate units earned by and any applicable piece
18 rate paid to, employees employed at the respective plants or establishments. These records shall be
19 kept in accordance with rules established for this purpose by the commission, but in any case shall
20 be kept on file for not less than three years..."

21 141. Labor Code § 1174.5 further provides that: "Any person employing labor who
22 willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and
23 complete records required by subdivision (d) of Section 1174, or to allow any member of the
24 commission or employees of the division to inspect records pursuant to subdivision (b) of Section
25 1174, shall be subject to a civil penalty of five hundred dollars (\$500)."

26 142. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
27 policies, practices and business acts of Defendants to the extent provided by law as a
28 Representative Action, including reasonable attorneys' fees and costs, and underpayment of wages

1 as permitted by Labor Code § 558, as a separate penalty provided by the PAGA statute.

2 143. As alleged in more detail above, Defendants violated the above statutes by failing
3 to maintain accurate payroll records showing the hours worked daily by, and the wages paid to,
4 Plaintiff and other aggrieved non-exempt employees. Defendants' payroll records pertaining to
5 Plaintiff and other aggrieved non-exempt employees fail to accurately reflect all regular and
6 overtime hours worked, overtime hourly rates, actual gross wages and net wages earned, meal
7 periods, and premium wages owed for denied lawful meal and rest periods.

8 144. Labor Code § 2699(f)(2) states that: "For all provisions of this code except those
9 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
10 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
11 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
12 employee per pay period for the initial violation and two hundred dollars (\$200) for each
13 aggrieved employee per pay period for each subsequent violation."

14 145. Labor Code § 2699.3 allows "(a) A civil action by an aggrieved employee pursuant
15 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
16 2699.5" to commence upon satisfaction of its written notice requirements. Additionally, Labor
17 Code § 2699.5 provides, in pertinent part that "[t]he provisions of subdivision (a) of Section
18 2699.3 apply to any alleged violation of the following provisions: [Labor Code §§] 226,...
19 subdivisions (c) and (d) of Section 1174,... 1198,...1199,..." among the provisions of the Code
20 that allow for recovery of civil penalties pursuant to the PAGA.

21 146. Labor Code § 1198 also requires that: "The maximum hours of work and the
22 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
23 standard conditions of labor for employees. The employment of any employee for longer hours
24 than those fixed by the order or under conditions of labor prohibited by the order is unlawful."
25 Labor Code § 1198 therefore provides a basis in the Labor Code to recover for violations of the
26 IWC Wage Order provisions, and Labor Code § 2699.5 list Section 1198 as one of the provisions
27 for which a representative PAGA action may be commenced under Labor Code § 2699.3.

28 147. As such, Defendants are liable for PAGA penalties resulting from their failure to

1 provide accurate itemized wage statements to Plaintiff and the Aggrieved Employees and failure
2 to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
3 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s),
4 and Plaintiff seeks all civil and statutory penalties and wages available and applicable under Labor
5 Code §§ 226(e), 226.3, 558, 1174.5, and 2699(f)(2), and also for attorneys' fees and costs pursuant
6 to Labor Code § 2699(g)(1).

7 148. Plaintiff has fully complied with procedures specified in Labor Code § 2699.3. For
8 the purposes of this cause of action, recovery of civil penalties will therefore also include the
9 recovery of underpaid wages pursuant to Labor Code §§ 558(a)(1)-(3).

10 **SEVENTH CAUSE OF ACTION**

11 **PENALTIES UNDER THE PAGA FOR FAILURE TO TIMELY PAY ALL WAGES**
12 **OWED IN VIOLATION OF LABOR CODE §§ 203, 204**

13 **(Against All Defendants)**

14 149. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 150. Plaintiff and numerous Aggrieved Employees are no longer employed by
17 Defendants; they either quit Defendants' employ or were fired therefrom. Plaintiff seeks civil
18 penalties against Defendants for their failure to timely pay Plaintiff and the Aggrieved Employee
19 all wages owed during the applicable statutory period. Defendants failed to pay these Employees
20 all wages due and certain at the time of termination or within seventy-two (72) hours of
21 resignation. The wages withheld from these Employees by Defendants remained due and owing
22 for more than thirty (30) days from the date of separation from employment.

23 151. Under Labor Code § 201, "(a) If an employer discharges an employee, the wages
24 earned and unpaid at the time of discharge are due and payable immediately...." Under Labor
25 Code § 202, "(a) If an employee not having a written contract for a definite period quits his or her
26 employment, his or her wages shall become due and payable not later than 72 hours thereafter,
27 unless the employee has given 72 hours previous notice of his or her intention to quit, in which
28 case the employee is entitled to his or her wages at the time of quitting."

1 152. Labor Code § 203 further provides: “(a) If an employer willfully fails to pay,
2 without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and
3 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall
4 continue as a penalty from the due date thereof at the same rate until paid or until an action
5 therefor is commenced; but the wages shall not continue for more than 30 days....”

6 153. Under Labor Code § 2926, “[a]n employee who is not employed for a specified
7 term and who is dismissed by his employer is entitled to compensation for services rendered up to
8 the time of such dismissal.” Also, under Labor Code § 2927, “[a]n employee who is not employed
9 for a specified term and who quits the service of his employer is entitled to compensation for
10 services rendered up to the time of such quitting.”

11 154. Labor Code § 204(a) also instructs that: “All wages, ...earned by any person in
12 any employment are due and payable twice during each calendar month, on days designated in
13 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
14 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
15 during which the labor was performed, and labor performed between the 16th and the last day,
16 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
17 month.” Under Labor Code § 204(d), “[t]he requirements of this section shall be deemed satisfied
18 by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
19 more than seven calendar days following the close of the payroll period.” As detailed above,
20 Defendants maintained a consistently applied policy and practice of not paying all wages earned
21 between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all
22 wages earned between the 16th and the last day of the month between the 1st and 10th day of the
23 following month. Defendants similarly failed to pay all wages earned by not more than seven
24 calendar days following the close of the payroll period.

25 155. Defendants failed to pay Plaintiff and the Aggrieved Employees without abatement,
26 all wages as defined by applicable California law. Among other things, these Employees were not
27 paid all regular and overtime wages, including by Defendants failing to pay for all hours worked
28 or requiring off the clock work and Defendants failed to pay premium wages owed for unprovided

1 meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said
2 wages within the required time was willful within the meaning of Labor Code § 203.

3 156. All wages due and owing to Plaintiff and the Aggrieved Employees, including as
4 required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally,
5 wages required by Labor Code § 1194 and other sections became due and payable to each
6 employee in each pay period that he or she was not provided with a meal period or rest period or
7 paid straight or overtime wages to which he or she was entitled.

8 157. Under Labor Code § 210, "(a) In addition to, and entirely independent and apart
9 from, any other penalty provided in this article, every person who fails to pay the wages of each
10 employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be
11 subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for
12 each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional
13 violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
14 amount unlawfully withheld."

15 158. Similarly, Section 20 of IWC Wage Order No. 9 addresses further penalties as
16 follows: "(A) In addition to any other civil penalties provided by law, any employer or any other
17 person acting on behalf of the employer who violates, or causes to be violated, the provisions of
18 this order, shall be subject to the civil penalty of: (1) Initial Violation — \$50.00 for each
19 underpaid employee for each pay period during which the employee was underpaid in addition to
20 the amount which is sufficient to recover unpaid wages. (2) Subsequent Violations — \$100.00 for
21 each underpaid employee for each pay period during which the employee was underpaid in
22 addition to an amount which is sufficient to recover unpaid wages. (3) The affected employee shall
23 receive payment of all wages recovered."

24 159. Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from the
25 policies, practices and business acts of Defendants to the extent provided by law as a
26 Representative Action, including reasonable attorneys' fees and costs, and underpayment of wages
27 as permitted by Labor Code § 558, as a separate civil penalty provided by the PAGA statute.

28 160. Defendants violated the above statutes by failing to promptly pay Plaintiff and

1 other aggrieved non-exempt employees all earned wages due each and every pay period, as well as
2 immediately upon termination and/or within 72 hours upon resignation.

3 161. During the applicable statutory period, Defendants violated, and continue to
4 violate, California Labor Code § 204 and Section 20 of IWC Wage Order No. 9 by failing to
5 compensate Plaintiff and other aggrieved hourly employee overtime premium wages for overtime
6 hours worked, premium pay for denied off-duty meal and rest periods (wages), and other wages
7 due to Plaintiff and other Aggrieved Employees each pay period, as alleged in more detail herein.

8 162. Further, Defendants violated, and continue to violate, California Labor Code §§
9 201-204, 2926, and 2927 by failing to compensate employees, including Plaintiff and other
10 Aggrieved Employees no longer working for Defendants, for services rendered up to the time of
11 dismissal or quitting.

12 163. Labor Code § 2699(f)(2) states: “For all provisions of this code except those
13 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
14 of these provisions, as follows ... (2) If, at the time of the alleged violation, the person employs
15 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
16 employee per pay period for the initial violation and two hundred dollars (\$200) for each
17 aggrieved employee per pay period for each subsequent violation.”

18 164. Labor Code § 2699.3 allows “(a) A civil action by an aggrieved employee pursuant
19 to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section
20 2699.5” to commence upon satisfaction of its written notice requirements. Additionally, Labor
21 Code § 2699.5 provides, in pertinent part that “[t]he provisions of subdivision (a) of Section
22 2699.3 apply to any alleged violation of the following provisions: “[Labor Code §§] 201,... 202,
23 203, ...204,... 558,...1198,....” among the provisions of the Code that allow for recovery of civil
24 or statutory penalties pursuant to the PAGA.

25 165. Defendants are liable for PAGA penalties resulting from their failure to timely pay
26 all wages owed to Plaintiff and other Aggrieved Employees at the time of their termination of
27 separation from employment, and failure to timely pay all wages owed twice monthly.
28 Accordingly, Plaintiff is entitled to recover, and hereby seeks through this Representative Action,

all civil and statutory penalties authorized for violations under Labor Code §§ 201, 201, 203, 204, 1197.5, 1198, 2926, and 2927, and Plaintiff seeks all civil penalties available and applicable, and wages, under Labor Code §§ 201, 202, 203, 210, 558, 1197, and 2699(f)(2), and Section 20 of the applicable IWC Wage Order(s), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

166. Aggrieved Employees may recover penalties for Defendants' failure to timely pay all wages owed, as the civil penalty under California Labor Code 558 applies to any provision regulating hours and days of work in any Order, and Plaintiff has fully complied with procedures specified in Labor Code § 2699.3. For the purposes of this cause of action, recovery of civil penalties will therefore also include the recovery of underpaid wages pursuant to Labor Code §§ 558(a)(1)-(3), in an amount according to proof and subject to Court approval.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. On the First Cause of Action: For recovery of all civil penalties for unpaid minimum and regular wages for all hours worked during the applicable statutory period as permitted by California Labor Code §§ 510, 1194, 1197, 1197.1, 1198, 221 and 204 and Sections 2(K), 4, and 20 of the applicable IWC Wage Order(s), including civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, to be distributed in the manner provided by Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved Employees in an amount according to proof and subject to approval by the Court;
2. On the Second Cause of Action: For recovery of all civil penalties for unpaid overtime and premium wages for all hours worked during the applicable statutory period as permitted by Labor Code §§ 510, 1194, 1197, 1197.1, 1198, and 204 and Sections 2(K), 4, and 20 of the applicable IWC Wage Order(s), including all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved Employees in an amount according to proof and subject to approval by the Court;

1 3. On the Third Cause of Action: For recovery of all civil penalties for non-compliant
2 meal periods during the applicable statutory period and failure to pay one-hour of premium wages
3 to Plaintiff and the Aggrieved Employees as permitted by Labor Code §§ 226.7, 512, 558, and
4 1198, and Section 11(A)-(D) of the applicable IWC Wage Orders, including all civil and statutory
5 penalties available and applicable under Labor Code §§ 226.7, 512, 558, including sections
6 558(a)(1)-(3), 2699.3, and 2699(f)(2), to be distributed in the manner provided by Labor Code §
7 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved
8 Employees in an amount according to proof and subject to approval by the Court.

9 4. On the Fourth Cause of Action: For recovery of all civil penalties for non-
10 compliant rest periods during the applicable statutory period and failure to pay one-hour of
11 premium wages to Plaintiff and the Aggrieved Employees as permitted by Labor Code §§ 226.7,
12 512, 558, and 1198, and Section 11(A)-(D) of the applicable IWC Wage Orders, including all civil
13 and statutory penalties available and applicable under Labor Code §§ 226.7, 512, 558, including
14 sections 558(a)(1)-(3), 2699.3, and 2699(f)(2), to be distributed in the manner provided by Labor
15 Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved
16 Employees in an amount according to proof and subject to approval by the Court.

17 5. On the Fifth Cause of Action: For recovery of all civil penalties for Defendants'
18 failure to reimburse all necessary business expenses incurred by Plaintiff and the Aggrieved
19 Employees as permitted by Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable
20 IWC Wage Orders, including all civil and statutory penalties available and applicable under Labor
21 Code §§ 2802 and 2699(f)(2), to be distributed in the manner provided by Labor Code § 2699(i),
22 with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved Employees in an
23 amount according to proof and subject to approval by the Court.

24 6. On the Sixth Cause of Action: For recovery of all civil penalties for inaccurate
25 wage statements Defendants provided to Plaintiff and the Aggrieved Employees and failure to
26 maintain employment records as permitted by Labor Code §§ 226, 1174, 1198, and 1198.5, and
27 Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s), including all civil and
28 statutory penalties available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, and

2699(f)(2), to be distributed in the manner provided by Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved Employees in an amount according to proof and subject to approval by the Court;

7. On the Seventh Cause of Action: For recovery of all civil penalties pursuant to Labor Code § 2699(f)(2) where a statutory civil penalty is not provided, for failing to timely pay all wages owed and to timely pay them to Aggrieved Employees upon termination or separation from employment as permitted under Labor Code §§ 201, 201, 203, 204, 1197.5, 1198, 2926, and 2927, including all civil and statutory penalties, and wages, available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, and 2699(f)(2), and Section 20 of the applicable IWC Wage Order(s), to be distributed in the manner provided by Labor Code § 2699(i), with 75% of recovery to the LWDA and 25% of the recovery to the Aggrieved Employees in an amount according to proof and subject to approval by the Court;

8. For reasonable attorneys' fees and costs of suit to the extent permitted under the PAGA and applicable Labor Code sections, including Labor Code § 2699(g)(1), in an amount according to proof and subject to Court approval.

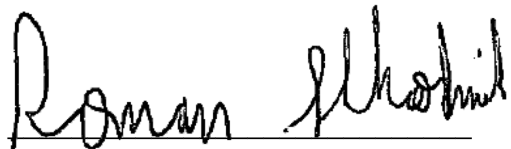
9. For pre-judgment and post-judgment interest at the legal rate of 10% in the State of California on readily calculable monies due to the extent provided by California law and authorized under the PAGA, in an amount according to proof;

10. For the Court to otherwise determine the appropriate remedy to compensate Plaintiff and each Aggrieved Employee as required to promote fairness and justice; and

11. For such other and further relief as this Court may deem necessary, proper and/or just.

DATED: May 5, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

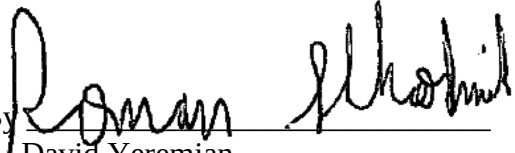
By 
David Yeremian
Roman Shkodnik
Attorneys for Plaintiff EDUARDO
VELAZQUEZ
and all similarly aggrieved employees

1
2 **DEMAND FOR JURY TRIAL**

3 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

4
5 DATED: May 5, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

6
7 By  _____
David Yeremian

8 Roman Shkodnik
9 Attorneys for Plaintiff EDUARDO
10 VELAZQUEZ
11 and all similarly aggrieved employees
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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 2540 Foothill Blvd., Suite 201, La Crescenta, CA 91214.

Christina C. Tillman
christina.tillman@mccormickbarstow.com
McCORMICK BARSTOW LLP
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 Fresno, California 93720
 P.O. Box 28912
 Fresno, CA 93729

[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at La Crescenta, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[] (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 5, 2023, at La Crescenta, California.

Natalia Bermudes
Natalia Bermudes