

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Peter J. Carlson, Esq. [CSB No. 295611]
peter@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
5198 Arlington Avenue, PMB 513
Riverside, CA 92504
Tel: (951) 320-1444 | Fax: (951) 320-1445

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
3/27/2026 9:02 AM
By: Raymond Rojas, DEPUTY

Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JAMES BONO, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

MIZKAN AMERICA PARTNERS, INC., a
Delaware Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CIVSB2515554

*[Assigned to Hon. Nicole Quintana Winter,
Dept S29, for all purposes]*

FIRST AMENDED COMPLAINT

CLASS ACTION CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Reimburse Bus. Expenses;
- (6) Failure to Pay Vested Vacation;
- (7) Failure to Timely Pay Final Wages;
- (8) Failure to Provide Accurate Itemized Wage Statements;
- (9) Unfair and Unlawful Competition;

PAGA CLAIMS

- (10) Failure to Pay Minimum Wages;
- (11) Failure to Pay Overtime Wages;
- (12) Failure to Provide Meal Periods;
- (13) Failure to Provide Rest Breaks;
- (14) Failure to Reimburse Bus. Expenses;
- (15) Failure to Pay Vested Vacation;
- (16) Failure to Timely Pay Final Wages; and
- (17) Failure to Provide Accurate Itemized Wage Statements

JURY TRIAL DEMANDED

1 Plaintiff James Bono (“Plaintiff”) on behalf of himself, on a representative basis, and on
2 behalf of others similarly situated, complains and alleges as follows.

3 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

4 1. Plaintiff brings this action against his former employer(s), Mizkan America
5 Partners, Inc. and DOES 1 through 20, inclusive, (collectively, “Defendants”) on behalf of all
6 current and former nonexempt employees employed by Defendants in California (the “Class” or
7 “Represented Employees”), for Labor Code violations stemming from Defendants’ failure to pay
8 all wages owed, including minimum, regular, and overtime wages, failure to provide meal
9 periods, failure to provide rest breaks, failure to reimburse business expenses, failure to pay
10 vested vacation, failure to timely pay wages upon separation of employment, and failure to
11 provide accurate itemized wage statements.

12 2. Plaintiff was employed by Defendants from approximately 2021 through
13 November 2024.

14 3. Plaintiff alleges on information and belief that the Represented Employees were
15 subjected to the same policies, working conditions, and corresponding wage and hour violations
16 to which Plaintiff was subjected during employment.

17 4. Plaintiff and the Represented Employees were not provided all minimum, regular,
18 and overtime wages due to Defendants’ “auto-deduct” policy and practice. Under this “auto-
19 deduct” practice, Defendants automatically deducted 30 minutes from the shift of Represented
20 Employees – despite no meal period recorded, and without inquiry into whether a meal period
21 was taken or for how long. In other words, when a Represented Employee’s timekeeping
22 showed a shift spanning 8.5 hours worked, the Defendants only paid for 8 hours, deducting 30
23 minutes (0.5 hours) for a meal period despite that there are no records evidencing a 30-minute
24 meal period occurring on that shift.

25 5. Plaintiff and the Represented Employees often worked more than 8 hours per day
26 and/or 40 hours per week but did not receive all required overtime compensation on such
27 occasions. Also, at all relevant times, Plaintiff and the Represented Employees were
28 compensated on an hourly basis plus additional earned compensation (including commissions

1 and bonuses). However, on the occasions when the Represented Employees worked overtime
2 hours and received additional earned compensation during the same workweek, Defendants
3 failed to properly include these amounts in the calculations for the regular rate of pay – in
4 violation of California law and which led to the failure to pay proper overtime. Further, the
5 Defendants failed to pay doubletime wages on shifts lasting more than 12 hours.

6 6. Defendants also utilized a rounding policy and practice that routinely
7 undercompensated Plaintiff and resulted in a net benefit to Defendants and a net loss for
8 Plaintiff. In other words, Defendants’ rounding policy is not neutral and results in systematic
9 undercompensation for the Represented Employees, in violation of California law. *See’s Candy*
10 *Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 903 (rounding policy is illegal where
11 it is not “neutral, both facially and as applied”). Moreover, all underpayments caused by this
12 rounding policy violate California law and lead to minimum, regular, and overtime wage
13 violations under *Camp v. Home Depot U.S.A. Inc.*, (2022) 84 Cal. App. 5th 638, 660 (if an
14 employer “can capture and has captured the exact time an employee has worked during a shift,
15 the employer must pay the employee for ‘all the time’ worked”).

16 7. Additionally, at all relevant times, Plaintiff and the Represented Employees were
17 not provided proper minimum and overtime wages due to the Defendants’ failure to accurately
18 record and compensate for all hours worked, which led to frequent and reoccurring unpaid
19 compensable time. For example, the Defendants frequently required Plaintiff and the
20 Represented Employees to perform pre- and post-shift work without recording such time, leading
21 to unpaid wages. These practices violate California law. *Troester v. Starbucks Corporation*
22 (2018) 5 Cal.5th 829 (California law “do[es] not allow employers to require employees to
23 routinely work for minutes off the clock without compensation”); *Frlekin v. Apple Inc.* (2020) 8
24 Cal.5th 1038 (tasks are compensable when employee is under company’s control and where the
25 tasks served the employer’s interests).

26 8. Plaintiff and the Represented Employees were also denied 30-minute off-duty
27 meal periods, as mandated by California law. As a result of Defendants’ policies and practices,
28 the Represented Employees were subjected to meal period violations when they were: (1) unable

1 to take a meal period due to workload, (2) forced to take a meal period after the 5th hour of
2 work, and (3) not provided mandated second meal periods for shifts in excess of 10 hours. As
3 such, Plaintiff and other similarly situated employees were regularly not provided with
4 uninterrupted meal periods of at least 30 minutes, as required by California law. Moreover,
5 Defendants failed to record or keep accurate information regarding when Plaintiff and the
6 Represented Employees took their meal periods, in violation of the applicable IWC Wage Order
7 § 7(A)(3).

8 9. Defendants also failed to provide Plaintiff with 10 minutes of net rest break time
9 for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants
10 did not schedule Plaintiff's rest breaks and Plaintiff was often not authorized and/or permitted to
11 take mandated rest breaks due to being overwhelmed by his hectic workload. Furthermore, on
12 occasions when Plaintiff worked in excess of 10 hours in a shift, Defendants failed to authorize
13 and/or permit a third mandated rest break.

14 10. Defendants further failed to comply with the mandates of Labor Code §§ 204 and
15 210 regarding the timing of the payment of wages to their employees each period, including
16 minimum and overtime wages, as well as meal and rest period premiums. Also, Defendants
17 failed to comply with the mandates of Labor Code §§ 201–203 regarding timing of payment of
18 final wages and failed to pay all wages due and owing upon separation of employment including
19 minimum wages, overtime, meal and rest break premiums, and Defendants further failed to pay
20 the Represented Employees for mandated sick time at a rate “calculated in the same manner as
21 the regular rate of pay.”

22 11. Moreover, at all relevant times, Defendants required Plaintiff and the Represented
23 Employees to incur necessary business-related expenses and costs without reimbursement,
24 including, but not limited to, acquiring and maintaining a smart phone and related monthly data
25 plan to navigate in the field and communicate with Defendants via phone, text, and pictures.
26 Plaintiff was also required to use his own personal tools to repair the Defendants' machines.
27 When Plaintiff's tools broke or wore out due to work use, the Defendants did not replace them or
28 reimburse Plaintiff.

1 12. Also, at all relevant times, Defendants utilized a policy and practice through
2 which Plaintiff and the Represented Employees accrued vacation and/or paid time off hours
3 (collectively, “vacation hours”). California law, specifically Labor Code § 227.3, requires
4 Defendants to pay all accrued and unused vacation hours upon separation of employment at the
5 final rate of pay. However, Defendants’ policy and practice violated Labor Code § 227.3, as
6 detailed below.

7 13. Plaintiff further alleges that Defendants provided Plaintiff and the Represented
8 Employees with inaccurate and incomplete wage statements that failed to accurately state all
9 necessary items required under Labor Code § 226(a).

10 14. Plaintiff alleges that Defendants’ violations of the wage and hour components of
11 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their
12 level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over
13 their competitors.

14 15. At all material times, Defendants and DOES 1 through 20 were and/or are the
15 Represented Employees’ employers or persons acting on behalf of the Represented Employees’
16 employer, within the meaning of California Labor Code § 558, who violated or caused to be
17 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
18 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each
19 underpaid employee as set forth in Labor Code § 558 and under California law.

20 16. Plaintiff alleges that he worked under the joint direction and control of the
21 Defendants and is informed and believes that each of them acted in all respects pertinent to this
22 action as the agent of the others, carried out a joint scheme, business plan or policy in all respects
23 pertinent hereto, and the acts of each are legally attributable to the others. On information and
24 belief, a unity of interest and ownership between each exists such that the Defendants acted as a
25 single employer of Plaintiff and the Represented Employees. Furthermore, on information and
26 belief, the Defendants are an integrated enterprise and should be treated as a single employer
27 because the Defendants share an interrelation of operations, with common human resources and
28 personnel policies and shared common offices and facilities. Upon information and belief, the

Defendants share common management, a centralized control of labor operations, and common ownership or financial control.

17. At all material times, Defendants and DOES 1 through 20 were and/or are the Represented Employees' employers or persons acting on behalf of the Represented Employees' employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each underpaid employee as set forth in Labor Code § 558 and under California law.

18. Plaintiff brings this lawsuit seeking declaratory, equitable, and monetary relief against Defendants and each of them, on behalf of himself and the Represented Employees to recover, among other things, unpaid wages and benefits, interest, attorneys' fees, penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, among possibly other sections inadvertently omitted. Plaintiff also reserves the right to name additional representatives throughout the State of California.

II. JURISDICTION

19. This Court has jurisdiction over the claims for relief of Plaintiff and the Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

III. VENUE

20. Venue as to each Defendant is proper in this Court pursuant to Code of Civil Procedure § 395(a). Defendants transact business in San Bernardino County and the unlawful acts alleged herein have a direct effect on Plaintiff and the Represented Employees in San Bernardino County. Furthermore, Defendants employed or employ Represented Employees in San Bernardino County.

IV. PARTIES

Plaintiff

21. Plaintiff and Class Representative James Bono was employed by Defendants from approximately 2021 through November 2024.

1 **Defendants**

2 22. Plaintiff is informed and believes and thereon alleges that Defendant Mizkan
3 America Partners, Inc. is a Delaware corporation authorized to and doing business in San
4 Bernardino County and is or was the legal employer of Plaintiff and the Represented Employees
5 during the applicable periods.

6 23. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
7 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
8 inclusive, but on information and belief alleges that those Defendants are legally responsible for
9 the payment of penalties and damages to Plaintiff and all Represented Employees by virtue of
10 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
11 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
12 Defendants when ascertained.

13 24. Plaintiff is informed and believes and thereon alleges that he and the Represented
14 Employees worked under the joint direction and control of Defendants and that Defendants, and
15 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,
16 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
17 each Defendant are legally attributable to the other Defendants. On information and belief, a
18 unity of interest and ownership between each Defendant exists such that all Defendants acted as
19 a single employer of Plaintiff and other Represented Employees.

20 25. Furthermore, Plaintiff is informed and believes and thereon alleges that
21 Defendants, and each of them, are an integrated enterprise and should be treated as a single
22 employer because these entities share an interrelation of operations, with common human
23 resources and personnel policies and shared common offices and facilities. Additionally,
24 Defendants also have a shared website, common management, a centralized control of labor
25 operations, and common ownership or financial control.

26 26. Plaintiff is informed and believes and thereon alleges that, in conducting
27 themselves in the manner described herein, Defendants, and each of them, were acting in active
28 concert with one another such that the acts of each were and are fully attributable to the others in

1 all material respects. Plaintiff is further informed and believes that at all relevant times
2 Defendants and each of them are now, and at all material times herein mentioned were, the
3 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
4 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
5 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
6 their remaining co-Defendants.

7 27. Plaintiff is further informed and believes that at all relevant times, Defendants
8 have been inadequately capitalized to conduct business, have failed to follow appropriate
9 corporate formalities, and have simply been a shell and instrumentality through which
10 Defendants DOES 1 through 20, inclusive, have conducted their personal affairs. Accordingly,
11 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
12 jointly and severally against Defendants DOES 1 through 20. Adherence to the fiction of the
13 separate existence of these corporate entities would permit abuse of the corporate privilege,
14 thereby sanctioning fraud and promoting injustice.

15 **V. CLASS ACTION ALLEGATIONS**

16 28. Plaintiff incorporates the preceding paragraphs of the First Amended Complaint
17 (the "Complaint") as if fully alleged herein.

18 29. Plaintiff brings this action on behalf of himself and all others similarly situated as
19 a class action, pursuant to Code of Civil Procedure § 382.

20 30. The relevant time period for this class action is defined as the period beginning
21 four years prior to the filing of this action until class certification (the "Relevant Time Period").

22 31. The Class, also referred to as the "Represented Employees," that Plaintiff seeks to
23 represent is defined as follows:

24 All current and former nonexempt employees employed by
25 Defendants in California during the Relevant Time Period.

26 32. Plaintiff also seeks to represent the following subclasses:

27 ///

28 ///

1 **Meal Break Subclass**

2 All Represented Employees who worked a shift in excess of
3 5 hours during the Relevant Time Period.

4 **Rest Break Subclass**

5 All Represented Employees who worked a shift of at least
6 3.5 hours during the Relevant Time Period.

7 **Unreimbursed Expense Subclass**

8 All Represented Employees who were required to incur
9 expenses to discharge their duties for Defendants without
10 reimbursement during the Relevant Time Period.

11 **Vested Vacation Subclass**

12 All Represented Employees who had accrued but unused
13 vacation upon separation of employment during the period
14 four years before the filing of this action and ending when
15 final judgment is entered.

16 **Waiting Time Penalties Subclass**

17 All Represented Employees who separated from their
18 employment with Defendants during the period three years
19 before the filing of this action and ending when final
20 judgment is entered.

21 **Wage Statement Penalties Subclass**

22 All Represented Employees during the period one year
23 before the filing of this action and ending when final
24 judgment is entered.

25 33. Plaintiff reserves the right to amend or modify the class description with greater
26 specificity or further division into subclasses or limitation to particular issues as appropriate.

27 34. Plaintiff, as Class Representative, is a member of the class and subclasses that he
28 seeks to represent.

1 35. This action has been brought and may properly be maintained as a class action
2 under Code of Civil Procedure § 382 because there is a well-defined community of interest in the
3 litigation and the proposed class is easily ascertainable from Defendants' records.

4 36. **Numerosity:** The potential members of the Class as defined are so numerous that
5 a joinder of all Represented Employees is impracticable. Although the exact number is currently
6 unknown to Plaintiff, this information is easily ascertainable from Defendants' records.

7 37. **Commonality:** There are questions of law and fact common to the class which
8 predominate over any questions affecting only individual members of the class, including
9 without limitation:

10 i. Whether Defendants violated the California Labor Code and applicable
11 IWC Wage Order by failing to pay wages to Plaintiff and the Represented Employees for all
12 hours worked;

13 ii. Whether Defendants violated the California Labor Code and applicable
14 IWC Wage Order by failing to pay proper overtime wages to Plaintiff and the Represented
15 Employees for hours above 8 and/or 12 per day and/or 40 per week;

16 iii. Whether Defendants violated the California Labor Code and applicable
17 IWC Wage Order by failing to provide compliant meal periods to Plaintiff and the Meal Break
18 Subclass and whether Defendants failed to compensate Plaintiff and the Meal Break Subclass
19 with one additional hour of wages at the regular rate of pay for each instance when a compliant
20 meal period was not provided;

21 iv. Whether Defendants violated the California Labor Code and applicable
22 IWC Wage Order by failing to provide compliant rest breaks to Plaintiff and the Rest Break
23 Subclass and whether Defendants failed to compensate Plaintiff and the Rest Break Subclass
24 with one additional hour of wages at the regular rate of pay for each instance when a paid rest
25 break was not provided;

26 v. Whether Defendants violated the Labor Code and applicable IWC Wage
27 Order by failing to reimburse Plaintiff and the Unreimbursed Expense Subclass for business
28 expenses incurred discharging their duties or in obedience to the directions of their employer;

1 vi. Whether Defendants violated the California Labor Code by failing to
2 compensate Plaintiff and the Vested Vacation Subclass for all accrued but unused vacation hours
3 upon separation of employment;

4 vii. Whether Defendants violated the California Labor Code by failing to
5 timely pay all wages due upon separation of employment between Defendants and Plaintiff and
6 the Waiting Time Penalties Subclass, whether such separation was voluntary or involuntary;

7 viii. Whether Defendants violated the California Labor Code by failing to
8 provide Plaintiff and the Wage Statement Penalties Subclass with complete, accurate, itemized
9 wage statements;

10 ix. Whether Defendants violated California Business & Professions Code §§
11 17200 *et seq.* due to the: failure to pay all wages owed, failure to provide mandated paid rest
12 breaks, failure to provide mandated meal periods, failure to pay all vested vacation, failure to
13 reimburse business expenses, and failure to timely pay final wages; and

14 x. Whether Plaintiff and Represented Employees are entitled to equitable
15 relief pursuant to California Business & Professions Code §§ 17200 *et seq.*

16 38. **Typicality:** Plaintiff's claims, as the Class Representative, are typical of the
17 claims of The Class. Plaintiff, like other members of The Class, was subjected to Defendants'
18 ongoing Labor Code and Wage Order violations including pertaining to the failure to pay all
19 wages owed, failure to provide mandated meal periods and rest breaks, failure to pay vested
20 vacation, failure to reimburse business expenses, failure to timely pay wages upon separation of
21 employment, and failure to provide accurate itemized wage statements.

22 39. **Adequacy of Representation.** Plaintiff, as the Class Representative, will fairly
23 and adequately represent and protect the interests of the Class. Plaintiff's interests are not in
24 conflict with those of the Class. Class Representative's counsel are competent and experienced in
25 litigating large employment class actions and other complex litigation matters, including cases
26 like this case.

27 40. **Superiority of Class Action.** Class certification is appropriate because a class
28 action is superior to other available means for the fair and efficient adjudication of this

1 controversy. Individual joinder of all Represented Employees is not practicable, and questions of
2 law and fact common to the Class predominate over any questions affecting only individual
3 members of the Class. Each Represented Employee has been damaged and is entitled to
4 recovery by reason of Defendants' illegal policies and practices set forth above. Class action
5 treatment will allow those similarly situated persons to litigate their claims in the manner that is
6 most efficient and economical for the parties and the judicial system.

7 **FIRST CAUSE OF ACTION**

8 **FAILURE TO PAY MINIMUM WAGES**

9 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

10 *Plaintiff and the Represented Employees Against All Defendants*

11 41. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
12 alleged herein.

13 42. Plaintiff and the Represented Employees were not exempt from the requirement
14 to be paid at least the applicable California minimum wage throughout the statutory period for
15 each hour worked.

16 43. Here, Plaintiff and the Represented Employees were not paid all required
17 minimum and regular wages due to Defendants' policies and practices as alleged herein.

18 44. Consequently, Defendants violated California Labor Code laws and minimum
19 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, the applicable IWC Wage Order,
20 § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

21 45. Plaintiff is informed and believes and thereon alleges that Defendants
22 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Represented
23 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

24 46. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
25 Represented Employees were entitled to be paid wages throughout the statutory period for each
26 hour worked, including proper minimum and regular wages, yet Defendants chose not to pay
27 them in accordance thereto.
28

1 47. At all material times, Defendants DOES 1 through 20 were and/or are the
2 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
3 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
4 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
5 Labor Code regulating hours and days of work respectively.

6 48. During employment of Plaintiff and the Represented Employees, Defendants
7 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

8 49. As a result of the Defendants' wrongful conduct, Plaintiff and the Represented
9 Employees have been damaged in amounts to be proven at trial.

10 50. Plaintiff, on behalf of himself and the Represented Employees, seeks recovery of
11 all unpaid minimum wages, liquidated damages, penalties, interest, attorneys' fees and costs of
12 suit, pursuant to Labor Code §§ 1194 and 1194.2, against Defendants in an amount to be proven
13 at trial.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY OVERTIME WAGES**

16 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

17 *Plaintiff and the Represented Employees Against All Defendants*

18 51. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
19 alleged herein.

20 52. Plaintiff and the Represented Employees were employees of Defendants who did
21 not receive proper protections and benefits of the laws governing payment of overtime wages.

22 53. Labor Code § 204 requires that the employer timely pay all overtime wages to its
23 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
24 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in
25 any one workweek shall be compensated at the rate of no less than one and one-half times the
26 regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12)
27 hours in one workday shall be compensated at twice the regular rate of pay for an employee.
28

1 54. At all relevant times, Plaintiff and the Represented Employees were required by
2 Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, as a
3 result of the policies and practices alleged herein, Defendants failed to pay Plaintiff and the
4 Represented Employees proper overtime wages for all overtime hours worked.

5 55. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
6 Order § 3(A) every pay period with respect to Plaintiff and the Represented Employees because
7 Defendants required their employees to work hours in excess of 8 and/or 12 per day and/or 40
8 per week without proper overtime compensation.

9 56. Plaintiff is informed and believes and thereon alleges that Defendants
10 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the
11 Represented Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

12 57. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
13 Represented Employees were entitled to be paid proper overtime wages throughout the statutory
14 period, yet Defendants chose not to pay them in accordance thereto.

15 58. At all material times, Defendants DOES 1 through 20 were and/or are the
16 employer of Plaintiff and the Represented Employees or were persons acting on behalf of said
17 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be
18 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California
19 Labor Code regulating hours and days of work respectively.

20 59. During the employment of Plaintiff and the Represented Employees, Defendants
21 failed to pay them all wages to which they were entitled, thereby receiving an economic benefit.

22 60. As a result of Defendants' wrongful conduct, Plaintiff and the Represented
23 Employees have been damaged in amounts to be proven at trial.

24 61. Plaintiff, on behalf of himself and the Represented Employees, seeks recovery of
25 all unpaid overtime wages, penalties, interest, attorneys' fees, and costs of suit against
26 Defendants in an amount to be proven at trial.

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

4 *Plaintiff and the Meal Break Subclass Against All Defendants*

5 62. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 63. Plaintiff and the Meal Break Subclass are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing mandatory meal
9 periods.

10 64. Labor Code § 226.7 requires employers, including Defendants, to provide
11 employees with meal periods as mandated by the Industrial Welfare Commission.

12 65. Labor Code § 512(a), in part, provides that employers, including Defendants, may
13 not employ an employee for a work period of more than five hours per day without providing an
14 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
15 except that if the total work period per day of the employee is no more than six hours, the meal
16 period may be waived by mutual consent of both the employer and the employee. Employers
17 may not employ an employee for a work period more than 10 hours per day without providing
18 the employee with a second meal period of not less than 30 minutes.

19 66. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
20 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
21 pay for each meal period that is missed.

22 67. At all relevant times, and as a result of the policies and practices described in this
23 Complaint, Plaintiff and the Meal Break Subclass were denied the 30-minute meal periods to
24 which they were entitled.

25 68. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
26 Order every pay period because Plaintiff and the Meal Break Subclass were not provided with all
27 mandatory meal periods and Defendants failed to pay Plaintiff and the Meal Break Subclass one
28 additional hour of compensation at the regular rate of pay in lieu thereof.

1 69. At all relevant times herein, Defendants failed to provide Plaintiff and the Meal
2 Break Subclass all mandated meal periods and failed to pay wage premiums in lieu of mandated
3 meal or rest periods, thereby receiving an economic benefit.

4 70. On information and belief, Plaintiff and the Meal Break Subclass did not
5 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
6 obtained from Plaintiff and the Meal Break Subclass were not willfully obtained, were not
7 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
8 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Meal Break Subclass
9 to take meal periods in accordance with California law.

10 71. By their failure to provide Plaintiff and the Meal Break Subclass with meal
11 periods as required by California law, and failing to pay one hour of additional wages in lieu of
12 each meal period not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and
13 IWC Wage Order § 11. Accordingly, Defendants are liable for one hour of additional wages at
14 the employee's regular rate of compensation for each workday that a meal period was not
15 lawfully provided in an amount to be proven at time of trial.

16 72. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
17 and IWC Wage Order § 11, Defendants, and each of them, are liable to Plaintiff and the Meal
18 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

19 **FOURTH CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REST BREAKS**

21 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

22 *Plaintiff and the Rest Break Subclass Against All Defendants*

23 73. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
24 alleged herein.

25 74. Plaintiff and the Rest Break Subclass are and/or were employees of Defendants
26 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

27 75. Labor Code § 226.7 requires employers, including Defendants, to provide rest
28 breaks to their employees as mandated by Order of the Industrial Welfare Commission.

1 76. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
2 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
3 each work period. Employees shall receive a 10-minute rest period every four hours or major
4 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
5 hours worked, for which there shall be no deduction from wages.

6 77. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
7 Order, Defendants shall pay Plaintiff and the Represented Employees one additional hour of pay
8 at his regular rate of compensation for each day that the rest period is not provided.

9 78. At all relevant times, and as a result of the policies and practices described in this
10 Complaint, Plaintiff and the Rest Break Subclass were denied mandated paid rest breaks.

11 79. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
12 Order every pay period because Plaintiff and the Rest Break Subclass were not provided with all
13 mandatory rest periods and Defendants failed to pay Plaintiff and the Represented Employees
14 one additional hour of compensation in lieu thereof.

15 80. At all relevant times herein, Defendants failed to provide Plaintiff and the Rest
16 Break Subclass all mandated rest breaks and failed to pay wage premiums in lieu of mandated
17 rest periods, thereby receiving an economic benefit.

18 81. By their failure to provide Plaintiff and the Rest Break Subclass with rest breaks
19 as required by California law, and failing to pay one hour of additional wages in lieu of each rest
20 break not provided, Defendants willfully violated Labor Code §§ 226.7 and 512, and IWC Wage
21 Order § 12. Accordingly, Defendants are liable for one hour of additional wages at the
22 employee's regular rate of compensation for each workday that a paid rest break was not
23 lawfully provided in an amount to be proven at time of trial.

24 82. Also, as a direct result of Defendants' violations of Labor Code §§ 226.7 and 512,
25 and IWC Wage Order § 12, Defendants, and each of them, are liable to Plaintiff and the Rest
26 Break Subclass for unpaid wage premiums, penalties, costs, and interest.

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 (Labor Code § 2802)

4 *Plaintiff and the Unreimbursed Expense Subclass Against All Defendants*

5 83. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 84. Plaintiff and the Unreimbursed Expense Subclass are and/or were employees of
8 Defendants who did not receive proper protections and benefits of the laws governing
9 reimbursement of business expenses.

10 85. Labor Code § 2802(a) requires that the employer indemnify its employees for
11 expenses and losses incurred while discharging their duties or in obedience to the directions of
12 their employer.

13 86. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they
14 failed to reimburse Plaintiff and the Unreimbursed Expense Subclass for expenses incurred as a
15 direct consequence of employment with Defendants and/or under the direction of Defendants.

16 87. At all relevant times herein, Defendants failed to reimburse the Unreimbursed
17 Expense Subclass, including Plaintiff, for expenses incurred while discharging duties to
18 Defendants, thereby receiving an economic benefit.

19 88. As a direct result of Defendants' violation of Labor Code § 2802 and IWC Wage
20 Order § 9(B), Plaintiff and the Unreimbursed Expense Subclass have suffered, and continue to
21 suffer, substantial losses related to such incurred expenses, expenses, and attorney's fees in
22 seeking to compel Defendants to fully perform their obligations under the law, all in an amount
23 to be proved at time of trial.

24 89. Pursuant to Labor Code § 2802, Plaintiff and the Represented Employees seek to
25 recover the unreimbursed expenses, interest on the unreimbursed expenses, and the costs and
26 attorney's fees necessarily incurred in pursuing same. The exact amount of reimbursements,
27 interest, costs, and attorney's fees will be in an amount to be proved at the time of trial.

28 ///

SIXTH CAUSE OF ACTION
FAILURE TO PAY VESTED VACATION

(Labor Code § 227.3)

Plaintiff and the Vested Vacation Subclass Against All Defendants

90. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

91. Plaintiff and the Vested Vacation Subclass were employees of Defendants who did not receive proper protections and benefits of the laws governing the payment of vested vacation time and/or paid time off upon separation of employment.

92. Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at his final rate of pay.

93. At all relevant times, Defendants utilized a policy and practice through which Plaintiff and the Vested Vacation Subclass accrued vacation and/or PTO hours (collectively, "vacation hours"). However, Defendants' policy and practice violated Labor Code § 227.3 because Plaintiff and the Vested Vacation Subclass did not receive compensation for all accrued but unused vacation hours and did not receive compensation for the same at the "final rate", as required by Labor Code § 227.3.

94. At all relevant times herein, Defendants failed to pay the Vested Vacation Subclass, including Plaintiff, all vested but unused vacation time and/or paid time off upon separation from employment, thereby receiving an economic benefit.

95. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly refused to perform their obligations to compensate the Vested Vacation Subclass for all vested but unused vacation time and/or paid time off upon separation from employment.

96. As a result of Defendants' violations of Labor Code § 227.3, Plaintiff and the Vested Vacation Subclass seek to recover the unpaid vacation hours, as well as penalties,

1 interest, attorneys' fees, and costs as permitted under California law.

2 **SEVENTH CAUSE OF ACTION**

3 **FAILURE TO TIMELY PAY FINAL WAGES**

4 (Labor Code §§ 201 – 203)

5 *Plaintiff and the Waiting Time Penalties Subclass against All Defendants*

6 97. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
7 alleged herein.

8 98. Plaintiff and the Waiting Time Penalties Subclass are and/or were employees of
9 Defendants who did not receive proper protections and benefits of the laws governing the timing
10 and payment of wages.

11 99. Labor Code § 201 requires that the employer immediately pay any wages, without
12 abatement or reduction, to any employee who is discharged.

13 100. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
14 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
15 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

16 101. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
17 penalty from the due date thereof at the same rate until paid or until an action therefore is
18 commenced, but the wages shall not continue for more than thirty (30) days.

19 102. At all relevant times, Defendants employed a policy and practice whereby
20 Plaintiff and the Waiting Time Penalties Subclass were not paid all wages due and owing upon
21 separation of employment within the time required by Labor Code §§ 201 and 202.

22 103. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
23 wages due and owing to Plaintiff and the Waiting Time Penalties Subclass upon separation of
24 employment, including, but not limited to, minimum, regular, and overtime wages, vacation
25 wages, as well as meal and rest period premiums.

26 104. Furthermore, Defendants failed to pay all wages due and owing to the Waiting
27 Time Subclass because of the failure to pay all required sick pay wages. Labor Code § 246(l)(1)
28 provides that paid sick time for non-exempt employees must be “calculated in the same manner

1 as the regular rate of pay for the workweek in which the employee uses paid sick time, whether
2 or not the employee actually works overtime in that workweek.” Additionally, Labor Code §
3 246(1)(2) states that the paid sick time must be “calculated by dividing the employee’s total
4 wages, not including overtime premium pay, by the employee’s total hours worked in the full
5 pay periods of the prior 90 days of employment.” Here, Defendants only calculated and paid sick
6 pay at the base rate of pay, rather than at the rate required by Labor Code § 246, leading to
7 unpaid sick pay and violations of Labor Code §§ 201 – 203.

8 105. Plaintiff alleges that, at all times material to this action, Defendants had a planned
9 pattern and practice of failing to timely pay Plaintiff and the Waiting Time Penalties Subclass all
10 wages due and owing upon separation of employment as required by Labor Code §§ 201 and
11 202. Consequently, pursuant to Labor Code § 203, Defendants owe Plaintiff and the Waiting
12 Time Penalties Subclass the above-described waiting time penalty, all in an amount to be shown
13 according to proof at trial and within the jurisdiction of this Court.

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

16 (Labor Code § 226)

17 *Plaintiff and the Wage Statement Penalties Subclass against All Defendants*

18 106. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
19 alleged herein.

20 107. Plaintiff and the Wage Statement Penalties Subclass are and/or were employees of
21 Defendants who did not receive proper protections and benefits of the laws governing the
22 provision of accurate itemized wage statements.

23 108. Labor Code § 226(a) requires an employer to provide its employees with itemized
24 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
25 inclusive dates of the pay period, the employee’s name and the last four digits of his or her
26 Social Security number (or employee identification number), the name and address of the legal
27 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
28 corresponding number of hours worked at each hourly rate by the employee.

1 109. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
2 and the Wage Statement Penalties Subclass due to violations including: failure to accurately state
3 total hours worked (for example, the wage statements failed to accurately reflect the
4 compensable hours worked); failure to accurately state gross wages earned; failure to accurately
5 state all deductions; failure to accurately state net wages earned; failure to state the applicable
6 hourly rates (including the accurate overtime rate of pay); and failure to accurately state the
7 corresponding number of hours worked at each hourly rate. The California Supreme Court
8 recently confirmed that these “derivative” violations violate Labor Code § 226. *See Naranjo v.*
9 *Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, 119 (approving of “derivative” wage
10 statement claims based on failure to pay all wages owed and holding that: (1) § 226 requires
11 employers to accurately report “all amounts earned and now owing, not just those amounts
12 actually paid,” and (2) a “[wage] statement that conceals the amounts earned [including premium
13 pay for missed breaks], on the ground that they also were not paid, is not an accurate [wage]
14 statement, and it does not comply with [§ 226]”).

15 110. Additionally, Defendants’ wage statements directly violated Labor Code § 226(a)
16 each period due to the failure to pay and report all wages owed, along with premium wages for
17 denied meal periods and rest breaks under § 226.7.

18 111. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
19 to Plaintiff and the Wage Statement Penalties Subclass because Defendants failed to provide a
20 wage statement to Plaintiff and the Wage Statement Penalties Subclass that complied with the
21 requirements of Labor Code § 226(a).

22 112. Defendants’ failure to provide the required writing deprived Plaintiff and the
23 Wage Statement Penalties Subclass of the ability to know, understand, and question the
24 calculation and rate of pay and hours used to calculate the wages paid by Defendants. Therefore,
25 Plaintiff and the Wage Statement Penalties Subclass had no way to dispute the resulting
26 miscalculation of wages, all of which resulted in an unjustified economic enrichment to said
27 Defendants. As a direct result, Plaintiff and the Wage Statement Penalties Subclass have suffered
28 and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost

1 interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully
2 perform their obligation under state law, all to their respective damages in amounts according to
3 proof at trial.

4 113. As a result of Defendants' knowing and intentional failure to comply with Labor
5 Code § 226(a), Plaintiff and the Wage Statement Penalties Subclass have suffered an injury in
6 that each was prevented from knowing, understanding and disputing the wage payments paid to
7 them. Furthermore, Plaintiff and the Wage Statement Penalties Subclass have each suffered an
8 injury in that the failure to show all wages earned on the itemized wage statements resulted in
9 Plaintiff and the Represented Employees being denied all necessary deductions, payments, and
10 withholdings owed by the employer, including, but not limited to, the failure to make all
11 necessary contributions for unemployment benefits, social security benefits, proper payment of
12 taxes and withholdings, and other mandated state and federal benefits.

13 114. Plaintiff has also been injured as a result of having to bring this action to attempt
14 to obtain correct wage information following Defendants' refusal to comply with many of the
15 mandates of California's Labor Code and related laws and regulations.

16 115. Labor Code § 226(e) requires Defendants to pay the greater of all actual damages
17 or fifty dollars (\$50.00) per employee for the initial pay period in which a violation occurred, and
18 one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus
19 attorney's fees and costs, to Plaintiff and the Wage Statement Penalties Subclass who were
20 injured by Defendants' failure to comply with Labor Code § 226(a). The exact amount of the
21 applicable penalty is all in an amount to be shown according to proof at trial.

22 **NINTH CAUSE OF ACTION**

23 **UNFAIR AND UNLAWFUL COMPETITION**

24 (Business and Professions Code § 17200 *et seq.*)

25 *Plaintiff and the Represented Employees against All Defendants*

26 116. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
27 alleged herein.
28

1 117. California Business & Professions Code § 17200, *et seq.*, prohibits acts of unfair
2 competition, which includes any “unlawful, unfair or fraudulent business act or practice.” The
3 Represented Employees, including Plaintiff, have suffered and continue to suffer injuries in fact,
4 due to the unfair and unlawful business practices of Defendants as alleged herein.

5 118. Defendants, and each of them, are “persons” as defined under Business &
6 Professions Code § 17021.

7 119. As alleged herein, Defendants engaged in conduct that violated California’s wage
8 and hour laws, including failure to pay minimum, regular, and overtime wages, failure to provide
9 mandated meal periods and rest breaks, failure to reimburse expenses, failure to pay vested
10 vacation, and failure to timely pay wages upon separation of employment, all to decrease their
11 costs and increase profits.

12 120. At all times relevant herein, Defendants did not pay Plaintiff and the Represented
13 Employees wages and monies and other financial obligations to which they were entitled.

14 121. As a result of Defendants’ failure to comply with the Labor Code and IWC
15 Orders, Represented Employees, including Plaintiff, suffered a loss of wages and monies, all in
16 an amount to be shown according to proof at trial. Defendants’ ongoing violations of the
17 foregoing statutes and laws constitute a violation of Bus. & Prof. Code § 17200, *et seq.*

18 122. Defendants’ violations of the California Labor Code and IWC Wage Orders and
19 its scheme to lower its payroll costs as alleged herein, constitute unlawful and unfair business
20 practices because it was done in a systematic manner over a period of time to the detriment of the
21 Plaintiff and all others similarly-situated.

22 123. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
23 unlawful, and harmful to Plaintiff, other Represented Employees, and to the general public.
24 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of
25 Code of Civil Procedure § 1021.5.

26 124. A violation of California Business & Professions Code § 17200, *et seq.* may be
27 predicated on the violation of any state or federal law. All of the acts described herein as
28 violations of, among other things, the California Labor Code and IWC Wage Orders, are

1 unlawful and in violation of public policy, and in addition are immoral, unethical, oppressive,
2 fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business
3 practices in violation of California Business and Professions Code §§ 17200, et seq.

4 125. Plaintiff, individually, and on behalf of the Represented Employees, is entitled to,
5 and does, seek such relief as may be necessary to disgorge the profits which Defendants have
6 acquired, or of which Plaintiff and Represented Employees have been deprived, by means of the
7 above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and the
8 Represented Employees are not obligated to establish individual knowledge of the unfair
9 practices of Defendants in order to recover restitution.

10 126. Plaintiff, individually, and on behalf of the Represented Employees, is further
11 entitled to and does seek a declaration that the above described business practices are unfair,
12 unlawful and/or fraudulent.

13 127. Pursuant to Business & Professions Code §§ 17200, et seq., Plaintiff and
14 Represented Employees are entitled to restitution of the wages withheld and retained by
15 Defendants during a period that commences four years prior to the filing of this complaint; an
16 order requiring Defendants to pay all outstanding wages due to Plaintiff and Represented
17 Employees; an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5
18 and other applicable laws; and an award of costs.

19 **VI. PAGA CAUSES OF ACTION (Cal. Lab. Code. §§ 2698 – 2699.5)**

20 128. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
21 alleged herein.

22 129. Plaintiff is an “aggrieved employee” under the PAGA as he was employed by
23 Defendants during the applicable statutory period and suffered one or more of the Labor Code
24 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil
25 action filed on behalf of herself and all other similarly situated current and former aggrieved
26 employees in California against whom one or more of the alleged violations was committed
27 (hereinafter the “Aggrieved Employees”).
28

130. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to Labor Code § 2699, as well as attorneys' fees, costs, and/or other damages as permitted by PAGA through a representative action pursuant to the PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor does he, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

131. Pursuant to Labor Code § 2699.3(a), Plaintiff gave written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. More than sixty-five (65) days have elapsed since the date Plaintiff provided the written notice of the claims alleged herein without the LWDA assuming jurisdiction over the claims alleged. Accordingly, Plaintiff has fully satisfied the administrative prerequisites to suit under the PAGA.

TENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES

(Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

Plaintiff and the Aggrieved Employees Against All Defendants

132. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

133. Plaintiff and the Aggrieved Employees were not exempt from the requirement to be paid at least the applicable California minimum wage throughout the statutory period for each hour worked.

134. Plaintiff and the Aggrieved Employees were not provided proper minimum and regular wages due to the allegations herein. As a result of these policies and practices, Plaintiff and the Aggrieved Employees were required to perform off-the-clock work that Defendants either knew or should have known they were performing.

135. Consequently, Defendants violated California Labor Code laws and minimum wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

136. Plaintiff is informed and believes and thereon alleges that Defendants intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

137. Defendants' conduct was willful, as Defendants knew that Plaintiff and the Aggrieved Employees were entitled to be paid wages throughout the statutory period for each hour worked, including proper minimum and regular wages, yet Defendants chose not to pay them in accordance thereto.

138. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

ELEVENTH CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES

(Labor Code § 510; IWC Wage Order § 3(A))

Plaintiff and the Aggrieved Employees Against All Defendants

139. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

140. Plaintiff and the Aggrieved Employees were employees of Defendants who did not receive proper protections and benefits of the laws governing payment of overtime wages.

141. Labor Code § 204 requires that the employer timely pay all overtime wages to its employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12) hours in one workday shall be compensated at twice the regular rate of pay for an employee.

142. At all relevant times, Plaintiff and the Aggrieved Employees were required by Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, as a result of the policies and practices described in this Complaint, Defendants failed to pay Plaintiff

1 and the Aggrieved Employees for all overtime hours worked.

2 143. As a result of these policies and practices, Defendants failed to pay Plaintiff and
3 the Aggrieved Employees for all overtime hours worked.

4 144. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
5 Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because
6 Defendants required their employees to work hours in excess of 8 and/or 12 per day and/or 40
7 per week without proper overtime compensation.

8 145. Plaintiff is informed and believes and thereon alleges that Defendants
9 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the
10 Aggrieved Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

11 146. Defendants' conduct was willful, as Defendants knew that Plaintiff and the
12 Aggrieved Employees were entitled to be paid proper overtime wages throughout the statutory
13 period, yet Defendants chose not to pay them in accordance thereto.

14 147. As a result of the unlawful employment practices alleged herein, Plaintiff, on
15 behalf of the State of California, seeks the assessment of all applicable and available PAGA
16 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
17 any other damages permitted under PAGA.

18 **TWELFTH CAUSE OF ACTION**

19 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE MEAL PERIODS**

20 (Labor Code §§ 226.7 and 512; IWC Wage Order § 11, 12)

21 *Plaintiff and the Aggrieved Employees Against All Defendants*

22 148. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
23 alleged herein.

24 149. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
25 who did not receive proper protections and benefits of laws governing mandatory meal periods.

26 150. Labor Code § 226.7 requires employers, including Defendants, to provide
27 employees with meal periods as mandated by the Industrial Welfare Commission.
28

1 151. Labor Code § 512(a), in part, provides that employers, including Defendants, may
2 not employ an employee for a work period of more than five hours per day without providing an
3 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
4 except that if the total work period per day of the employee is no more than six hours, the meal
5 period may be waived by mutual consent of both the employer and the employee. Employers
6 may not employ an employee for a work period of more than 10 hours per day without providing
7 the employee with a second meal period of not less than 30 minutes.

8 152. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
9 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
10 pay for each meal period that is missed.

11 153. At all relevant times, and as a result of the policies and practices described in this
12 Complaint, Plaintiff and the Aggrieved Employees were denied the 30-minute meal periods to
13 which they were entitled.

14 154. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
15 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with
16 all mandatory meal periods and Defendants failed to pay Plaintiff and the Aggrieved Employees
17 one additional hour of compensation at the regular rate of pay in lieu thereof.

18 155. On information and belief, Plaintiff and the Aggrieved Employees did not
19 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
20 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not
21 voluntarily agreed to, were a condition of employment, or were a part of a contract of unlawful
22 adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved Employees to take
23 meal periods in accordance with California law.

24 156. As a result of the unlawful employment practices alleged herein, Plaintiff, on
25 behalf of the State of California, seeks the assessment of all applicable and available PAGA
26 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
27 any other damages permitted under PAGA.

28 ///

1 **THIRTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS**

3 (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

4 *Plaintiff and the Aggrieved Employees Against All Defendants*

5 157. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 158. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

9 159. Labor Code § 226.7 requires employers, including Defendants, to provide rest
10 breaks to their employees as mandated by Order of the Industrial Welfare Commission.

11 160. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
12 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
13 each work period. Employees shall receive a 10-minute rest period every four hours or major
14 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
15 hours worked, for which there shall be no deduction from wages.

16 161. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
17 Order, Defendants shall pay Plaintiff and the Aggrieved Employees one additional hour of pay at
18 their regular rate of compensation for each day that the rest period is not provided.

19 162. At all relevant times, and as a result of the policies and practices described in this
20 Complaint, Plaintiff and the Aggrieved Employees were denied mandated rest breaks.

21 163. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
22 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with
23 all mandatory rest periods and Defendants failed to pay Plaintiff and the Aggrieved Employees
24 one additional hour of compensation in lieu thereof.

25 164. As a result of the unlawful employment practices alleged herein, Plaintiff, on
26 behalf of the State of California, seeks the assessment of all applicable and available PAGA
27 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
28 any other damages permitted under PAGA.

1 **FOURTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 (Labor Code § 2802)

4 *Plaintiff and the Aggrieved Employees Against All Defendants*

5 165. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
6 alleged herein.

7 166. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing reimbursement of
9 business expenses.

10 167. Labor Code § 2802(a) requires that the employer indemnify its employees for
11 expenses and losses incurred while discharging their duties or in obedience to the directions of
12 their employer.

13 168. At all relevant times herein mentioned, Defendants violated Labor Code § 2802(a)
14 when they failed to reimburse Plaintiff and the Aggrieved Employees for expenses incurred as a
15 direct consequence of employment with Defendants and/or under the direction of Defendants.

16 169. As a result of the unlawful employment practices alleged herein, Plaintiff, on
17 behalf of the State of California, seeks the assessment of all applicable and available PAGA
18 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
19 any other damages permitted under PAGA.

20 **FIFTEENTH CAUSE OF ACTION**

21 **PAGA ASSESSMENT FOR FAILURE TO PAY VESTED VACATION**

22 (Labor Code § 227.3)

23 *Plaintiff and the Aggrieved Employees Against All Defendants*

24 170. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
25 alleged herein.

26 171. Plaintiff and the Aggrieved Employees were employees of Defendants who did
27 not receive proper protections and benefits of the laws governing the payment of vested vacation
28 time and/or paid time off upon separation of employment.

1 172. Pursuant to Labor Code § 227.3, an employer that has implemented a paid
2 vacation, paid time off, or compensated time off policy must, upon an employee's separation
3 from employment, pay to the employee all vested but unused vacation and/or paid time off at his
4 final rate of pay.

5 173. At all relevant times, Defendants utilized a policy and practice through which
6 Plaintiff and the Aggrieved Employees accrued vacation and/or PTO hours (collectively,
7 "vacation hours"). However, Defendants' policy and practice violated Labor Code § 227.3
8 because Plaintiff and the Aggrieved Employees did not receive compensation for all accrued but
9 unused vacation hours and did not receive compensation for the same at the "final rate", as
10 required by Labor Code § 227.3.

11 174. At all relevant times herein, Defendants failed to pay the Aggrieved Employees,
12 including Plaintiff, all vested but unused vacation time and/or paid time off upon separation from
13 employment, thereby receiving an economic benefit.

14 175. Plaintiff is informed and believes and thereon alleges that Defendants, and each of
15 them, knowingly refused to perform their obligations to compensate the Aggrieved Employees
16 for all vested but unused vacation time and/or paid time off upon separation from employment.

17 176. As a result of Defendants' violations of Labor Code § 227.3, Plaintiff and the
18 Aggrieved Employees seek to recover the unpaid vacation hours, as well as penalties, interest,
19 attorneys' fees, and costs as permitted under California law.

20 **SIXTEENTH CAUSE OF ACTION**

21 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

22 (Labor Code §§ 201 – 203)

23 *Plaintiff and the Aggrieved Employees Against All Defendants*

24 177. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
25 alleged herein.

26 178. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
27 who did not receive proper protections and benefits of the laws governing the timing and
28 payment of wages.

1 179. Labor Code § 201 requires that the employer immediately pay any wages, without
2 abatement or reduction, to any employee who is discharged.

3 180. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
4 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
5 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

6 181. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
7 penalty from the due date thereof at the same rate until paid or until an action therefore is
8 commenced, but the wages shall not continue for more than thirty (30) days.

9 182. At all relevant times, Defendants employed a policy and practice whereby
10 Plaintiff and the Aggrieved Employees were not paid all wages due and owing upon separation
11 of employment within the time required by Labor Code §§ 201 and 202.

12 183. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
13 wages due and owing to Plaintiff and the Aggrieved Employees upon separation of employment,
14 including, but not limited to, minimum, regular, and overtime wages, vacation wages, as well as
15 meal and rest period premiums.

16 184. Additionally, at all relevant times, Defendants failed to pay all mandated sick
17 wages owed to the Aggrieved Employees at the proper rate of pay.

18 185. Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees
19 must be “calculated in the same manner as the regular rate of pay for the workweek in which the
20 employee uses paid sick time, whether or not the employee actually works overtime in that
21 workweek.” Additionally, Labor Code § 246(l)(2) states that the paid sick time must be
22 “calculated by dividing the employee’s total wages, not including overtime premium pay, by the
23 employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

24 186. Here, Plaintiff and the Aggrieved Employees were compensated on an hourly
25 basis plus additional compensation in the form of shift differentials and/or nondiscretionary
26 compensation. However, on the occasions that the Aggrieved Employees took sick time and
27 received paid sick leave, Defendants only paid sick time at the base rate of pay (not factoring in
28 the additional compensation as required by Labor Code §§ 246(l)(1-2)), leading to unpaid wages

1 at the time of separation of employment.

2 187. Plaintiff alleges that, at all times material to this action, Defendants had a planned
3 pattern and practice of failing to timely pay Plaintiff and the Aggrieved Employees all wages due
4 and owing upon separation of employment as required by Labor Code §§ 201 and 202.

5 188. As a result of the unlawful employment practices alleged herein, Plaintiff, on
6 behalf of the State of California, seeks the assessment of all applicable and available PAGA
7 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
8 any other damages permitted under PAGA.

9 **SEVENTEENTH CAUSE OF ACTION**

10 **PAGA ASSESSMENT FOR**
11 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

12 (Labor Code § 226)

13 *Plaintiff and the Aggrieved Employees Against All Defendants*

14 189. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
15 alleged herein.

16 190. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
17 who did not receive proper protections and benefits of the laws governing the provision of
18 accurate itemized wage statements.

19 191. Labor Code § 226(a) requires an employer to provide its employees with itemized
20 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
21 inclusive dates of the pay period, the employee's name and the last four digits of his or her
22 Social Security number (or employee identification number), the name and address of the legal
23 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
24 corresponding number of hours worked at each hourly rate by the employee.

25 192. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
26 and the Aggrieved Employees due to violations including: failure to accurately state total hours
27 worked (for example, the wage statements failed to accurately reflect the compensable hours
28 worked); failure to accurately state gross wages earned; failure to accurately state all deductions;

1 failure to accurately state net wages earned; failure to state the applicable hourly rates (including
2 the accurate overtime rate of pay); and failure to accurately state the corresponding number of
3 hours worked at each hourly rate. Moreover, Defendants' wage statements directly violated
4 Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied
5 meal periods and rest breaks under § 226.7.

6 193. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
7 to Plaintiff and the Aggrieved Employees because Defendants failed to provide a wage statement
8 to Plaintiff and the Aggrieved Employees that complied with the requirements of § 226(a).

9 194. Unlike class action claims, a PAGA plaintiff need not meet the "injury" and
10 "knowing and intentional" violation requirements of Labor Code § 226(e). See *Lopez v. Friant*
11 *& Associates, LLC* (2017) 15 Cal.App.5th 773, 788 ("a plaintiff seeking civil penalties under
12 PAGA for a violation of section 226(a) does not have to satisfy the "injury" and "knowing and
13 intentional" requirements of section 226(e)(1)"); see also, *Lawson v. ZB, N.A.* (2017) 18
14 Cal.App.5th 705, 722 ("the scienter requirement [of § 226(e)] has no application in a PAGA
15 claim for violation of [§ 226(a)]").

16 195. As a result of the unlawful employment practices alleged herein, Plaintiff, on
17 behalf of the State of California, seeks the assessment of all applicable and available PAGA
18 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
19 any other damages permitted under PAGA.

20 **VII. PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, on behalf of himself, on a representative basis, and all others
22 similarly situated, prays for judgment and relief against Defendants, jointly and severally, as
23 follows:

- 24 1. That the First through Ninth Causes of Action be certified as a class action;
- 25 2. That Plaintiff be appointed as Class Representative;
- 26 3. That counsel for Plaintiff be appointed Class Counsel;
- 27 4. For all applicable statutory penalties recoverable under the First through Ninth
- 28 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and

1 Orders of the Industrial Welfare Commission;

2 5. As to the Tenth through Seventeenth Causes of Action, the assessment of all
3 applicable and available remedies under PAGA;

4 6. For reasonable attorneys' fees and costs as permitted under PAGA;

5 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
6 law, including those pursuant to the Labor Code;

7 8. For restitution as provided by the Labor Code and Business and Professions Code
8 § 17200, *et seq.*;

9 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
10 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174,
11 1194, 1197, 1198, 1199, and 2802, among other sections inadvertently omitted;

12 10. For an award of damages in the amount of unpaid compensation including, but
13 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
14 thereon;

15 11. For pre- and post-judgment interest; and

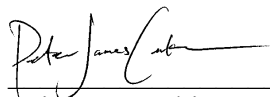
16 12. For such other relief as the Court deems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, hereby
19 demands a jury trial as to the First through Ninth Causes of Action pled herein.

20 Dated: February 25, 2026

LAUBY, MANKIN & LAUBY LLP

21
22 BY: 
23 Brian J. Mankin, Esq.
24 Peter J. Carlson, Esq.
25 Attorneys for Plaintiff
26
27
28

PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, CA 92504.

On March 27, 2026, I caused to be served the foregoing document(s) described as follows:

FIRST AMENDED COMPLAINT

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the 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 one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 27, 2026, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Tracie Chiarito, Declarant

SERVICE LIST

Ian G. Robertson, Esq.
irobertson@littler.com
LITTLER MENDELSON, P.C.
18565 Jamboree Road
Suite 800
Irvine, California 92612
Telephone: 949.705.3000
Facsimile: 949.724.1201
Attorneys for Defendant MIZKAN AMERICA PARTNERS, INC.