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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF RIVERSIDE**
11

12 JACKIE SHILEVINATZ, on behalf of the
13 State of California, the Labor Workforce
14 Development Agency, as a private attorney
general, and on behalf of all aggrieved
employees,

15 Plaintiff,

16
17 v.

18 AIRPORT TERMINAL SERVICES,
19 INC., a Missouri corporation; ALLIANCE
20 GROUND INTERNATIONAL, LLC, a
21 Delaware corporation; and DOES 1-100,
inclusive,

22 Defendants.
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Case No.: **CVRI 2300018**

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

1 Plaintiff JACKIE SHILEVINATZ (“PLAINTIFF”), on behalf of the State of California, the
2 Labor Workforce Development Agency, as a private attorney general, and on behalf of all
3 Aggrieved Employees (defined below), hereby files this Complaint against Defendants AIRPORT
4 TERMINAL SERVICES, INC., a Missouri corporation; ALLIANCE GROUND
5 INTERNATIONAL, LLC, a Delaware corporation; and DOES 1-100, inclusive, (collectively
6 referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges
7 as follows:

8 **INTRODUCTION**

9 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
10 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
11 Attorneys General Act, Labor Code section 2698 et. seq. (“PAGA”), to recover civil penalties (75%
12 payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
13 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

14 2. The California Labor and Workforce Development Agency (“LWDA”) is a
15 California governmental entity. PLAINTIFF has been delegated authority to sue on behalf of the
16 LWDA pursuant to PAGA.

17 **JURISDICTION AND VENUE**

18 3. This Court has jurisdiction over PLAINTIFF’s representative claims for penalties on
19 behalf of Aggrieved Employees and the State of California pursuant to California statutes, including
20 but not limited to the PAGA, and decisional law and regulations.

21 4. Venue is proper in the County of Riverside pursuant to California Code of Civil
22 Procedure section 395.5 because DEFENDANTS transact business within this judicial district and
23 some of the acts, omissions, and conduct alleged by PLAINTIFF herein occurred in this judicial
24 district. Also, see, *Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th
25 1069 (venue in a PAGA action is proper in any county where the defendants committed Labor Code
26 violations against some of its employees).

27 **THE PARTIES**

28 5. PLAINTIFF, is, and at all relevant times, was an individual domiciled in the State of

1 California and a citizen of the State of California. PLAINTIFF is currently employed by
2 DEFENDANTS as a non-exempt employee. PLAINTIFF worked for DEFENDANTS during the
3 PAGA Period (defined below) as a passenger service agent and/or similar title(s). PLAINTIFF
4 worked for DEFENDANTS out of a couple of DEFENDANTS' California locations, including but
5 not limited to, two of DEFENDANTS' facilities located in Palm Springs and Ontario, California.

6 6. DEFENDANTS are either a Missouri corporation and/or a Delaware corporation
7 that, at all relevant times, were authorized to do business within the State of California and are doing
8 business in the State of California.

9 7. DEFENDANTS own, operate, or otherwise manage a business that provides aviation
10 services, including but not limited to, cargo handling, aircraft fueling, maintenance and ground
11 support services, passenger lounge services, among other aviation services¹, with locations and/or
12 facilities operating out of, including but not limited to, airports located in Los Angeles, Long Beach,
13 Santa Ana, San Diego, Ontario, Palm Springs, Oakland, San Francisco and San Jose.²

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

20 9. PLAINTIFF is further informed and believes that, at all relevant times, each
21 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
22 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
23 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
24 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
25 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
26 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant

27 ¹ See <https://atsstl.com/>. (Last visited on January 2, 2023); *See also*,
28 <https://www.allianceground.com/news/acquisition-of-airport-terminal-services/> (Last visited on January 2, 2023)

² See <https://atsstl.com/locations> (Last visited on January 3, 2023)

1 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
2 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
3 controlled, aided and abetted the conduct of all other Defendants.

4 **JOINT LIABILITY**

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

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

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

14 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
15 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
16 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
17 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
18 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
19 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
20 Employees. For example, based on information and belief, DEFENDANTS' airport services
21 business, at times during the relevant period, operated and/or operates under the name Airport
22 Terminal Services, Inc. and/or Airport Terminal Services and at times during the relevant period
23 operated and/or operates under the name Alliance Ground International, LLC and/or Alliance
24 Ground International.

25 14. As such, PLAINTIFF alleges that DEFENDANTS created a uniform set of policies,
26 practices and/or procedures concerning, inter alia, hourly and overtime pay, time-keeping practices,
27 meal and rest periods, reimbursement of business expenses and other working conditions that were
28 distributed to, and/or applied to PLAINTIFF and the Aggrieved Employees, and further that

1 DEFENDANTS uniformly compensated and controlled the wages of PLAINTIFF and the
2 Aggrieved Employees in a uniform manner. DEFENDANTS collectively represented to
3 PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of DEFENDANTS,
4 and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's and Aggrieved
5 Employees' employment with or without cause. Upon information and belief, DEFENDANTS
6 further collectively represented to PLAINTIFF and Aggrieved Employees in writing the details of
7 their compensation, and the manner in which they were to take meal and rest periods, the procedures
8 required by DEFENDANTS collectively for recordation of hours worked and the policies applicable
9 to PLAINTIFF and Aggrieved Employees by which DEFENDANTS collectively would evaluate
10 the wage rates of PLAINTIFF and Aggrieved Employees.

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

16 16. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
17 control over, applied the same policies and practices, and engaged in the same acts and omissions
18 with regard to the other Aggrieved Employees.

19 **PAGA ALLEGATIONS**

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

23 All individuals who currently work or formerly worked for any of the DEFENDANTS at
24 any facility/location owned, operated and/or managed by any of the DEFENDANTS in
25 California at any time from one year plus 65 days from the filing of the initial Complaint
26 through the present ("PAGA Period").

27 18. PLAINTIFF and other individuals that currently work or formerly worked for
28 DEFENDANTS are each an "aggrieved employee," as that term is defined under Labor Code section

1 2699(c), as they were each employed by DEFENDANTS during the applicable statutory limitations
2 period and suffered one or more of the Labor Code violations set forth herein. Accordingly,
3 PLAINTIFF seeks to recover on behalf of the State of California and all Aggrieved Employees, the
4 civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

5 19. PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and
6 all Aggrieved Employees, as she was jointly employed by DEFENDANTS and is thereby affected
7 by one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018)
8 23 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
9 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
10 *Id.* at 760-761.

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

12 20. On October 25, 2022, PLAINTIFF SHILEVINATZ, through counsel, gave written
13 notice by online filing with the California Labor and Workforce Development Agency (“LWDA”)
14 informing it that DEFENDANTS failed to comply with California’s labor laws with regard to the
15 allegations alleged in this Complaint (“PAGA Notice”). The LWDA assigned PLAINTIFF the
16 following case number: LWDA-CM-915896-22. PLAINTIFF’s PAGA Notice, a true and correct
17 copy of which is attached hereto as **Exhibit 1**, was also sent to DEFENDANTS via certified mail.

18 21. PLAINTIFF’s PAGA Notice outlined DEFENDANTS' violations of the California
19 Labor Code and the applicable wage orders on behalf of the State of California and other Aggrieved
20 Employees.

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

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

1 **FACTUAL ALLEGATIONS**

2 24. During the PAGA Period, PLAINTIFF SHILEVINATZ and other Aggrieved
3 Employees were employed by DEFENDANTS in the State of California. At all relevant times
4 referenced herein, DEFENDANTS exercised control over PLAINTIFF and the other Aggrieved
5 Employees and suffered and/or permitted them to work.

6 25. PLAINTIFF is currently employed by DEFENDANTS as a non-exempt employee.
7 PLAINTIFF worked for DEFENDANTS as a passenger service agent and/or similar title from in or
8 around December 2016 and continuing through the present. PLAINTIFF worked for
9 DEFENDANTS out of a couple of DEFENDANTS' California locations, including but not limited
10 to, two of DEFENDANTS' facilities located in Palm Springs and Ontario, California. PLAINTIFF
11 regularly worked at least nine (9) hours per day, at least (5) days per week. At times, PLAINTIFF
12 worked for multiple weeks consecutively without any days off. DEFENDANTS paid PLAINTIFF
13 an hourly rate for time counted by DEFENDANTS as hours worked. At all relevant times,
14 PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time counted by
15 DEFENDANTS as hours worked.

16 26. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
17 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
18 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
19 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
20 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
21 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
22 below.

23 27. Based on information and belief, DEFENDANTS implemented a policy and/or
24 practice of rounding meal period start and end times and/or automatically deducting at least thirty
25 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
26 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
27 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
28 PLAINTIFF and Aggrieved Employees of all wages owed.

1 28. Based on information and belief, Aggrieved Employees were not paid for all hours
2 worked due to DEFENDANTS' policy and/or practice of rounding time entries or paying according
3 to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work
4 policies and/or practices.

5 29. For example, PLAINTIFF was consistently required to perform work off-the-clock
6 after her shift had ended, such as, but not limited to, assist passengers with their baggage-related
7 needs and/or complete other work tasks PLAINTIFF was directed by her supervisor to complete as
8 PLAINTIFF was trying to leave the worksite after clocking out for her the end of her shift. Based
9 on information and belief, DEFENDANTS also required other Aggrieved Employees to consistently
10 perform work tasks after clocking out for the end of their shifts, which said time was neither recorded
11 nor compensated, resulting in the underpayment of wages owed to Aggrieved Employees, in
12 violation of California's minimum wage laws.

13 30. Based on information and belief, DEFENDANTS failed to compensate Aggrieved
14 Employees for time spent performing pre-shift and/or post-shift off-the-clock work such as, but not
15 limited to, time spent undergoing required pre-clock-in employer-mandated security screenings
16 and/or temperature screenings, time spent bestowing personal items in employee lockers/storage
17 area, time spent in employee lines to access DEFENDANTS' employee electronic/biometric
18 timekeeping system and/or time spent reinitiating/reactivating/rebooting DEFENDANTS'
19 electronic/biometric timekeeping system. For example, PLAINTIFF typically spent up to at least
20 five (5) minutes per workday waiting in line behind other employees to access the clock-in system.
21 At times, DEFENDANTS mandated pre-clock in Covid-temperature screenings that resulted in
22 additional uncompensated pre-shift work time and the underpayment of wages owed to PLAINTIFF
23 and other Aggrieved Employees. At times, PLAINTIFF spent at least ten (10) minutes waiting in
24 line behind other employees to clock in and/or reinitiating and/or otherwise troubleshooting
25 DEFENDANTS' biometric timekeeping system before she was able to clock in for the start of her
26 shift. This pre-shift off-the-clock work was neither recorded nor compensated, resulting in the
27 significant underpayment of wages owed to PLAINTIFF. Based on information and belief,
28 PLAINTIFF and other Aggrieved Employees had same or similar issues when attempting to clock

1 back in from meal periods, resulting in the further underpayment of minimum wages owed to
2 PLAINTIFF and other Aggrieved Employees.

3 31. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
4 also pressured to complete at least some of their work tasks off-the-clock in order to meet
5 DEFENDANTS' goals and expectations. For example, at times, PLAINTIFF performed off-the-
6 clock work in the form of completing DEFENDANTS' required lessons, reviewing various airline
7 policy documents and/or other policy documents, attending remote work-related meetings and/or
8 completing other work tasks to meet DEFENDANTS' demands, resulting in an at least one hour of
9 off-the-clock work per month that was neither recorded nor compensated, resulting in the
10 underpayment of minimum wages owed to PLAINTIFF.

11 32. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
12 also required to complete off-the-clock work outside of scheduled shifts due to work-related phone
13 calls and/or messages they received to their personal phone and were required to respond to,
14 including but not limited to, communications from supervisors, resulting in significant off-the-clock
15 work and the underpayment of minimum wages owed to PLAINTIFF and other Aggrieved
16 Employees. For example, PLAINTIFF consistently received messages and/or calls from her
17 supervisor regarding scheduling, requesting a briefing of what had transpired during PLAINTIFF's
18 shift and/or regarding other work tasks, which said time spent reviewing and/or responding to these
19 work-related messages and/or calls outside of her scheduled shift times was neither recorded nor
20 compensated, resulting in the underpayment of wages owed to PLAINTIFF.

21 33. Moreover, as described above, DEFENDANTS' employee time-keeping system
22 consistently malfunctioned such that PLAINTIFF and other Aggrieved Employees were
23 consistently required to either reinitiate the system prior to being able to clock in and/or were unable
24 to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in
25 consistent off-the-clock work and the underpayment of minimum and overtime wages owed to
26 PLAINTIFF and other Aggrieved Employees. This time spent under DEFENDANTS' control was
27 not recorded and not compensated and resulted in unpaid minimum and overtime wages.

28 34. Additionally, based on information and belief, DEFENDANTS required Aggrieved

1 Employees to obtain Covid-related testing outside of their scheduled shift times without
2 compensating them for the time spent completing DEFENDANTS' testing requirements.

3 35. Based on information and belief, DEFENDANTS failed to pay Aggrieved
4 Employees split shift compensation whenever their work schedules were interrupted by non-paid
5 non-working periods established by DEFENDANTS, which resulted in a violation of the applicable
6 Wage Order (See section 4 of all applicable Wage orders, "When an employee works a split shift,
7 one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that
8 workday...).

9 36. Based on information and belief, DEFENDANTS failed to pay Aggrieved
10 Employees for time they were required to spend completing orientation, policy questionnaires,
11 and/or time spent completing the onboarding process including but not limited to reviewing various
12 documents and policies provided by DEFENDANTS. Based on information and belief, this work
13 time was completed off-the-clock and was not compensated.

14 37. Based on further information and belief, DEFENDANTS implemented a time-
15 rounding system that as applied systematically deprived PLAINTIFF and other Aggrieved
16 Employees of compensable time because the time-rounding system implemented by
17 DEFENDANTS would almost always, if not always, result in understating actual compensable work
18 time. DEFENDANTS' failure to pay for all time worked by virtue of its time-rounding practices
19 resulted in the underpayment of minimum wages owed to PLAINTIFF and Aggrieved Employees
20 as well as unpaid overtime wages for those Aggrieved Employees who worked more than eight (8)
21 hours in a day and/or more than forty (40) hours in a week.

22 38. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
23 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
24 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
25 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
26 for PLAINTIFF and those Aggrieved Employees who worked more than eight (8) hours in a day
27 and/or more than forty (40) hours in a week.

28 39. Based on information and belief, DEFENDANTS had actual and/or constructive

1 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
2 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
3 underpayment of minimum wages owed to PLAINTIFF and other Aggrieved Employees, in
4 violation of California's minimum and overtime wage laws.

5 40. Based on information and belief, DEFENDANTS failed and continue to fail to pay
6 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
7 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
8 a work week, in violation of California's overtime laws.

9 41. Based on information and belief, DEFENDANTS failed to incorporate all non-
10 discretionary remuneration, including but not limited to, shift differential pay, multiple base rates
11 of pay, bonus pay, and/or other non-discretionary pay into the regular rate of pay used to calculate
12 the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages
13 owed to PLAINTIFF and other Aggrieved Employees.

14 42. Based on information and belief, DEFENDANTS sometimes paid PLAINTIFF and
15 other Aggrieved Employees multiple rates of base pay in one workweek but failed to incorporate all
16 multiple rates of base pay into the regular rate of pay for purposes of calculating the owed overtime
17 rate. For example, at times, PLAINTIFF earned multiple base pay rates during the same workweek,
18 yet, DEFENDANTS failed to incorporate all/both base pay rates into the regular rate of pay for
19 purposes of calculating the owed overtime rate, resulting in the miscalculation and underpayment
20 of overtime wages owed to PLAINTIFF. Based on information and belief, DEFENDANTS
21 similarly failed to incorporate multiple base rates of pay earned in a workweek by other Aggrieved
22 Employees into the regular rate of pay used to calculate the owed overtime rate(s), resulting in
23 unpaid wages to Aggrieved Employees.

24 43. Alternative Workweek Schedule Violations (Labor Code Section 511 and All
25 Applicable Wage Orders, Section 3). Per California Labor Code section 511, an employer may
26 adopt a regularly scheduled alternative workweek consisting of shifts over eight (8) hours per day
27 but no more than ten (10) hours per day, within a 40-hour workweek, without payment of overtime
28 being required for those hours. Cal. Lab. Code § 511(a). If an employee with an alternative

1 workweek works more than the scheduled work hours in any day, the employee is entitled to be paid
2 1.5 times his regular pay rate for the excess hours worked up to twelve (12) hours, and for any time
3 worked in excess of 40 hours that week. Cal. Lab. Code § 511(b). If the employee works more than
4 twelve (12) hours in a day, the employee is entitled to be paid twice his regular rate of pay for time
5 worked in excess of the twelve (12) hours. Id. An employee is also entitled to compensation at
6 twice his regular rate of pay for any time worked beyond eight (8) hours on a day that is not a
7 scheduled workday. Id.

8 44. Moreover, Section 3(B)(2) of all applicable IWC Wage Orders provides that “[i]f an
9 employer, whose employees have adopted an alternative workweek agreement permitted by this
10 order requires an employee to work fewer hours than those that are regularly scheduled by the
11 agreement, the employer shall pay the employee overtime compensation at a rate of one and one-
12 half times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours, and
13 double the employee’s regular rate of pay for all hours worked in excess of 12 hours for the day the
14 employee is required to work the reduced hours.”

15 45. Based on information and belief, Aggrieved Employees worked subject to an
16 alternative work week schedule in which Aggrieved Employees were scheduled to work ten (10)
17 hours per shift, four (4) shifts per week. According to the California Department of Industrial
18 Relations Alternative Workweek Elections Database, DEFENDANTS conducted various
19 alternative workweek schedule elections, for alternative workweek schedules that were
20 subsequently adopted/approved. Pursuant to the AWS, DEFENDANTS were required to pay
21 Aggrieved Employees at their base rate(s) for the first ten (10) hours in a shift and required to pay
22 1.5 times the base rate(s) for time worked over 40 hours in a week. However, based on information
23 and belief, on various diverse dates, Aggrieved Employees were sent home between one (1) to two
24 (2) hours before completing their ten-hour shifts. On such shortened shifts, Aggrieved Employees
25 were entitled to overtime pay at 1.5 times their regular rate(s) of pay after the first eight (8) hours
26 of work. Instead, based on information and belief, DEFENDANTS paid Aggrieved Employees their
27 respective base rate(s) for all scheduled hours worked on the shortened shift(s) in violation of the
28 alternative workweek schedule, and in violation of California Labor Code sections 510, 511, the

1 applicable Wage Order, and Labor Code section 1198.

2 46. Based on further information and belief, DEFENDANTS required Aggrieved
3 Employees to work more than eight (8) hours on days that were not scheduled workdays without
4 compensating Aggrieved Employees at twice their regular rate(s) of pay for the time worked beyond
5 eight (8) hours on those days, in violation of California overtime laws, including but not limited to,
6 California Labor Code sections 510 and 511, the applicable Wage Order, and Labor Code section
7 1198.

8 47. Based on further information and belief, DEFENDANTS failed to comply with all
9 mandated procedures for proper adoption and implementation of an alternative workweek schedule
10 and/or failed to compensate Aggrieved Employees according to the terms of the alternative
11 workweek schedule and/or in compliance with California Labor Code sections 510, 511, all
12 applicable IWC Wage Orders, and Labor Code section 1198.

13 48. **Violation of California Day of Rest Law.** Under California law, every employee in
14 California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" its
15 employees "to work more than six days in seven." See Labor Code Sections 551 and 552. Labor
16 Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

17 49. Based on information and belief, DEFENDANTS has and continues to have a
18 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
19 consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551.
20 For example, at times, PLAINTIFF worked for multiple weeks without a day off. Based on
21 information and belief, other Aggrieved Employees were also suffered, permitted, or required to
22 work at least seven (7) days consecutively in a workweek, in violation of California law, including
23 but not limited to Labor Code Section 551.

24 50. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
25 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
26 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
27 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
28 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often

1 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
2 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
3 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
4 completely. For example, PLAINTIFF was consistently forced to take her meal period late (i.e. after
5 the end of the fifth hour of work) or not take a meal period at all due to understaffing and/or lack of
6 coverage/relief workers available. Oftentimes, PLAINTIFF's supervisor instructed PLAINTIFF to
7 continue working and take her meal period late when it was not so busy. Other times, PLAINTIFF's
8 supervisor instructed PLAINTIFF to clock out for her meal period but to continue working. For
9 example, PLAINTIFF was forced to cut her meal period short and/or had her meal period interrupted
10 an average of five times per week, due to, including but not limited to, instructions from her
11 supervisor to return to work to attend to the check-in/ticket counter, attend to passenger inquiries,
12 and/or complete other work tasks. Based on information and belief, other Aggrieved Employees
13 were also consistently forced to take late, shortened and/or interrupted meal periods and/or work
14 through their meal periods completely due to understaffing, lack of coverage, lack of relief workers,
15 the need to attend to passengers/work situation requiring immediate attention and/or complete other
16 work tasks. Based on information and belief, other Aggrieved Employees were also instructed by
17 their supervisors to clock out for meal periods but to continue working off-the-clock, resulting in
18 not only meal period violations but violations of California's minimum and overtime wage laws.

19 51. Based on information and belief, other Aggrieved Employees were consistently
20 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
21 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
22 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
23 the need to meet DEFENDANTS' goals and expectations. For example, at times, PLAINTIFF
24 worked more than five and one half hours in a workday but was not provided with any meal period.
25 On information and belief, Aggrieved Employees were consistently forced to take shortened and/or
26 interrupted meal periods due to work-related phone calls/messages they were required to respond to
27 during unpaid, purportedly off-duty meal periods.

28 52. Based on information and belief, DEFENDANTS implemented policies and/or

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

3 53. Based on information and belief, DEFENDANTS required Aggrieved Employees to
4 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
5 into account when scheduling meal periods for Aggrieved Employees. Based on information and
6 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

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

13 55. Moreover, per DEFENDANTS' uniform policy and practice, Aggrieved Employees
14 who worked shifts of more than ten hours did not receive a second legally compliant thirty (30)
15 minute second meal period. For example, at least twice per month, PLAINTIFF worked shifts lasting
16 more than ten (10) hours and on those occasions when PLAINTIFF worked more than ten hours in
17 a shift, PLAINTIFF was not provided with a second meal period

18 56. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
19 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
20 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
21 did DEFENDANTS have any sort of compliant policy in practice.

22 57. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
23 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
24 Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
25 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
26 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
27 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

28 58. Based on information and belief, DEFENDANTS had actual and/or constructive

1 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
2 were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
3 violation of California's meal period laws.

4 59. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
5 additional hour of wages at their respective regular rates of compensation for each workday a lawful
6 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
7 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
8 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
9 bonuses/incentive pay, multiple base rates of pay, shift differential pay and/or other non-
10 discretionary compensation into the regular rate or compensation for purposes of calculating the
11 owed meal period premium.

12 60. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
13 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
14 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
15 middle of the work period, as required by law.

16 61. PLAINTIFF and other Aggrieved Employees were not adequately informed,
17 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
18 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
19 the taking of duty-free rest periods.

20 62. Based on information and belief, DEFENDANTS did not have a have a compliant
21 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
22 practice. . For example, PLAINTIFF was consistently forced to work through her owed rest periods
23 due to lack of coverage and/or lack of relief workers.

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

28 64. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts

1 lasting longer than ten hours. For example, PLAINTIFF worked shifts lasting longer than ten hours
2 at least twice per month and was not provided with any version of a third rest period when
3 PLAINTIFF worked those shifts lasting longer than ten (10) hours.

4 65. Based on information and belief, DEFENDANTS implemented policies and/or
5 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
6 DEFENDANTS' control during rest periods.

7 66. Based on information and belief, Aggrieved Employees were pressured to complete
8 their work duties according to a designated schedule such that rest periods were only taken once
9 tasks were completed, and/or as time permitted.

10 67. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
11 which PLAINTIFF and Aggrieved Employees experienced a missed/unlawful rest period in
12 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
13 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
14 for failure to incorporate all non-discretionary remuneration, including but not limited to,
15 bonuses/incentive pay, multiple base rates of pay, shift differential pay, and/or other non-
16 discretionary compensation into the regular rate of compensation for purposes of calculating the
17 owed rest period premium.

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

26 69. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
27 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
28 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and

1 Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
2 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
3 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
4 other off-the-clock work policies and practices) which results in a violation of Labor Code section
5 226(a).

6 70. Based on information and belief, wage statements issued by DEFENDANTS failed
7 to list all applicable hourly rates in effect during the pay period and the corresponding number of
8 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).
9 For example, based on information and belief, DEFENDANTS' wage statements issued to
10 PLAINTIFF and other Aggrieved Employees do not provide an accurate overtime rate because
11 instead of multiplying the regular rate of pay by one and one-half, the wage statements provide at
12 least two separate overtime rate categories with each providing an inaccurate overtime rate based
13 on each base rate of pay as opposed to the regular rate of pay. As such, PLAINTIFF and other
14 Aggrieved Employees are forced to perform extensive calculation using outside resources to
15 determine what their pay rate was for each corresponding hour worked. See, e.g., McKenzie v.
16 Fedex, 765 F. Supp. 2d 1222 (C.D. Cal. 2011). As described herein, DEFENDANTS also failed to
17 incorporate all forms of non-discretionary compensation earned during the pay period, including but
18 not limited to, non-discretionary bonus/incentive pay and/or shift differential pay and/or other non-
19 discretionary compensation and/or multiple base rates of pay into the overtime pay rate calculation,
20 and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by
21 PLAINTIFF and other Aggrieved Employees.

22 71. Moreover, based on information and belief, DEFENDANTS issued wage statements
23 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
24 other things, failing to list the correct name and/or address of the legal entity that is the employer,
25 in violation of Labor Code section 226(a)(8).

26 72. For example, based on information and belief, DEFENDANTS issued wage
27 statements to PLAINTIFF and other Aggrieved Employees that identify "Airport Terminal Ser"
28 and/or "Airport Terminal Services" as the employer. However, based on information and belief,

1 DEFENDANTS' airline services business, at times, during the relevant period, operated and/or
2 operates under the name Alliance Ground International and/or Alliance Ground International, LLC.
3 Based on information and belief, wage statements issued by DEFENDANTS to PLAINTIFF and
4 other Aggrieved Employees were inaccurate due to failure to list the correct name and/or address of
5 the legal entity that is the employer.

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

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

14 75. Upon separation of employment, Aggrieved Employees' final paychecks were not
15 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
16 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
17 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
18 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
19 accrued rates.

20 76. These violations subject DEFENDANTS to civil penalties under Labor Code section
21 203, 210, and/or 256.

22 77. **Unreimbursed Business Expenses.** Based on information and belief,
23 DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a
24 direct consequence of the performance of their job duties without providing reimbursement, in
25 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and Aggrieved
26 Employees were improperly required to provide and maintain work tools that are supposed to be the
27 responsibility of the employer.

28 78. Based on information and belief, DEFENDANTS shifted the costs of doing business

1 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
2 to, uniforms/work clothing/safety/protective gear and/or the use of Aggrieved Employees' personal
3 vehicles, personal mobile phone, personal computer/devices and data usage for work related
4 purposes including but not limited to receiving and responding to work related messages and/or
5 phone calls. For example, PLAINTIFF consistently received work-related calls/messages from
6 supervisors regarding scheduling and/or other work tasks and was at times required to purchase her
7 own employer--mandated Covid-protection face masks without receiving any reimbursement from
8 DEFENDANTS.

9 79. Based on further information and belief, DEFENDANTS failed to provide
10 reimbursement / full reimbursement for expenses Aggrieved Employees incurred as a result of
11 working for DEFENDANTS remotely and/or from their homes, including but not limited to, cost of
12 internet service, home electricity, cost of additional memory and/or virus software for home
13 computer / home computer use, among other business expenses associated with remote work as
14 required by DEFENDANTS. For example, DEFENDANTS required PLAINTIFF to review
15 lessons, review policy documents and/or attend work-related meetings on her personal
16 computer/devices but did not reimburse PLAINTIFF in any way for being required to use her
17 personal computer/devices and electricity for DEFENDANTS' business purposes. Based on
18 information and belief, DEFENDANTS has a policy and practice of failing to reimburse Aggrieved
19 Employees for all costs associated with mandated work from home, including but not limited to,
20 home electricity and home internet costs.

21 80. Based on further information and belief, DEFENDANTS required Aggrieved
22 Employees to travel for work, including but not limited to, between DEFENDANTS' various
23 locations/facilities without reimbursing them for the personal vehicle and/or other travel expenses
24 they incurred in connection therewith, including but not limited to, gas, vehicle wear and tear, and
25 mileage. As such, DEFENDANTS failed to compensate Aggrieved Employees at the Internal
26 Revenue Service (IRS) mandated per mile compensation rate for the relevant period.

27 81. Based on information and belief, DEFENDANTS required Aggrieved Employees to
28 pay for the purchase and/or maintenance of uniforms/work clothing and/or work shoes without

1 providing any and/or full reimbursement for these business expenses. For example, PLAINTIFF
2 was required to purchase shirts, pants, and/or shoes, among other work clothing/gear in a specific
3 color, of a specific type and/or particular brand without receiving any and/or full reimbursement
4 from DEFENDANTS.

5 82. Based on information and belief, DEFENDANTS did not reimburse Aggrieved
6 Employees for the cost of undergoing DEFENDANTS-mandated testing (e.g., Covid testing),
7 including but not limited to purchasing the test, and/or the cost of traveling and/or using a personal
8 vehicle to and from a testing site. For example, DEFENDANTS required PLAINTIFF to purchase
9 a Covid test, but DEFENDANTS did not reimburse PLAINTIFF for the expenses she incurred in
10 connection with DEFENDANTS' testing requirements.

11 83. Based on information and belief, DEFENDANTS regularly failed to reimburse and
12 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
13 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
14 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
15 assigned by DEFENDANTS.

16 84. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
17 for all reasonable expenses associated with carrying out their duties required that Aggrieved
18 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
19 2802.

20 85. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
21 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
22 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

23 86. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
24 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
25 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
26 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
27 required by law, including but not limited to the following records: total daily hours worked,
28 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees

1 began and ended each work period, time records of meal periods, and accurate itemized wage
2 statements.

3 87. DEFENDANTS have failed and continue to fail to keep accurate and complete
4 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
5 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
6 employer control during unpaid meal periods, failure to record the true start and end times of meal
7 periods, shift start times and shift end times, and other off-the-clock work policies and practices
8 described herein.

9 88. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
10 to provide proper paid sick leave to Aggrieved Employees. DEFENDANTS either failed to provide
11 paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay
12 owed to PLAINTIFF and other Aggrieved Employees by failing to base the accrued sick leave hours
13 on the correct number of hours worked (as a result of the rounding/automatic deduction policies and
14 practices for meal periods and/or shift start and end times/other required off-the-clock work
15 including but not limited to unpaid meal periods) and by failing to incorporate multiple rates of pay
16 and/or all non-discretionary remuneration, including but not limited to, non-discretionary
17 bonuses/incentive pay, shift differential pay multiple base rates of pay and/or other non-
18 discretionary compensation into the sick leave pay rate calculation.

19 89. Upon information and belief, DEFENDANTS further failed to place Aggrieved
20 Employees on notice of their paid sick leave rights – or thereby putting their entitlement to sick
21 leave in a Labor Code section 2810.5 notice. Based on information and belief, DEFENDANTS
22 failed to provide notice of the correct sick leave amount balance available to Aggrieved Employees
23 on their wage statements or other written statement. Moreover, based on information and belief,
24 DEFENDANTS failed to maintain accurate records of used sick leave and the balance of paid sick
25 leave.

26 90. Based on information and belief, throughout the relevant time period,
27 DEFENDANTS failed to provide notice of the balance of sick leave pay left for Aggrieved
28 Employees, thus affecting their intelligent exercise of their paid sick leave. But for this failure,

1 Aggrieved Employees would have used their paid sick leave at least prior to their respective
2 separations, for as on several occasions thereafter, he or she would have been entitled to use the
3 banked sick leave and earn appropriate compensation.

4 91. Upon information and belief, DEFENDANTS failed and continue to fail to comply
5 with Labor Code section 246, by failing to provide Aggrieved Employees with a Labor Code section
6 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid
7 time off leave an employer provides in lieu of sick leave, at the time it pays wages.

8 92. As such, DEFENDANTS have violated California's paid sick leave laws and
9 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
10 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
11 unlawful practices and policies violate Labor Code sections 245-248.5.

12 93. **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides
13 that all employers with 26 or more employees are required to provide up to 80 hours for covered
14 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care
15 for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS
16 violated Labor Code § 248.2 by not providing Aggrieved Employees with required 2021 COVID-
17 19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to
18 provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

19 94. **Refusal to Make Payment.** DEFENDANTS violated and continue to violate Labor
20 Code section 216 by failing to pay PLAINTIFF and Aggrieved Employees for all hours worked at
21 the proper wage rate and by failing to pay PLAINTIFF and Aggrieved Employees an additional
22 hour of pay for each meal/rest period not provided or that was otherwise unlawful. *Gould v.*
23 *Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

24 95. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
25 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
26 to said employee." Based on information and belief DEFENDANTS made unlawful deductions
27 from Aggrieved Employees paychecks during the relevant period, including but not limited to,
28 deducting costs advanced by DEFENDANTS from Aggrieved Employees' final paychecks and/or

1 deductions for purported overpayments from prior pay periods and/or deductions for
2 uniforms/protective equipment and/or negligently broken/damaged company property. Such a
3 practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects
4 DEFENDANTS to civil penalties under Labor Code Section 2699.

5 96. **Statutory Wage Violations.** As described above, DEFENDANTS willfully and
6 systematically denied PLAINTIFF and other Aggrieved Employees minimum and overtime wages
7 for all hours worked which resulted in the payment of less than the statutorily required wages owed
8 to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but
9 not limited to, overtime wages and minimum wages, to which they were entitled to under California
10 law. Thus, DEFENDANTS violated Labor Code section 223 by paying PLAINTIFF and other
11 Aggrieved Employees lower wages than those they were entitled to while purporting that
12 PLAINTIFF and other Aggrieved Employees were properly paid.

13 97. **Seating Violations:** Per section 14(A-B) of all applicable IWC Wage Orders,
14 employees shall be provided with suitable seats when the nature of the work reasonably permits the
15 use of seats and when they are not actively engaged in the work duties that would not permit them
16 to be seated.

17 98. All applicable IWC Wage Orders, Section 14(A-B) provides:

18 (A) All working employees shall be provided with suitable seats when the nature of the
19 work reasonably permits the use of seats.

20 (B) When employees are not engaged in the active duties of their employment and the
21 nature of the work requires standing, an adequate number of suitable seats shall be placed in
22 reasonable proximity to the work area and employees shall be permitted to use such seats when it
23 does not interfere with the performance of their duties.

24 99. Suitable seating is one of the worker protections covered by California's Wage
25 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
26 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker
27 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

28 100. Based on information and belief, DEFENDANTS failed to provide Aggrieved

1 Employees with suitable seating, and when such employees were not engaged in duties which
2 required them to stand, no seating was placed in reasonable proximity to their workstations.

3 101. Moreover, based on information and belief, the nature of the work reasonably
4 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
5 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
6 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
7 of seats would not interfere with the performance of their duties.

8 102. The Aggrieved Employees worked in various positions. The nature of PLAINTIFF's
9 and other Aggrieved Employees' work reasonably permitted the use of seats. However,
10 DEFENDANTS failed to provide suitable seating in reasonable proximity to Aggrieved Employees'
11 work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections
12 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and
13 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each
14 Aggrieved Employee, results in a separate civil penalty.

15 103. **Standard Conditions of Labor Violations.** DEFENDANTS' unlawful policies and
16 practices described herein also resulted in violations of Labor Code Sections 1198 and 1199, which
17 together, make it unlawful to employ individuals under conditions that are prohibited by the Wage
18 Orders or any provision within Part 4, Chapter 1 of the Labor Code, including section 1174, 1197,
19 and 1198, or order or ruling of the commission.

20 104. Therefore, DEFENDANTS' violations with respect to, including but not limited to,
21 meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, seating,
22 and unreimbursed business expenses result in separate violations of sections 1198 and 1199.

23 105. **Failure to Pay Vested Vacation/Paid Time Off:** Based on information and belief,
24 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
25 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
26 failing to pay all vested, accrued paid time off to Aggrieved Employees upon separation of
27 employment, in violation of California law, including but not limited to, Labor Code section 227.3.

28 106. **Unlawful Inquiries into Salary History:** Based on information and belief,

1 DEFENDANTS have a policy and/or practice of unlawfully asking Aggrieved Employees to reveal
2 their salary history when applying for employment with DEFENDANTS, in violation of Labor Code
3 section 432.3. Moreover, by requiring Aggrieved Employees to disclose prior salary information in
4 a written application for employment, DEFENDANTS violated Labor Code section 432.5 by
5 requiring Aggrieved Employees to agree in writing to disclose their salary history as a condition of
6 obtaining employment with DEFENDANTS, in violation of California law.

7 107. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

8 Unlawful Financial and Criminal Background Checks.

9 108. Based on information and belief, DEFENDANTS required Aggrieved Employees to
10 agree in writing to unlawful conditions of employment including but not limited to unlawful
11 criminal and/or financial checks and/or unlawful non-compete/non solicitation agreements as a
12 condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

13 109. Based on information and belief, DEFENDANTS ordered unlawful financial credit
14 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
15 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
16 employment, in violation of California and Federal law, which results in a further violation of Labor
17 Code section 432.5.

18 110. Based on information and belief, DEFENDANTS also required Aggrieved
19 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as
20 a condition of obtaining and/or holding employment in violation of the Investigative Consumer
21 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit
22 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*)

23 111. Based on information and belief, DEFENDANTS required Aggrieved Employees to
24 agree in writing to a background check which failed to abide by the requirements set forth in CA
25 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
26 failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all),
27 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for
28 the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA,

1 failing to provide a way by which the individual could request a copy of the report, failing to disclose
2 the name, address, and telephone number of the third party preparing the report, and failing to
3 properly obtain authorization or consent to such a background check, and thus was an unlawful
4 background check.

5 112. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
6 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
7 section 432.5.

8 113. Based on further information and belief, DEFENDANTS also required Aggrieved
9 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
10 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
11 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
12 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

13 114. Based on further information and belief, DEFENDANTS knew that requiring
14 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
15 condition of obtaining and/or holding employment was unlawful.

16 115. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
17 condition of employment, DEFENDANTS violated Labor Code section 432.5.

18 Unlawful Inquires into Criminal History

19 116. Labor Code section 432.7 prohibits an employer from asking applicants about past
20 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
21 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
22 convictions on its employment application, in violation of California law.

23 117. Upon information and belief, DEFENDANTS, in violation of California law,
24 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
25 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
26 employment and/or otherwise impermissibly inquired into criminal history on its employment
27 application in violation of California law, and in violation of Labor code section 432.5.

28 118. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS

1 engaged in these same herein described unlawful practices, which led to violations of the California
2 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
3 unlawful practices to all of its employees that it applied to PLAINTIFF.

4 **FIRST CAUSE OF ACTION**
5 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
6 **2698, *ET SEQ.***

7 **(On behalf of Plaintiff, Aggrieved Employees, and the State of California against all**
8 **Defendants)**

9 119. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

10 **Failure to Keep Accurate Records**

11 120. California Labor Code § 1174 requires employers to keep “accurate and complete”
12 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
13 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
14 times during which all owed meal periods were provided each day.

15 121. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
16 and complete records as required by law, including but not limited to the following records: total
17 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
18 Aggrieved Employees began and ended each work period, time records of meal periods, and
19 accurate itemized wage statements.

20 122. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
21 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
22 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
23 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
24 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
25 period during which the referenced statutes and Wage Order provisions were violated.³

26 **Meal Period Violations**

27 ³ Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor
28 Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the
employee was underpaid”); All applicable wage orders, § 20 (establishing that “[i]n addition to any other civil
penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid”) (*emphasis added*).

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

6 124. Employers must also provide employees with a second duty-free, uninterrupted thirty
7 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
8 be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only
9 under the following circumstances: (1) if an employee's total work period in a day is over five (5)
10 hours but no more than six (6) hours, the required meal period may be waived by mutual consent of
11 the employer and employee; and (2) if an employee's total work period in a day is over ten (10)
12 hours but no more than twelve (12) hours, the required second meal period may be waived by mutual
13 consent of the employer and employee, but only if the first meal period was not waived. *Ibid.*

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

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

1 127. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
2 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
3 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
4 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
5 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
6 periods completely.

7 128. Based on information and belief, DEFENDANTS had and continue to have a policy
8 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
9 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
10 Aggrieved Employees did not receive compliant meal periods.

11 129. Moreover, based on information and belief, Aggrieved Employees did not receive a
12 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

13 130. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
14 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
15 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
16 violation of California's meal period laws.

17 131. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
18 periods in violation of California law and/or failed to pay the proper meal period premium for failure
19 to incorporate all non-discretionary remuneration including but not limited to, bonuses/incentive
20 pay, shift differential pay and/or other non-discretionary compensation into the regular rate or
21 compensation for purposes of calculating the owed meal period premium.

22 132. These unlawful meal period policies and practices result in violations of Labor Code
23 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
24 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
25 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
26 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

27 **Rest Period Violations**

28 133. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer

1 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
2 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
3 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
4 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
5 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
6 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
7 1029). The rest period requirement obligates employers to permit and authorize employees to take
8 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
9 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
10 257. If the employer fails to provide any required rest period, the employer must pay the employee
11 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
12 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
13 applicable IWC Wage Order, §12(B).

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

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

25 136. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
26 first, second, or third rest periods as required by California law.

27 137. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
28 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there

1 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
2 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
3 but not limited to, bonuses/incentive pay, shift differential pay, multiple base rates of pay and/or
4 other non-discretionary compensation into the regular rate of compensation for purposes of
5 determining the owed rest period premium.

6 138. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
7 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
8 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

9 **Minimum and Overtime Wage Violations**

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

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

23 141. As explained above, DEFENDANTS violated California's minimum wage and
24 overtime wage laws by failing to compensate PLAINTIFF and Aggrieved Employees for all hours
25 worked by virtue of, among other things, DEFENDANTS' time rounding, automatic deduction for
26 meal periods, off-the-clock/unpaid work completed during meal periods, other pre-shift, post-shift
27 and/or otherwise off-the-clock work, and/or payment according to scheduled hours worked rather
28 than actual hours worked (described above), which resulted in the failure to account for all hours

1 worked and thus the denial of minimum and overtime wages.

2 142. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
3 Aggrieved Employees for all hours worked.

4 143. Based on information and belief, DEFENDANTS had actual or constructive
5 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
6 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
7 periods, policy and practice of payment according to scheduled work time rather than actual work
8 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
9 owed to PLAINTIFF and other Aggrieved Employees.

10 144. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
11 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
12 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
13 violation of California's overtime laws.

14 145. Based on information and belief, DEFENDANTS further violated California's
15 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
16 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
17 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
18 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
19 the overtime wage rate, resulting in the underpayment of overtime wages owed to Aggrieved
20 Employees.

21 146. DEFENDANTS also violated California's overtime laws as to those Aggrieved
22 Employees that were subject to an AWS but were required to work a short shift. Under Section(B)(2)
23 of all applicable IWC Wage Orders, "[i]f an employer, whose employees have adopted an alternative
24 workweek agreement permitted by this order requires an employee to work fewer hours than those
25 that are regularly scheduled by the agreement, the employer shall pay the employee overtime
26 compensation at a rate of one and one-half times the employee's regular rate of pay for all hours
27 worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours
28 worked in excess of 12 hours for the day the employee is required to work the reduced hours."

1 147. Based on information and belief, Aggrieved Employees that were subject to an AWS
2 worked a short shift (i.e. less than 10 hours) on various diverse dates during the relevant period. On
3 those shifts, Aggrieved Employees were entitled to overtime wages at 1.5 times their regular rate of
4 pay for all hours worked over eight hours in the shortened shift. Instead, DEFENDANTS paid
5 Aggrieved Employees at their base rate for all hours worked on the shortened shift, in violation of
6 California's overtime laws.

7 148. Based on further information and belief, DEFENDANTS required Aggrieved
8 Employees to work more than eight (8) hours on days that were not scheduled workdays without
9 compensating Aggrieved Employees at twice their regular rate(s) of pay for the time worked beyond
10 eight (8) hours on those days, in violation of California overtime laws, including but not limited to,
11 California Labor Code sections 510 and 511, the applicable Wage Order, and Labor Code section
12 1198.

13 149. Based on further information and belief, DEFENDANTS failed to comply with all
14 mandated procedures for proper adoption and implementation of an alternative workweek schedule
15 and/or failed to compensate Aggrieved Employees according to the terms of the alternative
16 workweek schedule and/or in compliance with California Labor Code sections 510, 511, all
17 applicable IWC Wage Orders, and Labor Code section 1198.

18 **Violation of California Day of Rest Law**

19 150. Under California law, every employee in California is "entitled" to "one day's rest
20 [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in
21 seven." See Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of
22 the foregoing sections is a misdemeanor.

23 151. Based on information and belief, DEFENDANTS has and continues to have a
24 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
25 consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551.
26 For example, at times, PLAINTIFF worked for multiple weeks without a day off. Based on
27 information and belief, other Aggrieved Employees were also suffered, permitted, or required to
28 work at least seven (7) days consecutively in a workweek, in violation of California law, including

1 but not limited to Labor Code Section 551.

2 152. This conduct results in violations of Labor Code sections 218.5, 510, 551, 558, 558.1,
3 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
4 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
5 Wage Orders, section 20.

6 **Unlawful Deductions**

7 153. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from
8 an employee any part of wages theretofore paid by said employer to said employee.”

9 154. Based on information and belief, DEFENDANTS made unlawful deductions from
10 Aggrieved Employees’ paychecks during the relevant period, including but not limited to, deducting
11 costs advanced by DEFENDANTS from Aggrieved Employees’ final paychecks and/or deductions
12 for purported overpayments from prior pay periods and/or deductions for uniforms/protective
13 equipment and/or negligently broken/damaged company property. Such a practice is in violation of
14 including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil
15 penalties under Labor Code Section 2699.

16 **Statutory Wage Violations**

17 155. California Labor Code section 223 makes it unlawful for an employer to secretly pay
18 wages lower than required by statute while purporting to pay legal wages. As described above,
19 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
20 earned minimum and overtime compensation for all hours worked which resulted in the payment of
21 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
22 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
23 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
24 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
25 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
26 Employees are entitled to recover penalties, attorney’s fees, costs, and interest thereon, pursuant to
27 Labor Code § 2699(f)-(g).

1 **Refusal to Make Payment**

2 156. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
3 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
4 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
5 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
6 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
7 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
8 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
9 each Aggrieved Employee, for each pay period during which the statute provisions were violated.⁴

10 **Business Expense Violations**

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

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

23 159. Further, "any contract or agreement, express or implied, made by any employee to
24 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
25 any employee or his personal representative of any right or remedy to which he is entitled to under

26 _____
27 ⁴ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 the laws of this State.” See Cal. Lab. Code section 2804.

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

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

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

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

15 **Wage Statement Violations**

16 164. California law requires every employer semi-monthly or at the time of each payment
17 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
18 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
19 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
20 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
21 is paid; (7) the name of the employee and only the last four digits of his or her social security number
22 or an employee identification number other than a social security number; (8) the name and address
23 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
24 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

25 165. Moreover, due to violations detailed above, including but not limited to,
26 DEFENDANTS’ failure to pay regular and overtime wages for all hours worked, failure to provide
27 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
28 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish

1 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
2 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
3 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
4 compensation earned during the pay period into the regular rate of pay for purposes of calculating
5 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
6 overtime worked by PLAINTIFF and other Aggrieved Employees.

7 166. As explained above, wage statements issued by DEFENDANTS failed to list the
8 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
9 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
10 employer control during unpaid meal periods, payment according to scheduled hours worked rather
11 than actual hours worked, and/or other off-the-clock work policies and practices all described in
12 greater detail *supra*), which results in a violation of Labor Code section 226(a). Failure to list all
13 hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section
14 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

15 167. Based on information and belief, wage statements issued by DEFENDANTS failed
16 to list all applicable hourly rates in effect during the pay period and the corresponding number of
17 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

18 168. Separately, and independent from the above allegations, DEFENDANTS issued
19 wage statements to PLAINTIFF and Aggrieved Employees that violate Labor Code section
20 226(a)(8), by failing to list the correct name and/or address of the legal entity that is the employer.

21 169. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
22 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
23 Employees over whether they received all wages owed to them.

24 170. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
25 they could not easily determine whether they received all wages owed to them and whether they
26 were paid for all hours worked.

27 171. Moreover, as a result of DEFENDANTS’ failure to list the correct name and/or
28 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered

1 injury as they could not contact their employer regarding any question(s) they had about wages paid.

2 172. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
3 Aggrieved Employees with accurate, itemized wage statements.

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

13 174. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
14 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
15 during which the statute provisions were violated. ⁵

16 **Seating Violations**

17 175. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be
18 provided with suitable seats when the nature of the work reasonably permits the use of seats and
19 when they are not actively engaged in the work duties that would not permit them to be seated.?

20 176. All applicable IWC Wage Orders, Section 14(A-B) provides:

21 177. (A) All working employees shall be provided with suitable seats when the nature of
22 the work reasonably permits the use of seats.

23 178. (B) When employees are not engaged in the active duties of their employment and
24 the nature of the work requires standing, an adequate number of suitable seats shall be placed in
25 reasonable proximity to the work area and employees shall be permitted to use such seats when it
26 does not interfere with the performance of their duties.

27 179. Suitable seating is one of the worker protections covered by California's Wage

28 ⁵ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
2 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker
3 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

4 180. Based on information and belief, DEFENDANTS failed to provide Aggrieved
5 Employees with suitable seating, and when such employees were not engaged in duties which
6 required them to stand, no seating was placed in reasonable proximity to their workstations.

7 181. Moreover, based on information and belief, the nature of the work reasonably
8 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
9 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
10 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
11 of seats would not interfere with the performance of their duties.

12 182. The Aggrieved Employees worked in various positions. The nature of PLAINTIFF's
13 and other Aggrieved Employees' work reasonably permitted the use of seats. However,
14 DEFENDANTS failed to provide suitable seating in reasonable proximity to Aggrieved Employees'
15 work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections
16 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and
17 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each
18 Aggrieved Employee, results in a separate civil penalty.

19 **Standard Conditions of Labor Violations**

20 183. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
21 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
22 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
23 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
24 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
25 seating, and minimum/overtime wages result in separate violations of sections 1198 and 1199, which
26 subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

27 **Sick Leave Violations**

28 184. DEFENDANTS violated California's paid sick leave laws including, Labor Code

1 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
2 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
3 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
4 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
5 not limited to, non-discretionary bonuses/incentive pay, shift differential pay, multiple base rates of
6 pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

7 185. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
8 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
9 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
10 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
11 Aggrieved Employees' intelligent exercise of their paid sick leave.

12 186. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
13 their paid sick leave at least prior to their respective separations, for as on several occasions
14 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
15 compensation.

16 187. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
17 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
18 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
19 were entitled to the maximum number of hours accruable.

20 188. Upon information and belief, DEFENDANTS failed and continue to fail to comply
21 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
22 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
23 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
24 wages.

25 189. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

26 190. On information and belief, PLAINTIFF alleges that all of these practices were
27 experienced and continue to be experienced by other Aggrieved Employees.

28 191. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the

1 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
2 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

3 **Failure To Provide Supplemental Paid Sick Leave.**

4 192. Labor Code § 248.2 provides that all employers with 26 or more employees are
5 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
6 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based
7 on information and belief, DEFENDANTS violated Labor Code § 248.2 by not providing Aggrieved
8 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
9 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
10 Labor Code section 248.6.

11 **Failure to Pay Vested Vacation/Paid Time Off**

12 193. California Labor Code section 227.3 provides that when an employer policy provides
13 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
14 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
15 employee’s final rate in accordance with such contract of employment or employer policy respecting
16 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
17 off upon termination.

18 194. Based on information and belief, DEFENDANTS had and continue to have a
19 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
20 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
21 to Aggrieved Employees upon separation of employment, in violation of California law, including
22 but not limited to, Labor Code section 227.3.

23 **Untimely Payment of Final Wages**

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

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

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

9 197. Based on information and belief, DEFENDANTS fail to timely pay final wages to
10 Aggrieved Employees upon separation of employment in violation of Labor Code sections 201-202
11 and/or did not include all owed vacation pay and/or fail to timely provide final wages with all owed
12 vacation and/or paid time off. Based on information and belief, DEFENDANTS untimely provide
13 final wages to Aggrieved Employees without regard to the timing requirements of Labor Code
14 sections 201-202.

15 198. Moreover, final paychecks, once provided to Aggrieved Employees did not include
16 all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
17 overtime wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages
18 at the properly accrued rates.

19 199. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
20 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
21 256.

22 **Unlawful Inquiries into Salary History**

23 200. Labor code section 432.3 provides in part “(b) An employer shall not, orally or in
24 writing, personally or through an agent, seek salary history information, including compensation
25 and benefits, about an applicant for employment.”

26 201. Based on information and belief, DEFENDANTS have a policy and/or practice of
27 unlawfully asking Aggrieved Employees to reveal their salary history when applying for
28 employment with DEFENDANTS, in violation of Labor Code section 432.3. Moreover, by

1 requiring Aggrieved Employees to disclose prior salary information in a written application for
2 employment, DEFENDANTS violated Labor Code section 432.5 by requiring Aggrieved
3 Employees to agree in writing to disclose their salary history as a condition of obtaining employment
4 with DEFENDANTS, in violation of California law.

5 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

6 **Unlawful Agreements.**

7 202. Labor Code section 432.5 provides that “no employer...shall require any employee
8 or applicant for employment to agree, in writing, to any term or condition which is known by such
9 employer...to be prohibited by law.” DEFENDANTS required and continue to require PLAINTIFF
10 and Aggrieved Employees to agree in writing to submit to unlawful criminal and/or financial checks
11 as a condition of obtaining and/or continuing employment.

12 203. The California Labor Code places certain procedural and substantive limits on an
13 employers’ ability to conduct employee background checks and on how employers can use the
14 information they obtain through those background checks. Labor Code section 1024.5 states that
15 employers, except for financial institutions, may order a credit check only if the individual works
16 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
17 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
18 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
19 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
20 background check, including but not limited to identifying an appropriate reason for the background
21 check, a separate consent form with required disclosures and certain formatting requirements,
22 additional forms such as a summary of rights, a way by which to request a copy of the report, as
23 well as proper notice of adverse actions taken, among other statutory requirements.

24 204. Based on information and belief, DEFENDANTS ordered unlawful financial credit
25 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to
26 provide ongoing written consent to the unlawful credit checks as a condition of employment, in
27 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

28 205. Based on information and belief, DEFENDANTS required Aggrieved Employees to

1 submit and/or agree to submit in writing to unlawful criminal background checks and/or unlawful
2 non-compete and/or unlawful non-solicitation agreements as a condition of obtaining and/or holding
3 employment in violation of the ICRAA and the FCRA as alleged above and/or the California
4 Business and Professions Code and/or the California Labor Code.

5 206. Based on further information and belief, DEFENDANTS required Aggrieved
6 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
7 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
8 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
9 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

10 207. Based on further information and belief, DEFENDANTS knew that requiring
11 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
12 condition of obtaining and/or holding employment was unlawful.

13 208. By requiring that Aggrieved Employees sign off on the illegal background and/or
14 financial checks, DEFENDANTS violated Labor Code section 432.5.

15 Unlawful Inquires into Criminal History

16 209. Labor Code section 432.7 prohibits an employer from asking applicants about past
17 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
18 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
19 convictions on its employment application, in violation of California law.

20 210. Upon information and belief, DEFENDANTS, in violation of California law,
21 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
22 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
23 employment and/or otherwise impermissibly inquired into criminal history on its employment
24 application in violation of California law.

25 211. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
26 Code section 432.7. By asking about convictions at the application phase or prior to extending an
27 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
28 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to

1 disclose arrests and/or convictions as a condition of employment.

2 212. Under the provisions of PAGA and the above mentioned Labor Code sections,
3 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
4 245-248.6, 256, 432, 432.3, 432.5, 432.7, 510, 511, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1194,
5 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as
6 well as all interpretations of these laws by California Courts and administrative bodies, as well as
7 any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
8 penalties:

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

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

15 c. The proper measure of penalties under PAGA is the number of violations, whether
16 those violations were committed as against PLAINTIFF or any Aggrieved Employee, whether a
17 party to this action or not.

18 213. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
19 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

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PRAYER FOR RELIEF

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

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: January 3, 2023

CROSNER LEGAL, PC

By: 
Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Attorneys for Plaintiff

EXHIBIT

1



Los Angeles Office
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fax: (310) 510-6429

October 25, 2022

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

Registered Agent Solutions, Inc.
Agent for Service of Process for:
Airport Terminal Services, Inc.
720 14th Street
Sacramento, CA 95814

Airport Terminal Services, Inc.
Attn: Human Resources/ Legal Department
940 Westport Plaza, Suite 101
St. Louis, MO 63146

Registered Agent Solutions, Inc.,
Agent for Service of Process for:
**Alliance Ground International,
LLC**
720 14th Street
Sacramento, CA 95814

**Alliance Ground International,
LLC**
Attn: Human Resources / Legal
Department
9130 S. Dadeland Blvd., Suite
1801
Miami, FL 33156

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Airport Terminal
Services, Inc.; and Alliance Ground International, LLC
Date: October 25, 2022
Subject: *Jackie Shilevinatz v. Airport Terminal Services, Inc., et. al.*

Introduction

This office represents COMPLAINANT, Jackie Shilevinatz (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Airport Terminal Services, Inc. and Alliance Ground International, LLC (hereinafter, these entities and their managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by EMPLOYER in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant

to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 432, 432.5, 432.7, 510, 511, 512, 551-553, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of "employer" for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages a business that provides aviation services, including but not limited to, cargo handling, aircraft fueling, maintenance and ground support services, passenger lounge services, among other aviation services¹, with locations and/or facilities operating out of, including but not limited to, airports located in Los Angeles, Santa Ana, San Diego, Palm Springs, Oakland, San Francisco and San Jose.² Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT is currently employed by EMPLOYER as a non-exempt employee. COMPLAINANT worked for EMPLOYER as a passenger service agent and/or other similar title from in or around December 2016 and continuing through the present. COMPLAINANT worked for EMPLOYER out of multiple of EMPLOYER's locations, including but not limited to, two of EMPLOYER's California facilities located in Palm Springs and Ontario, California.

¹ See <https://atsstl.com/>. (Last visited on October 25, 2022); See also, <https://www.allianceground.com/news/acquisition-of-airport-terminal-services/> (Last visited on October 25, 2022)

² See <https://atsstl.com/locations>. Last visited on October 20, 2022;

COMPLAINANT regularly worked at least nine (9) hours per day, at least (5) days per week. At times, COMPLAINANT worked for multiple weeks consecutively without any days off. EMPLOYER paid COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGREIVED EMPLOYEES to disclose their salary history; (15) failed and continues to fail to provide suitable seating; and (16) required and continues to require COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER’s time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER’s failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER’s control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT’s and NON-EXEMPT AGGRIEVED EMPLOYEES’ meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES’ work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER’s failure to keep “accurate and complete” payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.³

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a request for payroll and personnel records to EMPLOYER. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-

EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT's employment by EMPLOYER.

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

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

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-

compliant meal breaks or skip meal breaks completely. For example, COMPLAINANT was consistently forced to take her meal period late (i.e. after the end of the fifth hour of work) or not take a meal period at all due to understaffing and/or lack of coverage/relief workers available. Oftentimes, COMPLAINANT's supervisor instructed COMPLAINANT to continue working and take her meal period late when it was not so busy. Other times, COMPLAINANT's supervisor instructed COMPLAINANT to clock out for her meal period but to continue working. For example, COMPLAINANT was forced to cut her meal period short and/or had her meal period interrupted an average of five times per week, due to, including but not limited to, instructions from her supervisor to return to work to attend to the check-in/ticket counter, attend to passenger inquiries, and/or complete other work tasks. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were also consistently forced to take late, shortened and/or interrupted meal periods and/or work through their meal periods completely due to understaffing, lack of coverage, lack of relief workers, the need to attend to passengers/work situation requiring immediate attention and/or complete other work tasks. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were also instructed by their supervisors to clock out for meal periods but to continue working off-the-clock, resulting in not only meal period violations but violations of California's minimum and overtime wage laws.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER's goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break. For example, at least twice per month, COMPLAINANT worked shifts lasting more than ten (10) hours and on those occasions when

COMPLAINANT worked more than ten hours in a shift, COMPLAINANT was not provided with a second meal period.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC

Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴ EMPLOYER's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice. For example, COMPLAINANT was consistently forced to work through her owed rest periods due to lack of coverage and/or lack of relief workers.

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours. For example, COMPLAINANT worked shifts lasting longer than ten hours at least twice per month and was not provided with any version of a third rest period when COMPLAINANT worked those shifts lasting longer than ten (10) hours.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

⁵ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER’s automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER’s control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER’s policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, COMPLAINANT was consistently required to perform work off-the-clock after her shift had ended, such as, but not limited to, assist passengers with their baggage-related needs and/or complete other work tasks COMPLAINANT was directed by her supervisor to

complete as COMPLAINANT was trying to leave the worksite after clocking out for her the end of her shift. Based on information and belief, EMPLOYER also required other NON-EXEMPT AGGRIEVED EMPLOYEES to consistently perform work tasks after clocking out for the end of their shifts, which said time was neither recorded nor compensated, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

Based on information and belief, EMPLOYER failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent performing pre-shift and/or post-shift off-the-clock work such as, but not limited to, time spent undergoing required pre-clock-in employer-mandated security screenings and/or temperature screenings, time spent bestowing personal items in employee lockers/storage area, time spent in employee lines to access EMPLOYER's employee electronic/biometric timekeeping system and/or time spent reinitiating/reactivating/rebooting EMPLOYER'S electronic/biometric timekeeping system. For example, COMPLAINANT typically spent up to at least five (5) minutes per workday waiting in line behind other employees to access the clock-in system. At times, EMPLOYER mandated pre-clock in Covid-temperature screenings that resulted in additional uncompensated pre-shift work time and the underpayment of wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. At times, COMPLAINANT spent up to at least ten (10) minutes waiting in line behind other employees to clock in and/or reinitiating and/or otherwise troubleshooting EMPLOYER's biometric timekeeping system before she was able to clock in for the start of her shift. This pre-shift off-the-clock work was neither recorded nor compensated, resulting in the significant underpayment of wages owed to COMPLAINANT. Based on information and belief, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES had same or similar issues when attempting to clock back in from meal periods, resulting in the further underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were also pressured to complete at least some of their work tasks off-the-clock in order to meet EMPLOYER's goals and expectations. For example, at times, COMPLAINANT performed off-the-clock work in the form of completing EMPLOYER-required lessons, reviewing various airline policy documents and/or other policy documents, attending remote work-related meetings and/or completing other work tasks to meet EMPLOYER's demands, resulting in an at least one hour of off-the-clock work per month that was neither recorded nor compensated, resulting in the underpayment of minimum wages owed to COMPLAINANT.

Based on information and belief, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were also required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received to their personal phone and were required to respond to, including but not limited to, communications from supervisors, resulting in significant off-the-clock work and the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. For example, COMPLAINANT consistently received messages and/or calls from her supervisor regarding

scheduling, requesting a briefing of what had transpired during COMPLAINANT's shift and/or regarding other work tasks, which said time spent reviewing and/or responding to these work-related messages and/or calls outside of her scheduled shift times was neither recorded nor compensated, resulting in the underpayment of wages owed to COMPLAINANT.

Moreover, as described above, EMPLOYER's employee time-keeping system consistently malfunctioned such that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently required to either reinitiate the system prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in consistent off-the-clock work and the underpayment of minimum and overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. This time spent under EMPLOYER's control was not recorded and not compensated and resulted in unpaid minimum and overtime wages.

Additionally, based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to obtain Covid-related testing outside of their scheduled shift times without compensating them for the time spent completing EMPLOYER's testing requirements.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES split shift compensation whenever their work schedules were interrupted by non-paid non-working periods established by EMPLOYER, which resulted in a violation of the applicable Wage Order (*See* section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday...).

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages

owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁶

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

⁶ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER sometimes paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES multiple rates of base pay in one workweek but failed to incorporate all multiple rates of base pay into the regular rate of pay for purposes of calculating the owed overtime rate. For example, at times, COMPLAINANT earned multiple base pay rates during the same workweek, yet, EMPLOYER failed to incorporate all/both base pay rates into the regular rate of pay for purposes of calculating the owed overtime rate, resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT. Based on information and belief, EMPLOYER similarly failed to incorporate multiple base rates of pay earned in a workweek by other NON-EXEMPT AGGRIEVED EMPLOYEES into the regular rate of pay used to calculate the owed overtime rate(s), resulting in unpaid wages to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁷

Alternative Workweek Schedule Violations (Labor Code Section 511 and All Applicable Wage Orders, Section 3):

⁷ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable Wage Orders, §20 (establishing that “in addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Per California Labor Code section 511, an employer may adopt a regularly scheduled alternative workweek consisting of shifts over eight (8) hours per day but no more than ten (10) hours per day, within a 40-hour workweek, without payment of overtime being required for those hours. Cal. Lab. Code § 511(a). If an employee with an alternative workweek works more than the scheduled work hours in any day, the employee is entitled to be paid 1.5 times his regular pay rate for the excess hours worked up to twelve (12) hours, and for any time worked in excess of 40 hours that week. Cal. Lab. Code § 511(b). If the employee works more than twelve (12) hours in a day, the employee is entitled to be paid twice his regular rate of pay for time worked in excess of the twelve (12) hours. *Id.* An employee is also entitled to compensation at twice his regular rate of pay for any time worked beyond eight (8) hours on a day that is not a scheduled workday. *Id.*

Moreover, Section 3(B)(2) of all applicable IWC Wage Orders provides that “[i]f an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee’s regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.”

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES worked subject to an alternative work week schedule in which NON-EXEMPT AGGRIEVED EMPLOYEES were scheduled to work ten (10) hours per shift, four (4) shifts per week. According to the California Department of Industrial Relations Alternative Workweek Elections Database, EMPLOYER conducted various alternative workweek schedule elections, for alternative workweek schedules that were subsequently adopted/approved. Pursuant to the AWS, EMPLOYER was required to pay NON-EXEMPT AGGRIEVED EMPLOYEES at their base rate(s) for the first ten (10) hours in a shift and required to pay 1.5 times the base rate(s) for time worked over 40 hours in a week. However, based on information and belief, on various diverse dates, NON-EXEMPT AGGRIEVED EMPLOYEES were sent home between one (1) to two (2) hours before completing their ten-hour shifts. On such shortened shifts, NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to overtime pay at 1.5 times their regular rate(s) of pay after the first eight (8) hours of work. Instead, based on information and belief, EMPLOYER paid NON-EXEMPT AGGRIEVED EMPLOYEES their respective base rate(s) for all scheduled hours worked on the shortened shift(s) in violation of the alternative workweek schedule, and in violation of California Labor Code sections 510, 511, the applicable Wage Order, and Labor Code section 1198.

Based on further information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to work more than eight (8) hours on days that were not scheduled workdays without compensating NON-EXEMPT AGGRIEVED EMPLOYEES at twice their regular rate(s) of pay for the time worked beyond eight (8) hours on those days, in violation of California overtime laws, including but not limited to, California Labor Code sections 510 and 511, the applicable Wage Order, and Labor Code section 1198.

Based on further information and belief, EMPLOYER failed to comply with all mandated procedures for proper adoption and implementation of an alternative workweek schedule and/or failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES according to the terms of the alternative workweek schedule and/or in compliance with California Labor Code sections 510, 511, all applicable IWC Wage Orders, and Labor Code section 1198.

Violation of California Day of Rest Law

Under California law, every employee in California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

Based on information and belief, EMPLOYER has and continues to have a uniform policy and practice of requiring NON-EXEMPT AGGRIEVED EMPLOYEES to work at least seven days consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551. For example, at times, COMPLAINANT worked for multiple weeks without a day off. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were also suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to EMPLOYER's premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered

employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁸

Unlawful Deductions: Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee." Based on information and belief EMPLOYER made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period, including but not limited to, deducting costs advanced by EMPLOYER from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES' final paychecks and/or deductions for purported overpayments from prior pay periods and/or deductions for uniforms/protective equipment and/or negligently broken/damaged company property. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects EMPLOYER to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee").

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by

⁸ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

EMPLOYER's failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such,

failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by EMPLOYER failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9). For example, based on information and belief, EMPLOYER's wage statements issued to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES do not provide an accurate overtime rate because instead of multiplying the regular rate of pay by one and one-half, the wage statements provide at least two separate overtime rate categories with each providing an inaccurate overtime rate based on each base rate of pay as opposed to the regular rate of pay. As such, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are forced to perform extensive calculation using outside resources to determine what their pay rate was for each corresponding hour worked. See, e.g., *McKenzie v. Fedex*, 765 F. Supp. 2d 1222 (C.D. Cal. 2011). As described herein, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period, including but not limited to, non-discretionary bonus/incentive pay and/or shift differential pay and/or other non-discretionary compensation and/or multiple base rates of pay into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁹

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for

⁹ See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, EMPLOYER failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

EMPLOYER's NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, EMPLOYER failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting EMPLOYER to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.¹⁰

¹⁰ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable seating, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, EMPLOYER had and continues to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section

202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES’ final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹¹

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. See Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and

¹¹ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Further, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State." *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' personal vehicles, personal mobile phones, personal computer/devices, and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing/safety/protective gear. For example, COMPLAINANT consistently received work-related calls/messages from supervisors regarding scheduling and/or other work tasks and was at times required to purchase her own EMPLOYER-mandated Covid-protection face masks without receiving any reimbursement from EMPLOYER.

Based on further information and belief, EMPLOYER failed to provide reimbursement / full reimbursement for expenses NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES incurred as a result of working for EMPLOYER remotely and/or from their homes, including but not limited to, cost of internet service, home electricity, cost of additional memory and/or virus software for home computer / home computer use, among other business expenses associated with remote work as required by EMPLOYER. For example, EMPLOYER required COMPLAINANT to review lessons, review policy documents and/or attend work-related meetings on her personal computer/devices but did not compensate COMPLAINANT in any way for being required to use her personal computer/devices and electricity for EMPLOYER's business purposes. Based on information and belief, EMPLOYER

has a policy and practice of failing to reimburse NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for all costs associated with mandated work from home, including but not limited to, home electricity and home internet costs.

Based on further information, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to travel for work, including but not limited to, between EMPLOYER's various locations/facilities without reimbursing them for the personal vehicle and/or other travel expenses they incurred in connection therewith, including but not limited to, gas, vehicle wear and tear, and mileage. As such, EMPLOYER failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES at the Internal Revenue Service (IRS) mandated per mile compensation rate for the relevant period.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to pay for the purchase and/or maintenance of uniforms/work clothing and/or work shoes without providing any and/or full reimbursement for these business expenses. For example, COMPLAINANT was required to purchase shirts, pants, and/or shoes, among other work clothing/gear in a specific color, of a specific type and/or particular brand without receiving any and/or full reimbursement from EMPLOYER.

Based on information and belief, EMPLOYER did not reimburse NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for the cost of undergoing EMPLOYER-mandated testing (e.g., Covid testing), including but not limited to purchasing the test, and/or the cost of traveling and/or using a personal vehicle to and from a testing site. For example, EMPLOYER required COMPLAINANT to purchase a Covid test, but EMPLOYER did not reimburse COMPLAINANT for the expenses she incurred in connection with EMPLOYER's testing requirements.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Inquiries into Salary History

Labor code section 432.3 provides in part "(b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment." Based on information and belief, EMPLOYER has a policy and/or practice of unlawfully asking NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to reveal their salary history when applying for employment with EMPLOYER, in violation of Labor Code section 432.3.

Moreover, by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose prior salary information in a written application for employment, EMPLOYER violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose their salary history as a condition of obtaining employment with EMPLOYER, in violation of California law.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting

requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California's Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Kiara Bramasco", written in a cursive style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC