

1 **BIBIYAN LAW GROUP, P.C.**

2 Molly DeSario (SBN 230763)

3 *mdesario@tomorrowlaw.com*

4 Laurel N. Holmes (SBN 308515)

5 *Laurel@tomorrowlaw.com*

6 1460 Westwood Boulevard

7 Los Angeles, California 90024

8 Tel: (310) 438-5555; Fax: (310) 300-1705

9 Attorneys for Plaintiff MANUEL DAVID XOCOL,
10 as an Aggrieved Employee, and on behalf of all other
11 Aggrieved Employees

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF LOS ANGELES**

14 MANUEL DAVID XOCOL, an individual and
15 on behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 H MART LOS ANGELES, LLC, a California
19 limited liability company; H MART BALBOA,
20 LLC, a California limited liability company; H
21 MART BUENA PARK, LLC, a California
22 limited liability company; H MART CHINO,
23 LLC, a California limited liability company; H
24 MART DE ANZA, LLC, a California limited
25 liability company; H MART DUBLIN, LLC, a
26 California limited liability company; H MART
27 ECC, LLC, a California limited liability
28 company; H MART GARDEN GROVE, LLC,
a California limited liability company; H
MART IRVINE NORTHPARK LLC, a
California limited liability company; H MART
IRVINE WESTPARK LLC, a California
limited liability company; H MART IRVINE,
INC., a California corporation; H MART
KTOWN PLAZA, LLC, a California limited
liability company; H MART LAKEWOOD
LLC, a California limited liability company; H
MART NORWALK, LLC, a California limited
liability company; H MART SACRAMENTO,
LLC, a California limited liability company; H

Electronically FILED by
Superior Court of California,
County of Los Angeles
3/17/2026 7:07 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Munoz, Deputy Clerk

CASE NO.: **26STCV08690**

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 MART SAN DIEGO, LLC, a California limited
2 liability company; H MART SAN
3 FRANCISCO, LLC, a California limited
4 liability company, H MART SAN JOSE, LLC,
5 a California limited liability company; H
6 MART TORRANCE, LLC, a California
7 limited liability company; H MART WEST,
8 INC., a California corporation; H MART
9 WESTMINSTER LLC, a California limited
10 liability company; H MART, INC., a Delaware
11 corporation; and DOES 1 through 100,
12 inclusive,

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Defendants.

1 Plaintiff MANUEL DAVID XOCOL ("Plaintiff"), as an Aggrieved Employee, and on
2 behalf of all other Aggrieved Employees under the Labor Code Private Attorneys' General Act of
3 2004, alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* ("PAGA"), against H MART LOS
7 ANGELES, LLC, a California limited liability company, and any of its respective subsidiaries or
8 affiliated companies within the State of California ("H MART LOS ANGELES"); H MART
9 BALBOA, LLC, a California limited liability company, and any of its respective subsidiaries or
10 affiliated companies within the State of California ("H MART BALBOA"); H MART BUENA
11 PARK, LLC, a California limited liability company; and any of its respective subsidiaries or
12 affiliated companies within the State of California ("H MART BUENA PARK"); H MART CHINO,
13 LLC, a California limited liability company, and any of its respective subsidiaries or affiliated
14 companies within the State of California ("H MART CHINO"); H MART DE ANZA, LLC, a
15 California limited liability company, and any of its respective subsidiaries or affiliated companies
16 within the State of California ("H MART DE ANZA"); H MART DUBLIN, LLC, a California
17 limited liability company, and any of its respective subsidiaries or affiliated companies within the
18 State of California ("H MART DUBLIN"); H MART ECC, LLC, a California limited liability
19 company, and any of its respective subsidiaries or affiliated companies within the State of California
20 ("H MART ECC"); H MART GARDEN GROVE, LLC, a California limited liability company, and
21 any of its respective subsidiaries or affiliated companies within the State of California ("H MART
22 GARDEN GROVE"); H MART IRVINE NORTH PARK LLC, a California limited liability
23 company, and any of its respective subsidiaries or affiliated companies within the State of California
24 ("H MART IRVINE NORTH PARK"); H MART IRVINE WEST PARK LLC, a California limited
25 liability company, and any of its respective subsidiaries or affiliated companies within the State of
26 California ("H MART IRVINE WEST PARK"); H MART IRVINE, INC., a California corporation,
27 and any of its respective subsidiaries or affiliated companies within the State of California ("H
28 MART IRVINE"); H MART KTOWN PLAZA, LLC, a California limited liability company, and

1 any of its respective subsidiaries or affiliated companies within the State of California (“H MART
2 KTOWN PLAZA”); H MART LAKEWOOD LLC, a California limited liability company, and any
3 of its respective subsidiaries or affiliated companies within the State of California (“H MART
4 LAKEWOOD”); H MART NORWALK, LLC, a California limited liability company, and any of
5 its respective subsidiaries or affiliated companies within the State of California (“H MART
6 NORWALK”); H MART SACRAMENTO, LLC, a California limited liability company, and any
7 of its respective subsidiaries or affiliated companies within the State of California (“H MART
8 SACRAMENTO”); H MART SAN DIEGO, LLC, a California limited liability company, and any
9 of its respective subsidiaries or affiliated companies within the State of California (“H MART SAN
10 DIEGO”); H MART SAN FRANCISCO, LLC, a California limited liability company, and any of
11 its respective subsidiaries or affiliated companies within the State of California (“H MART SAN
12 FRANCISCO”); H MART SAN JOSE, LLC, a California limited liability company, and any of its
13 respective subsidiaries or affiliated companies within the State of California (“H MART SAN
14 JOSE”); H MART TORRANCE, LLC, a California limited liability company, and any of its
15 respective subsidiaries or affiliated companies within the State of California (“H MART
16 TORRANCE”); H MART WEST, INC., a California corporation, and any of its respective
17 subsidiaries or affiliated companies within the State of California (“H MART WEST”); H MART
18 WESTMINSTER LLC, a California limited liability company, and any of its respective subsidiaries
19 or affiliated companies within the State of California (“H MART WESTMINSTER”); and H
20 MART, INC., a Delaware corporation, and any of its respective subsidiaries or affiliated companies
21 within the State of California (“H MART, INC.”). (H MART LOS ANGELES, H MART BALBOA,
22 H MART BUENA PARK, H MART CHINO, H MART DE ANZA, H MART DUBLIN, H MART
23 ECC, H MART GARDEN GROVE, H MART IRVINE NORTH PARK, H MART IRVINE
24 WEST PARK, H MART IRVINE, H MART KTOWN PLAZA, H MART LAKEWOOD, H MART
25 NORWALK, H MART SACRAMENTO, H MART SAN DIEGO, H MART SAN FRANCISCO,
26 H MART SAN JOSE, H MART TORRANCE, H MART WEST, H MART WESTMINSTER, and
27 H MART, INC., hereinafter, collectively, with DOES 1 through 100, as further defined below,
28 “Defendants”) as a proxy of the Labor and Workforce Development Agency of the State of

1 California (“LWDA”), on behalf of Plaintiff and all Aggrieved Employees that worked for
2 Defendants during the PAGA Period. Specifically, in connection with any alleged claims for failure
3 to comply with Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.3, 226.7, 233, 234,
4 245, 246, 432.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1198, 1197, 1197.1, 2800,
5 2802, 2699, as well as applicable Wage Orders, Plaintiff seeks to represent all current and former
6 employees that worked for Defendants during the PAGA Period. On all other claims mentioned
7 herein, Plaintiff seeks to represent only non-exempt current and former employees that worked for
8 Defendants during the PAGA Period. Collectively, these employees are herein referred to as
9 “Aggrieved Employees.” The “PAGA Period” refers to three years preceding the date notice was
10 submitted to the LWDA, continuing past the date of notice to the LWDA into perpetuity.

11 **PARTIES**

12 2. Plaintiff MANUEL DAVID XOCOL is a resident of the State of California. At all
13 relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
14 employed Plaintiff as a non-exempt employee with duties that included, but were not limited to,
15 managing the frozen and refrigerated food sections, assisting in store operations, and overseeing
16 inventory. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff MANUEL
17 DAVID XOCOL worked for Defendants from approximately February of 2022 through the present.

18 3. Plaintiff is informed and believes and based thereon alleges that defendant H MART
19 LOS ANGELES is, and at all times relevant hereto was, a limited liability company organized and
20 existing under and by virtue of the laws of the State of California and doing business in the County
21 of Los Angeles, State of California. At all relevant times herein, H MART LOS ANGELES
22 employed Plaintiff and Aggrieved Employees within the State of California.

23 4. Plaintiff is informed and believes and based thereon alleges that defendant H MART
24 BALBOA is, and at all times relevant hereto was, a limited liability company organized and existing
25 under and by virtue of the laws of the State of California and doing business in the County of Los
26 Angeles, State of California. At all relevant times herein, H MART BALBOA employed Plaintiff
27 and Aggrieved Employees within the State of California.

28 5. Plaintiff is informed and believes and based thereon alleges that defendant H MART

1 BUENA PARK is, and at all times relevant hereto was, a limited liability company organized and
2 existing under and by virtue of the laws of the State of California and doing business in the County
3 of Los Angeles, State of California. At all relevant times herein, H MART BUENA PARK
4 employed Plaintiff and Aggrieved Employees within the State of California.

5 6. Plaintiff is informed and believes and based thereon alleges that defendant H MART
6 CHINO is, and at all times relevant hereto was, a limited liability company organized and existing
7 under and by virtue of the laws of the State of California and doing business in the County of Los
8 Angeles, State of California. At all relevant times herein, H MART CHINO employed Plaintiff and
9 Aggrieved Employees within the State of California.

10 7. Plaintiff is informed and believes and based thereon alleges that defendant H MART
11 DE ANZA is, and at all times relevant hereto was, a limited liability company organized and existing
12 under and by virtue of the laws of the State of California and doing business in the County of Los
13 Angeles, State of California. At all relevant times herein, H MART DE ANZA employed Plaintiff
14 and Aggrieved Employees within the State of California.

15 8. Plaintiff is informed and believes and based thereon alleges that defendant H MART
16 DUBLIN is, and at all times relevant hereto was, a limited liability company organized and existing
17 under and by virtue of the laws of the State of California and doing business in the County of Los
18 Angeles, State of California. At all relevant times herein, H MART DUBLIN employed Plaintiff
19 and Aggrieved Employees within the State of California.

20 9. Plaintiff is informed and believes and based thereon alleges that defendant H MART
21 ECC is, and at all times relevant hereto was, a limited liability company organized and existing
22 under and by virtue of the laws of the State of California and doing business in the County of Los
23 Angeles, State of California. At all relevant times herein, H MART ECC employed Plaintiff and
24 Aggrieved Employees within the State of California.

25 10. Plaintiff is informed and believes and based thereon alleges that defendant H MART
26 GARDEN GROVE is, and at all times relevant hereto was, a limited liability company organized
27 and existing under and by virtue of the laws of the State of California and doing business in the
28 County of Los Angeles, State of California. At all relevant times herein, H MART GARDEN

1 GROVE employed Plaintiff and Aggrieved Employees within the State of California.

2 11. Plaintiff is informed and believes and based thereon alleges that defendant H MART
3 IRVINE NORTH PARK is, and at all times relevant hereto was, a limited liability company
4 organized and existing under and by virtue of the laws of the State of California and doing business
5 in the County of Los Angeles, State of California. At all relevant times herein, H MART IRVINE
6 NORTH PARK employed Plaintiff and Aggrieved Employees within the State of California.

7 12. Plaintiff is informed and believes and based thereon alleges that defendant H MART
8 IRVINE WEST PARK is, and at all times relevant hereto was, a limited liability company organized
9 and existing under and by virtue of the laws of the State of California and doing business in the
10 County of Los Angeles, State of California. At all relevant times herein, H MART IRVINE
11 WEST PARK employed Plaintiff and Aggrieved Employees within the State of California.

12 13. Plaintiff is informed and believes and based thereon alleges that defendant H MART
13 IRVINE, is, and at all times relevant hereto was, a corporation organized and existing under and by
14 virtue of the laws of the State of California and doing business in the County of Los Angeles, State
15 of California. At all relevant times herein, H MART IRVINE employed Plaintiff and Aggrieved
16 Employees within the State of California.

17 14. Plaintiff is informed and believes and based thereon alleges that defendant H MART
18 KTOWN PLAZA is, and at all times relevant hereto was, a limited liability company organized and
19 existing under and by virtue of the laws of the State of California and doing business in the County
20 of Los Angeles, State of California. At all relevant times herein, H MART KTOWN PLAZA
21 employed Plaintiff and Aggrieved Employees within the State of California.

22 15. Plaintiff is informed and believes and based thereon alleges that defendant H MART
23 LAKEWOOD is, and at all times relevant hereto was, a limited liability company organized and
24 existing under and by virtue of the laws of the State of California and doing business in the County
25 of Los Angeles, State of California. At all relevant times herein, H MART LAKEWOOD employed
26 Plaintiff and Aggrieved Employees within the State of California.

27 16. Plaintiff is informed and believes and based thereon alleges that defendant H MART
28 NORWALK is, and at all times relevant hereto was, a limited liability company organized and

1 existing under and by virtue of the laws of the State of California and doing business in the County
2 of Los Angeles, State of California. At all relevant times herein, H MART NORWALK employed
3 Plaintiff and Aggrieved Employees within the State of California.

4 17. Plaintiff is informed and believes and based thereon alleges that defendant H MART
5 SACRAMENTO is, and at all times relevant hereto was, a limited liability company organized and
6 existing under and by virtue of the laws of the State of California and doing business in the County
7 of Los Angeles, State of California. At all relevant times herein, H MART SACRAMENTO
8 employed Plaintiff and Aggrieved Employees within the State of California.

9 18. Plaintiff is informed and believes and based thereon alleges that defendant H MART
10 SAN DIEGO is, and at all times relevant hereto was, a limited liability company organized and
11 existing under and by virtue of the laws of the State of California and doing business in the County
12 of Los Angeles, State of California. At all relevant times herein, H MART SAN DIEGO employed
13 Plaintiff and Aggrieved Employees within the State of California.

14 19. Plaintiff is informed and believes and based thereon alleges that defendant H MART
15 SAN FRANCISCO is, and at all times relevant hereto was, a limited liability company organized
16 and existing under and by virtue of the laws of the State of Los Angeles and doing business in the
17 County of Los Angeles, State of California. At all relevant times herein, H MART SAN
18 FRANCISCO employed Plaintiff and Aggrieved Employees within the State of California.

19 20. Plaintiff is informed and believes and based thereon alleges that defendant H MART
20 SAN JOSE is, and at all times relevant hereto was, a limited liability company organized and
21 existing under and by virtue of the laws of the State of Los Angeles and doing business in the County
22 of Los Angeles, State of California. At all relevant times herein, H MART SAN JOSE employed
23 Plaintiff and Aggrieved Employees within the State of California.

24 21. Plaintiff is informed and believes and based thereon alleges that defendant H MART
25 TORRANCE is, and at all times relevant hereto was, a limited liability company organized and
26 existing under and by virtue of the laws of the State of California and doing business in the County
27 of Los Angeles, State of California. At all relevant times herein, H MART TORRANCE employed
28 Plaintiff and Aggrieved Employees within the State of California.

1 22. Plaintiff is informed and believes and based thereon alleges that defendant H MART
2 WEST is, and at all times relevant hereto was, a corporation organized and existing under and by
3 virtue of the laws of the State of California and doing business in the County of Los Angeles, State
4 of California. At all relevant times herein, H MART WEST employed Plaintiff and Aggrieved
5 Employees within the State of California.

6 23. Plaintiff is informed and believes and based thereon alleges that defendant H MART
7 WESTMINSTER is, and at all times relevant hereto was, a limited liability company organized and
8 existing under and by virtue of the laws of the State of California and doing business in the County
9 of Los Angeles, State of California. At all relevant times herein, H MART WESTMINSTER
10 employed Plaintiff and Aggrieved Employees within the State of California.

11 24. Plaintiff is informed and believes and based thereon alleges that defendant H MART,
12 INC., is, and at all times relevant hereto was, a corporation organized and existing under and by
13 virtue of the laws of the State of Delaware and doing business in the County of Los Angeles, State
14 of California. At all relevant times herein, H MART, INC. employed Plaintiff and Aggrieved
15 Employees within the State of California.

16 25. The true names and capacities, whether individual, corporate, associate, or otherwise,
17 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
18 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
19 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
20 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
21 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
22 the defendants designated hereinafter as DOES when such identities become known.

23 **JOINT LIABILITY ALLEGATIONS**

24 26. Plaintiff is informed and believes, and based thereon alleges, that each defendant
25 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
26 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
27 legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made
28 to "Defendants," it shall include H MART LOS ANGELES, H MART BALBOA, H MART

1 BUENA PARK, H MART CHINO, H MART DE ANZA, H MART DUBLIN, H MART ECC, H
2 MART GARDEN GROVE, H MART IRVINE NORTH PARK, H MART IRVINE WEST PARK,
3 H MART IRVINE, H MART K TOWN PLAZA, H MART LAKEWOOD, H MART NORWALK,
4 H MART SACRAMENTO, H MART SAN DIEGO, H MART SAN FRANCISCO, H MART SAN
5 JOSE, H MART TORRANCE, H MART WEST, H MART WESTMINSTER, and H MART, INC.,
6 and any of their parent, subsidiary, or affiliated companies within the State of California, as well as
7 DOES 1 through 100 identified herein.

8 27. Plaintiff is informed and believes and based thereon alleges that all the times
9 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
10 representative, joint venture or co-conspirator of each of the other defendants, either actually or
11 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
12 employment, joint venture, and conspiracy.

13 28. All of the acts and conduct described herein of each and every corporate defendant
14 was duly authorized, ordered, and directed by the respective and collective defendant corporate
15 employers, and the officers and management-level employees of said corporate employers. In
16 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
17 their said employees, agents, and representatives, and each of them; and upon completion of the
18 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
19 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
20 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
21 aforementioned corporate employees, agents and representatives.

22 29. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
23 thereon alleges that Defendants, and each of them, are joint employers.

24 **JURISDICTION**

25 30. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
26 of Civil Procedure section 410.10.

27 31. Venue is proper in Los Angeles County, California pursuant to Code of Civil
28 Procedure sections 392, *et seq.* because, among other things, Los Angeles County is where the

1 causes of action complained of herein arose; the county in which the employment relationship
2 began; the county in which performance of the employment contract, or part of it, between Plaintiff
3 and Defendants was due to be performed; the county in which the employment contract, or part of
4 it, between Plaintiff and Defendants was actually performed; and the county in which Defendants,
5 or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff
6 and Aggrieved Employees in Los Angeles County, and Defendants employ Aggrieved Employees
7 in Los Angeles County.

8 **PAGA REPRESENTATIVE ALLEGATIONS**

9 32. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by
10 Defendants during the PAGA Period and suffered the Labor Code violations set forth herein, even
11 if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to
12 recover civil penalties under PAGA, plus reasonable attorneys’ fees and costs, for Plaintiff and all
13 other Aggrieved Employees of Defendants during the PAGA Period.

14 33. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
15 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
16 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
17 PAGA allegations described herein is not required.

18 34. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
19 such as Plaintiff to bring a civil action to recover civil penalties pursuant to the procedures specified
20 in Labor Code section 2699.3 on behalf of Plaintiff and all other Aggrieved Employees within the
21 PAGA Period.

22 35. Pursuant to Labor Code section 2699.3, on or around May 22, 2025, Plaintiff
23 provided written notice of Defendants’ violation of various provisions of the Labor Code to the
24 LWDA online and by certified mail, with return receipt requested, to Defendants (“PAGA Notice”).

25 36. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
26 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
27 calendar days of the PAGA Notice.

28 37. To the extent Defendants, or either of them, previously used the notice and cure

1 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
2 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
3 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
4 conference process pursuant to section 2699.3(f).

5 38. In the event that Defendants, or either of them, is/are determined to have satisfied
6 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
7 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
8 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

9 39. In the event that Defendants, or either of them, is/are determined to have, prior to
10 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
11 and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all
12 provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to
13 section 2699(g)(1)-(3).

14 40. In the event that Defendants, or either of them is/are deemed to have adequately taken
15 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
16 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
17 Code section 2699(h)(1)-(3).

18 41. In the event, the LWDA and/or a court issued a finding or determination to the
19 Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the
20 policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or
21 any of them, would be subject to heightened penalties pursuant to Labor Code sections
22 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either
23 Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving
24 of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations
25 as detailed herein was and is malicious, fraudulent, and/or oppressive. Thus, Defendants, or any of
26 them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack
27 eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

28 //

1 **FACTUAL ALLEGATIONS**

2 42. Plaintiff alleges, based on information and belief, that Defendants knew, or should
3 have known, that Plaintiff and Aggrieved Employees are entitled to receive wages for all time
4 worked, including regular, overtime, and double times wages, and that Plaintiff and Aggrieved
5 Employees were not receiving all wages owed for work that was required to be performed.

6 43. Plaintiff alleges, based on information and belief, that Defendants had and have a
7 policy or practice of requiring Plaintiff and other Aggrieved Employees to work more than eight (8)
8 hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek (in
9 violation of Labor Code sections 551 and 552) without paying them proper overtime wages when
10 such hours are worked.

11 44. Upon information and belief, Defendants failed to accurately track and/or pay for all
12 minutes actually worked by Plaintiff and Aggrieved Employees at the proper rates of pay.
13 Defendants also engaged, suffered, or permitted Aggrieved Employees to work off the clock,
14 including, without limitation, by requiring Plaintiff and Aggrieved Employees to constantly receive
15 communications on their walkie talkie radio while off the clock on meal breaks; Plaintiff was asked
16 to sign documents while off the clock on his meal breaks because he was the only one that was
17 authorized to receive merchandise; and Plaintiff received calls from management before and after
18 his shifts from management. Moreover, upon information and belief, Defendants detrimentally
19 rounded and/or manipulated time entries so the hours recorded were less than the hours actually
20 worked.

21 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 violated, without limitation, Labor Code sections 223, 510, 551, 552, 1197, 1182.12, and applicable
23 Wage Orders based on its continued failure to pay minimum and overtime wages for all hours
24 worked. Thus, Plaintiff and other Aggrieved Employees are entitled to actual and liquidated
25 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198. Plaintiff is further
26 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
27 violations and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
28 penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1197.1,

1 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further
2 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
4 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
5 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per
6 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
7 compensation in lieu thereof. By way of example, Defendants regularly denied Plaintiff and
8 Aggrieved Employees lawful meal periods by, without limitation, by interrupting meal periods as
9 Plaintiff constantly received requests to sign documents to receive merchandise; not providing
10 timely meal periods; failing to provide first and second meal periods; providing short meal periods,
11 including without, limitation meal periods that were recorded for less than thirty minutes; requiring
12 that employees carry cellular telephones or walkie-talkies during meal periods; and otherwise
13 requiring on-duty/on-call meal periods. Plaintiff and other Aggrieved Employees personally
14 suffered these violations. Consequently, Plaintiff is informed and believes, and based thereon
15 alleges, that Defendants violated Labor Code sections 512 and 1198 each day for each Aggrieved
16 Employee during the PAGA Period, and thus each Aggrieved Employee was owed one hour of
17 premium pay at their regular rate of pay for each day worked during the PAGA Period under Labor
18 Code section 226.7. However, Plaintiff is informed and believes that those premium payments under
19 Labor Code section 226.7 were not made for these non-compliant meal periods. Defendants would
20 thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these
21 wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant meal periods and
22 for failing to provide premium pay under Labor Code section 226.7, or injunctive relief under
23 sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
24 alleges, that Defendants' conduct that gave rise to such violations and was malicious, fraudulent, or
25 oppressive. As such, Defendants are further liable for civil penalties pursuant to Labor Code section
26 2699(f)(2)(B)(ii).

27 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants
28 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,

1 including, without limitation, work over four-hour periods (or major fractions thereof) without
2 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
3 and complete ten-minute rest periods in which the employees are completely relieved of all of their
4 duties. By way of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful
5 rest periods by, without limitation, by failing to provide rest periods all together; failing to provide
6 rest periods that were at least ten minutes in length, including rest periods that were shorter than ten
7 minutes; interrupting them; not providing rest periods in a timely fashion; and otherwise requiring
8 on-duty/on-call rest periods. Additionally, there were times that management instructed Plaintiff
9 that he was not allowed to take rest breaks. Plaintiff and other Aggrieved Employees personally
10 suffered these violations. Consequently, Plaintiff is informed and believes, and based thereon
11 alleges, that Defendants violated the applicable Wage Order(s) each day for each Aggrieved
12 Employee during the PAGA Period, and that, thus each Aggrieved Employee was owed one hour
13 of premium pay at their regular rate of pay for each day worked during the PAGA Period under
14 Labor Code section 226.7. However, Plaintiff is informed and believes that those premium
15 payments under Labor Code section 226.7 were not made, either, for these non-compliant rest
16 periods, either at all or at the proper regular rate of pay, in violation of Labor Code sections 226.7
17 and 1198. Defendants would thus be liable for civil penalties pursuant to Labor Code sections 210
18 (for failure to timely pay these wages), 558, 1198 and 2699 for both failing to authorize the taking
19 of compliant rest periods and for failing to provide premium pay under Labor Code section 226.7,
20 or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes,
21 and based thereon alleges, that Defendants' conduct above gave rise to such violations and was
22 malicious, fraudulent, or oppressive. As such, Defendants are further liable for civil penalties
23 pursuant to Labor Code section 2699(f)(2)(B)(ii).

24 48. As a result of, among other things, Defendants' herein-described policy or practice
25 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
26 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
27 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
28 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and

1 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that
2 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the
3 inclusive dates of the period for which the employee is paid; the name of the employee and only the
4 last four digits of their social security number or an employee identification number other than a
5 social security number; all deductions; all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate by the employee; the legal name and
7 address of the employer, and other such information as required by Labor Code section 226,
8 subdivision (a). Specifically, Defendants intentionally failed to furnish employees with itemized
9 wage statements that accurately reflect the hours worked by Plaintiff and other Aggrieved
10 Employees and the rates of pay at which they were or should have been paid including due to failure
11 to pay at the proper regular rate, thus resulting in a failure to accurately reflect gross and net wages
12 earned and owed at each rate, as well. Consequently, Plaintiff is informed and believes, and based
13 thereon alleges, that Defendants violated Labor Code sections 226, and 1198 each day for each
14 Aggrieved Employee during the PAGA Period, and that, thus Plaintiff and each Aggrieved
15 Employee personally suffered these violations and was owed penalties under Labor Code section
16 226 for each pay period worked during the PAGA Period. Plaintiff is informed and believes that
17 those penalties under Labor Code section 226 were not paid for these violations of Labor Code
18 section 226. Defendants would thus be liable for civil penalties pursuant to Labor Code sections
19 226.3, 558, 1198, and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is
20 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise
21 to such violations and was malicious, fraudulent, or oppressive. Thus, Defendants would further be
22 liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

23 49. Plaintiff is informed and believes, and based thereon alleges, that Defendants also
24 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
25 compensation to Plaintiff and other terminated or resigned employees, including but not limited to,
26 failing to pay all overtime wages owed, including for failure to pay at overtime the proper rate of
27 pay; all minimum wages; and all premium pay owed; as set forth above, among other things.
28 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants

1 violated Labor Code sections 201, 202 203, and 1198 each pay period for each Aggrieved Employee
2 during the PAGA Period, and thus Plaintiff and each Aggrieved Employee personally suffered these
3 violations and was owed penalties under Labor Code section 203 for each pay period worked during
4 the PAGA Period. However, Plaintiff is informed and believes that those penalties under Labor
5 Code section 203 were not made for these violations of Labor Code sections 201, 202, and 203.
6 Defendants would thus be liable for civil penalties pursuant to Labor Code sections 558, 1198 and
7 2699, or injunctive relief under sections 2699(e)(1) and 2699(j). Plaintiff is further informed and
8 believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations and
9 was malicious, fraudulent, or oppressive. As such, Defendants would further be liable for civil
10 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

11 50. Plaintiff is informed and believes, and based thereon alleges that Defendants also
12 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
13 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for the purchase and
14 maintenance of cellular phones and cellular phone plans, as Plaintiff was required to make and
15 received phone calls and was required to install an application on his personal cell phone, in direct
16 consequence of the discharge of their duties, or of their obedience to the directions of Defendants,
17 as required by Labor Code sections 1198, 2800, 2802, and other statutory and common law
18 offenses. As a result, Plaintiff and other Aggrieved Employees have personally suffered these
19 violations and Defendants are liable to reimburse Plaintiff and other Aggrieved Employees for these
20 costs incurred in furtherance of work duties. Defendants would thus be liable for civil penalties
21 pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1)
22 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
23 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. As such,
24 Defendants would further be liable for civil penalties pursuant to Labor Code section
25 2699(f)(2)(B)(ii).

26 51. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
27 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with
28 Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days,

1 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
2 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
3 any calendar month, shall be paid for between the 1st and 10th day of the following month.” Plaintiff
4 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
5 and other Aggrieved Employees all wages owed every day and every workweek in accordance with
6 Labor Code sections 204 and 1198. Plaintiff is informed and believes, and based thereon alleges,
7 that Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees
8 have personally suffered these violations. As such, Defendants would be liable for civil penalties
9 pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections
10 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon alleges, that
11 Defendants’ conduct above gave rise to such violations and was malicious, fraudulent, or
12 oppressive. Therefore, Defendants would further be liable for civil penalties pursuant to Labor Code
13 section 2699(f)(2)(B)(ii).

14 52. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
15 have or had a policy or practice of failing to provide Plaintiff and other Aggrieved Employees with
16 all rights afforded to them under the Healthy Workplace Healthy Families Act of 2014, codified at
17 Labor Code section 245, *et seq.*, including, without limitation, the amount of paid sick leave required
18 to be provided pursuant to California and local laws. Plaintiff is further informed and believes that
19 Defendants also did not permit accrued sick leave use upon request by Plaintiff and other Aggrieved
20 Employees as contemplated under California and local laws, including, without limitation, under
21 Labor Code section 233, that permits its use to attend to an illness of a child, parent, spouse, or
22 domestic partner without retaliation. Plaintiff is additionally informed and believes that the notice
23 requirement of Labor Code section 221, 223, 233, 234, 245 and 246 involves a mandatory payroll
24 or workplace injury reporting. Plaintiff is thus informed and believes that Defendants violated these
25 Labor Code sections, as well as Labor Code section 1198. As such, Plaintiff and other Aggrieved
26 Employees have personally suffered violations under these sections and Defendants would be liable
27 for civil penalties for violation of the paid sick leave regulations under Labor Code sections 1198
28 and 2699, as well as equitable, injunctive, or restitutionary relief, and reasonable attorneys’ fees and

1 costs. Plaintiff further informed and believes, and based thereon alleges, that Defendants' conduct
2 above gave rise to such violations and was malicious, fraudulent, or oppressive. Defendants would
3 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

4 53. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
5 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
6 statements and similar payroll documents under Labor Code section 226, documents signed to
7 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
8 section 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and
9 other Aggrieved Employees to calculate their unpaid wages and/or premium payments. Plaintiff and
10 the Aggrieved Employees personally suffered these violations, which in turn would entitle Plaintiff
11 and other Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5.
12 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5,
13 and 2699. Plaintiff further informed and believes, and based thereon alleges, that Defendants'
14 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. Defendants
15 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

16 54. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
17 including their agents, managers, superintendents, and/or officers, required Plaintiff and/or
18 Aggrieved Employees to agree, in writing, to terms and conditions known by Defendants (and its
19 agents, managers, superintendents and/or officers) to be prohibited by law, including, without
20 limitation, terms known to be illegal in purported arbitration agreements, and other written
21 documents presented for signature and/or assent to Plaintiff and/or Aggrieved Employees by
22 Defendants. Defendants also required Plaintiff and Aggrieved Employees to inform prospective
23 employers of Defendants' restrictions of Plaintiff's and Aggrieved Employees' freedom to work.
24 As a result, Plaintiff is informed and believes that Defendants violated Labor Code sections 432.5
25 and 1198. As such, Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and
26 other Aggrieved Employees personally suffered these violations, and that Defendants violated,
27 without limitation, Labor Code section 432.5 and Government Code section 12952, entitling
28 Plaintiff and other Aggrieved Employees to damages. Plaintiff is further informed and believes, and

1 based thereon alleges, that Defendants' conduct above gave rise to such violations and was
2 malicious, fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to
3 Labor Code sections 432.5, 1198, and 2699, or injunctive relief under sections 2699(e)(1) and
4 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section
5 2699(f)(2)(B)(ii).

6 55. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
7 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
8 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
9 Employees pursuant to PAGA.

10 **FIRST AND ONLY CAUSE OF ACTION**

11 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

12 56. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
13 preceding paragraphs as though fully set forth hereat.

14 **Civil Penalties Under Labor Code § 210**

15 57. At all relevant times herein, Labor Code section 204, requires and required that:
16 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
17 between the 16th and 26th day of the month during which the labor was performed, and labor
18 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
19 between the 1st and 10th day of the following month.”

20 58. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
21 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
22 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
23 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
24 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
25 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
26 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

27 59. At all relevant times herein, Defendants have had a consistent policy or practice of
28 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as

1 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
2 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
3 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
4 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
5 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
6 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
7 violation in connection with each payment that was made in violation of Labor Code section 204.

8 Civil Penalties Under Labor Code § 226.3

9 60. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
10 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
11 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
12 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
13 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

14 61. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
15 this section are in addition to any other penalty provided by law.”

16 62. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
17 and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by
18 intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements
19 that accurately reflect gross wages earned; total hours worked; net wages earned; the name and
20 address of each employer with whom they have been placed to work; all applicable hourly rates in
21 effect during the pay period and the corresponding number of hours worked at each hourly rate; the
22 legal name of the employer; and other such information as required by Labor Code section 226,
23 subdivision (a).

24 63. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
25 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
26 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
27 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
28 period for each subsequent violation.

1 Violation of Labor Code § 558

2 64. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
3 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
4 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
5 penalty as follows:

6 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
7 pay period for which the employee was underpaid in addition to an amount sufficient
8 to recover underpaid wages;

9 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
10 employee for each pay period for which the employee was underpaid in addition to
11 an amount sufficient to recover underpaid wages;

12 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

13 65. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
14 each of them, violated, or caused to be violated, the Labor Code sections and Wage Orders
15 regulating wages, hours and days of work described herein, including but not limited to Labor Code
16 sections 201-204, 223, 226.7, 510, 511, 512, 551, 552, 1182.12, 1194, 1197, 1198, and 2802.

17 66. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
19 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
20 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
21 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

22 Violation of Labor Code § 1174.5

23 67. At all times mentioned herein, Labor Code section 1174, subdivision (b) has
24 required every person employing labor in California to “[a]llow any member of the commission or
25 the employees of the Division of Labor Standards Enforcement free access to the place of business
26 or employment of the person to secure any information or make any investigation that they are
27 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
28 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,

1 or papers of the person.”

2 68. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
3 every person employing labor in California to “[k]eep, at a central location in the state or at the
4 plants or establishments at which employees are employed, payroll records showing the hours
5 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
6 piece rate paid to, employees employed at the respective plants or establishments. These records
7 shall be kept in accordance with rules established for this purpose by the commission, but in any
8 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
9 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
10 earned.”

11 69. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
12 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
13 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
14 member of the commission or employees of the division to inspect records pursuant to subdivision
15 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

16 70. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
17 willfully failed to keep adequate or accurate time records including wage statements and similar
18 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
19 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
20 under Labor Code section 1174.

21 71. As a direct and proximate result of the herein-described Labor Code violations,
22 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
23 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
24 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

25 Violation of Labor Code § 1197.1

26 72. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
27 person acting either individually or as an officer, agent, or employee of another person, who pays
28 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or

1 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
2 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
3 Section 203 as follows:

4 (1) For any initial violation that is intentionally committed, one hundred dollars
5 (\$100) for each underpaid employee for each pay period for which the
6 employee is underpaid. This amount shall be in addition to an amount
7 sufficient to recover underpaid wages, liquidated damages pursuant to Section
8 1194.2, and any applicable penalties imposed pursuant to Section 203.

9 (2) For each subsequent violation for the same specific offense, two hundred fifty
10 dollars (\$250) for each underpaid employee for each pay period for which the
11 employee is underpaid regardless of whether the initial violation is
12 intentionally committed. This amount shall be in addition to an amount
13 sufficient to recover underpaid wages, liquidated damages pursuant to Section
14 1194.2, and any applicable penalties imposed pursuant to Section 203.

15 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
16 Section 203, recovered pursuant to this section shall be paid to the affected
17 employee.”

18 73. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
19 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants
20 routinely failing to accurately track and/or pay for all minutes actually worked by Plaintiff and
21 Aggrieved Employees at the proper rates of pay, as described above.

22 74. As a direct and proximate result of the herein-described Labor Code violations,
23 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
24 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
25 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
26 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
27 subsequent violation.

28 ///

Civil Penalties Under Labor Code § 2699

75. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an Aggrieved Employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

76. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described in the preceding paragraphs.

77. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

78. Moreover, Plaintiff and other Aggrieved Employees within the State of California whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

PRAYER

WHEREFORE, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for judgment against Defendants as follows:

- A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- C. For equitable, including, without limitation, injunctive relief;
- C. Pre-judgment and post-judgment interest;
- D. For costs of suit incurred herein; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E. Such other and further relief as the Court deems just and proper.

Dated: March 17, 2026

BIBIYAN LAW GROUP, P.C.

BY: /s/ Laurel N. Holmes
MOLLY DESARIO
LAUREL N. HOLMES
Attorneys for Plaintiff MANUEL DAVID
XOCOL and on behalf of all other Aggrieved
Employees