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9 *Attorneys for Plaintiff Isabel Sanchez
the Putative Class, and all Aggrieved Employees*

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF IMPERIAL**

12 ISABEL SANCHEZ, individually, on behalf
13 of herself, all those similarly situated, and all
14 Aggrieved Employees,

15 Plaintiff,

16 vs.

17 AGRO PACK LLC, a California limited
liability company; and
18 DOES 1 through 100, inclusive,

19 Defendants.
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Case No. ECU002547

CLASS AND REPRESENTATIVE ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay Minimum Wages (Labor Code §§ 1194, 1197, 1197.1; IWC Wage Order 14);
2. Failure to Pay Overtime Wages (Labor Code §§ 510, 1194, 1198; IWC Wage Order 14);
3. Failure to Provide Meal Periods (Labor Code § 226.7; IWC Wage Order 14);
4. Failure to Reimburse Business Expenses (Labor Code §§ 2802, 2804; IWC Wage Order 14);
5. Failure to Pay Final Wages Due Upon Separation (Labor Code §§ 201, 202, and 203);
6. Failure to Provide Accurate Itemized Wage Statements (Labor Code § 226(a); IWC Wage Order 14);
7. Failure to Provide Employment Records (Labor Code §§ 226(e) and 1198.5).
8. Unfair Competition (Business & Professions Code §§ 17200, et seq.);
9. Private Attorneys General Act 2004 (Labor Code § 2698, et seq.).

DEMAND FOR JURY TRIAL

1 Plaintiff ISABEL SANCHEZ (“Plaintiff” or “SANCHEZ”) on behalf of herself, and on
2 behalf of those similarly situated current and former employees, files this Complaint against
3 AGRO PACK LLC, a California limited liability company (“AGRO PACK”); and DOES 1
4 through 100, inclusive. Plaintiff alleges and avers as follows:

5 **JURISDICTION AND VENUE**

6 1. This class action Complaint is brought pursuant to California Code of Civil
7 Procedure section 382. The monetary damages and restitution sought by Plaintiff exceed the
8 minimal jurisdiction limits of the Superior Court and will be established according to proof at
9 trial.

10 2. This Court has jurisdiction over this action pursuant to the California
11 Constitution, Article VI, section 10, which grants the Superior Court “original jurisdiction in all
12 causes except those given by statute to other courts.” The statutes under which this action is
13 brought do not specify any other basis for jurisdiction.

14 3. This Court has jurisdiction over all Defendants because each Defendant is either a
15 citizen of California, has sufficient minimum contacts in California, or otherwise intentionally
16 avails itself of the California market so as to render the exercise of jurisdiction over it by the
17 California courts consistent with traditional notions of fair play and substantial justice.

18 4. Venue is proper in this Court because, upon information and belief, the named
19 Defendants reside, transact business, or have offices in this county and the acts and omissions
20 alleged herein took place in this county.

21 **PARTIES**

22 5. At all times herein relevant, Plaintiff was a resident of the State of California, in
23 the County of Imperial.

24 6. Defendant AGRO PACK is a California limited liability company, and transacts
25 business throughout the State of California, including in the County of Imperial.

26 7. The true names and capacities, whether corporate, associate, individual or
27 otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues said
28 Defendants by such fictitious names. Plaintiff is informed and believes, and based on that

1 information and belief alleges, that each of the Defendants designated as a Doe is legally
2 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
3 the injuries and damages to Plaintiff alleged in this Complaint. Plaintiff will seek leave of court
4 to amend this Complaint to show the true names and capacities when the same have been
5 ascertained. The term “Defendants” in this Complaint refers collectively to AGRO PACK and all
6 Doe defendants.

7
8 **FACTUAL ALLEGATIONS**

9 8. Defendants employed Plaintiff as a non-exempt employee on a piece-rate basis,
10 from approximately April 2021, through approximately April 2022, in the State of California,
11 County of Imperial.

12 9. Defendants had the authority to hire and terminate Plaintiff, the other class
13 members, and all aggrieved employees; to set work rules and conditions governing Plaintiff, the
14 other class members, and all aggrieved employees; and to supervise their daily employment
15 activities.

16 10. Defendants directly hired and paid wages and benefits to Plaintiff, the other class
17 members, and all aggrieved employees.

18 11. Plaintiff is informed and believes, and based thereon alleges that, at all material
19 times set forth herein, Defendants engaged in a uniform policy and systematic scheme of wage
20 abuse against their non-exempt hourly and piece-rate employees.

21 12. Plaintiff is informed and believes, and based thereon alleges, that at all material
22 times set forth herein, Defendants knew or should have known that they had a duty to
23 compensate Plaintiff, the other class members, and all aggrieved employees pursuant to
24 California law.

25 13. Plaintiff is informed and believes, and based thereon alleges, that at all material
26 times set forth herein, Defendants knew or should have known that Plaintiff, the other class
27 members, and all aggrieved employees were entitled to receive at least minimum wage for all
28 hours worked and Defendants failed to comply with the applicable provisions of the Labor Code
and IWC Wage Order 14 requiring Defendants to compensate Plaintiff, the other class members,

1 and all aggrieved employees at least minimum wage for all hours worked. Among other things,
2 Defendants implemented a policy and practice of failing to record and compensate non-exempt
3 employees (including those paid on an hourly and/or piece-rate basis) for overtime work.

4 14. Plaintiff is informed and believes, and based thereon alleges, that at all material
5 times set forth herein, Defendants knew or should have known that Plaintiff, the other class
6 members, and all aggrieved employees were working overtime hours that Defendants failed to
7 compensate as required by the applicable provisions of the Labor Code and IWC Wage Order 14.

8 15. Plaintiff is informed and believes, and based thereon alleges, that at all material
9 times set forth herein, Defendants failed to comply with the applicable provisions of the Labor
10 Code and IWC Wage Order 14 requiring Defendants to provide non-exempt employees with
11 legally compliant meal periods. Among other things, Defendants failed to provide non-exempt
12 employees with at least a 30-minute duty-free meal period before the end of their fifth (5th) hour
13 of work when working more than six (6) hours in a workday, and a second 30-minute duty-free
14 meal period before the end of their tenth (10th) hour of work when working more than ten (10)
15 hours in a workday.

16 16. Plaintiff and the other class members are entitled to receive payment of one (1)
17 additional hour of pay at Plaintiff's and the other class members' regular rate of pay for each day
18 that Defendants failed to provide a legally compliant meal period. Defendants failed to pay
19 Plaintiff, the other class members, and all aggrieved employees this extra hour of pay for each
20 day that Plaintiff, the other class members, and all aggrieved employees did not receive a legally
21 compliant meal period.

22 17. Plaintiff is informed and believes, and based thereon alleges, that at all material
23 times set forth herein, Defendants knew or should have known that Plaintiff, the other class
24 members, and all aggrieved employees were entitled to reimbursement or indemnification of
25 necessary business expenses they incurred in the discharge of their work-related duties and that
26 Defendants regularly and consistently failed to reimburse or indemnify Plaintiff, the other class
27 members, and all aggrieved employees for such business expenses, as required under California
28 Labor Code section 2802.

1 18. Plaintiff is informed and believes, and based thereon alleges, that at all material
2 times set forth herein, Defendants knew or should have known that Plaintiff, the other class
3 members, and all aggrieved employees were entitled to receive all wages owed to them upon
4 discharge or resignation and that Defendants regularly, consistently, and willfully failed to pay
5 Plaintiff, the other class members, and all aggrieved employees all wages owed to them upon
6 discharge or resignation.

7 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Plaintiff, the other class members, and all aggrieved employees
9 were entitled to receive complete and accurate wage statements in accordance with California
10 law.

11 20. At all material times set forth herein, Defendants regularly and consistently failed
12 to provide complete and accurate wage statements to Plaintiff, the other class members, and all
13 aggrieved employees. Among other things, Defendants failed to pay at least minimum wages,
14 failed to pay overtime, failed to pay premium pay wages for meal period violations, and failed to
15 pay all wages due and owing at the time of separation.

16 21. Plaintiff is informed and believes, and based thereon alleges, that at all material
17 times set forth herein, Defendants knew or should have known that Plaintiff, the other class
18 members, and all aggrieved employees were entitled to receive all wages due to them, within the
19 applicable pay periods required under California Labor Code section 204 and that Defendants
20 regularly and consistently failed to pay Plaintiff, the other class members, and all aggrieved
21 employees all wages due to them within the applicable pay periods required under California
22 Labor Code section 204.

23 22. Defendants have common policies and practices that apply to all non-exempt,
24 hourly, and piece-rate employees working in the State of California. These common policies and
25 practices result in the legal violations described herein, making such claims susceptible to
26 common proof and adjudication.

27 23. For example, Defendants have utilized the following policies and practices for
28 their employees throughout the State of California during the relevant time periods:

- a. Failing to pay minimum wages;
- b. Failing to pay overtime;
- c. Failing to provide legally compliant meal periods;
- d. Failing to pay meal period premiums for meal period violations;
- e. Failing to reimburse necessary business expenses;
- f. Failing to timely pay non-exempt employees all wages due upon separation from their employment; and
- g. Failing to accurately report on wage statements payment for all hours worked and meal period premiums due.

CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action on her own behalf and on behalf of all other current and former non-exempt employees of Defendants similarly situated, and thus, seeks class certification under Code of Civil Procedure section 382.

25. The proposed class is defined as follows:

All current and former non-exempt employees, whether paid on an hourly and/or piece rate basis, employed by Defendants within the State of California at any time during the period from four (4) years prior to the filing of this action, plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19, through final judgment (the “Putative Class Members”).

26. Plaintiff reserves the right to establish subclasses as appropriate.

27. The class is ascertainable and there is a well-defined community of interest in the litigation:

- a. The Putative Class Members are so numerous that joinder of all class members is impracticable. The membership of the entire putative class is unknown to Plaintiff at this time; however, the class is estimated to be

1 approximately 500 individuals and the identity of such membership is
2 readily ascertainable by inspection of Defendants' employment records.

- 3 b. Plaintiff's claims are typical of all other Putative Class Members' claims,
4 as demonstrated herein. Plaintiff will fairly and adequately protect the
5 interests of the other Putative Class Members with whom they have a
6 well-defined community of interest.
- 7 c. Plaintiff will fairly and adequately protect the interests of each Putative
8 Class Member, with whom they have a well-defined community of
9 interest and typicality of claims, as demonstrated herein. Plaintiff has no
10 interest that is antagonistic to the other Putative Class Members. Plaintiff's
11 attorneys, the proposed class counsel, are highly experienced attorneys in
12 wage and hour, representative, and class action litigation and are versed in
13 the rules governing class action discovery, certification, settlement, and
14 trial. Plaintiff has incurred, and during the pendency of this action will
15 continue to incur, costs and attorney's fees, that have been, are, and will
16 be necessarily expended for the prosecution of this action for the
17 substantial benefit of each Putative Class Member.
- 18 d. A class action is superior to other available methods for the fair and
19 efficient adjudication of this litigation because individual joinder of all
20 Putative Class Members is impractical.
- 21 e. Certification of this lawsuit as a class action will advance public policy
22 objectives. Employers of this great state violate employment and labor
23 laws every day. Current employees are often afraid to assert their rights
24 out of fear of direct or indirect retaliation. However, class actions provide
25 the class members who are not named in the complaint anonymity that
26 allows for the vindication of their rights.

27
28 28. There are common questions of law and fact as to the Putative Class Members
that predominate over questions affecting only individual members. The following common

1 questions of law or fact, among others, exists as to the members of the class:

- 2 a. Whether Defendants failed to pay minimum wages to Plaintiff and the
- 3 other Putative Class Members;
- 4 b. Whether Defendants failed to pay overtime wages to Plaintiff and the
- 5 other Putative Class Members;
- 6 c. Whether Defendants deprived Plaintiff and the other Putative Class
- 7 Members of legally compliant meal periods;
- 8 d. Whether Defendants failed to pay Plaintiff and the other Putative Class
- 9 Members meal period premium pay for each day that a meal period
- 10 violation occurred;
- 11 e. Whether Defendants failed to indemnify or reimburse Plaintiff and
- 12 Putative Class Members for necessary business expenses incurred;
- 13 f. Whether Defendants failed to pay all wages due to Plaintiff and the other
- 14 Putative Class Members within the required time upon their separation
- 15 from their employment;
- 16 g. Whether Defendants failed to provide Plaintiff and the other Putative
- 17 Class Members accurate itemized wage statements;
- 18 h. Whether Defendants' conduct was willful;
- 19 i. Whether Defendants engaged in unfair business practices in violation of
- 20 California Business & Professions Code sections 17200 et seq.;
- 21 j. The appropriate amount of damages, restitution, and/or monetary penalties
- 22 resulting from Defendants' violation of California law; and
- 23 k. Whether Plaintiff and the other Putative Class Members are entitled to
- 24 compensatory damages, penalties, injunctive relief, restitution pursuant to
- 25 the California Labor Code and UCL, and attorneys' fees and costs.
- 26

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1 **PRIVATE ATTORNEYS GENERAL ACT 2004 “PAGA” ALLEGATIONS**

2 29. At all times herein set forth, the California Labor Code Private Attorneys General
3 Act of 2004, Labor Code §2698, *et seq.* (hereinafter “PAGA”) was applicable to Plaintiff and all
4 aggrieved employees (as defined below) throughout their employment with Defendants.

5 30. At all times herein set forth, PAGA provides that any provision of law under the
6 California Labor Code that provides for a civil penalty to be assessed and collected by the Labor
7 and Workforce Development Agency (hereinafter “LWDA”) for violations of the California
8 Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved
9 employee on behalf of herself and other current or former employees pursuant to procedures
10 outlined in California Labor Code section 2699.3.

11 31. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
12 employee,” who is any person that was employed by the alleged violator and against whom one
13 or more of the alleged violations was committed.

14 32. Plaintiff was employed by Defendants and the alleged violations were committed
15 against her and other aggrieved employees during their time of employment. Plaintiff and the
16 other aggrieved employees worked for Defendants in California as non-exempt hourly paid or
17 piece-rate paid employees during the relevant time period. Thus, Plaintiff is an “aggrieved
18 employee” as defined by California Labor Code section 2699, subdivision (c).

19 33. For purposes of this Complaint, the “Aggrieved Employees” are defined as:

20 **All current and former non-exempt employees, including those paid on**
21 **an hourly and/or piece rate basis, employed by Defendants within the**
22 **State of California at any time since October 20, 2021, plus any additional**
23 **time during which the statutes of limitation for the causes of action herein**
24 **were tolled pursuant to Emergency Rule 9 of the California Rules of**
25 **Court, the ‘Emergency Rules Related to COVID-19, through final**
26 **judgment.**

27 34. On or about October 20, 2022, pursuant to Labor Code § 2699.3, Plaintiff filed
28 notice with California’s Labor and Workforce Development Agency (“LWDA”) and posted by

1 certified mail to Defendants notice of the specific provisions of the Labor Code that have been
2 violated, including the facts and theories to support the violations.

3 35. The LWDA has failed to notify Plaintiff of its intent to investigate these penalty
4 claims within sixty-five (65) days.

5 36. Thus, Plaintiff has exhausted administrative remedies under PAGA's Labor Code
6 § 2699.3(a)(2)(A) and may pursue civil PAGA penalties in a representative capacity for
7 Defendants' violations of the California Labor Code and Wage Order 14-2001.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PAY MINIMUM WAGES**

10 **(Violation of California Labor Code §§ 1194, 1197, 1197.1, and IWC Wage Order 14)**

11 **(Against All Defendants and DOES 1 through 100)**

12 37. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
13 paragraphs.

14 38. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
15 provide that minimum wages must be paid to employees, and the payment of a lesser wage than
16 the minimum so fixed is unlawful.

17 39. During the relevant time period, Defendants intentionally and willfully failed to
18 pay minimum wages to Plaintiff and the Putative Class Members as required, pursuant to
19 California Labor Code sections 1194, 1197, and 1197.1.

20 40. Defendants' failure to pay Plaintiff and the Putative Class Members the minimum
21 wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to
22 those sections Plaintiff and the Putative Class Members are entitled to recover the unpaid balance
23 of their minimum wage compensation as well as interest, costs, and attorney's fees, and
24 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

25 41. Pursuant to California Labor Code section 1197.1, Plaintiff and the Putative Class
26 Members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
27 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
28 minimum wages.

1 42. Pursuant to California Labor Code section 1194.2 Plaintiff and the Putative Class
2 Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully
3 unpaid and interest thereon.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES**

6 **(Violation of California Labor Code §§ 510, 1194, 1198, and IWC Wage Order 14)**

7 **(Against All Defendants and DOES 1 through 100)**

8 43. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
9 paragraphs.

10 44. Plaintiff and the Putative Class Members were non-exempt employees entitled to
11 the protections of California Labor Code sections 510 and 1194, and IWC Wage Order 14.

12 45. Pursuant to California Labor Code sections 510 and 1194, during the relevant
13 time period, Defendants were required to compensate Plaintiff and the Putative Class Members
14 for all overtime hours worked.

15 46. Pursuant to California Labor Code section 1198 and IWC Wage Order 14, it is
16 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half
17 or two-times that person's regular rate of pay, depending on the number of hours worked by the
18 person on a daily or weekly basis.

19 47. Pursuant to California Labor Code section 1198, the maximum hours of work and
20 the standard conditions of labor fixed by the commission shall be the maximum hours of work
21 and the standard conditions of labor for employees. The employment of any employee for longer
22 hours than those fixed by the Wage Order or under conditions of labor prohibited by the Wage
23 Order is unlawful.

24 48. Assembly Bill 1066 (2016) created a timetable for agricultural workers to receive
25 overtime pay in order to receive overtime pay on the same basis as workers in most other
26 industries.

27 49. Defendants were at all times relevant an employer with 26 or more employees for
28 purposes of Assembly Bill 1066 (2016).

1 50. Plaintiff and the Putative Class Members were at all times relevant entitled to
2 overtime pay at a rate of one and one-half times (x1.5) their regular rate of pay according to the
3 following schedule:

Effective date for employers with 26 or more employees:	Overtime (1.5x regular rate of pay) required after the following hours per day / hours per workweek:
Jan. 1, 2019	9.5 / 55
Jan. 1, 2020	9 / 50
Jan. 1, 2021	8.5 / 45
Jan. 1, 2022*	8 / 40

12 51. Plaintiff and the Putative Class Members were at all times relevant entitled to
13 double (x2) their regular rate of pay for all hours worked after twelve (12) hours in a workday.

14 52. Plaintiff and the Putative Class Members were at all times relevant entitled to
15 time and one-half (x1.5) their regular rate of pay for the first eight (8) hours worked on the
16 seventh (7th) consecutive day of work and double (x2) their regular rate of pay for all work
17 performed in excess of eight (8) hours on the seventh (7th) consecutive day of work. These
18 protections from Wage Order 14 (Agricultural Employers) continue to apply, consistent
19 with Labor Code section 510, regardless of employer size.
20

21 53. During the relevant time period, Plaintiff and the Putative Class Members worked
22 overtime hours but did not receive overtime pay for such hours.

23 54. During the relevant time period, Defendants intentionally and willfully failed to
24 record Plaintiff's and the Putative Class Members' overtime hours, and failed to pay daily or
25 weekly overtime wages due and owing.

26 55. Defendants' failure to pay Plaintiff and the Putative Class Members overtime
27 compensation, as required by California laws, violates the provisions of California Labor Code
28 section 1198, and is therefore unlawful.

 56. Pursuant to California Labor Code section 1194, subdivision (a), notwithstanding

1 any agreement to work for a lesser wage, any employee receiving less than the legal minimum
2 wage or the legal overtime compensation applicable to the employee is entitled to recover in a
3 civil action the unpaid balance of the full amount of this minimum wage or overtime
4 compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

5 57. Pursuant to California Labor Code section 1194, Plaintiff and the Putative Class
6 Members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
7 attorneys' fees.

8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO PROVIDE MEAL PERIODS**

10 **(Violation of California Labor Code § 226.7 and IWC Wage Order 14)**

11 **(Against All Defendants and DOES 1 through 100)**

12 58. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
13 paragraphs.

14 59. At all relevant times, the IWC Wage Order 14 and California Labor Code section
15 226.7, subdivision (a) was applicable to Defendants' employment of Plaintiff and the Putative
16 Class Members.

17 60. At all relevant times, California Labor Code section 226.7 provides that no
18 employer shall require an employee to work during any meal period mandated by an applicable
19 order of the California IWC.

20 61. At all relevant times, the applicable IWC Wage Order 14 provides that an
21 employer may not require, cause or permit an employee to work for a work period of more than
22 five (5) hours per day without providing the employee with a meal period of not less than thirty
23 (30) minutes, except that if the total work period per day of the employee is no more than six (6)
24 hours, the meal period may be waived by mutual consent of both the employer and employee.

25 62. During the relevant time period, Plaintiff and the Putative Class Members who
26 were scheduled to work for a period of time no longer than six (6) hours, and who did not waive
27 their legally mandated meal periods by mutual consent, were required to work for periods longer
28 than five (5) hours without a legally compliant meal period of not less than thirty (30) minutes.

1 63. During the relevant time period, Plaintiff and the Putative Class Members who
2 were scheduled to work for a period of time in excess of six (6) hours were required to work for
3 periods longer than five (5) hours without a legally compliant first meal period of not less than
4 thirty (30) minutes, and without a second meal period of not less than thirty (30) minutes when
5 working more than ten (10) hours.

6 64. During the relevant time period, Defendants intentionally and willfully failed to
7 provide Plaintiff and the Putative Class Members with meal periods within the legally required
8 timeframes, if at all, and failed to compensate Plaintiff and the Putative Class Members with
9 meal period premiums for missed or untimely meal periods.

10 65. Defendants' conduct violates IWC Wage Order 14 and California Labor Code
11 section 226.7.

12 66. During the relevant time period, Defendants failed to pay Plaintiff and the
13 Putative Class Members meal period premiums due pursuant to California Labor Code section
14 226.7(b).

15 67. Pursuant to IWC Wage Order 14 and California Labor Code section 226.7
16 subdivision (b), Plaintiff and the Putative Class Members are entitled to recover from Defendants
17 one additional hour of pay at the employee's regular rate of compensation for each workday that
18 a legally compliant meal period was not provided.

19
20 **FOURTH CAUSE OF ACTION**

21 **FAILURE TO INDEMNIFY OR REIMBURSE BUSINESS EXPENSES**

22 **(Violation of California Labor Code §§ 2802, 2804 and IWC Wage Order 14)**

23 **(Against All Defendants and DOES 1 through 100)**

24 68. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
25 paragraphs.

26 69. Pursuant to Labor Code § 2802(a), Plaintiff and the Putative Class Members were
27 entitled to indemnification or reimbursement for "all necessary expenditures or losses incurred in
28 direct consequence of the discharge of his or her duties."

 70. Defendants systematically failed to indemnify or reimburse Plaintiff and the

1 Putative Class Members for these expenses incurred on Defendants' behalf.

2 71. Defendants' conduct violates IWC Wage Order 14 and California Labor Code
3 section 2802.

4 72. Plaintiff and the Putative Class Members have suffered damages in amounts to be
5 proven at trial and are entitled to all appropriate remedies provided by the California Labor Code
6 and the IWC Wage Orders, including unpaid wages, liquidated damages, and civil penalties.

7 73. In addition, pursuant to Labor Code § 2802 (c), Defendants are liable to Plaintiff
8 and the Putative Class Members for reasonable attorney's fees and costs, which are hereby
9 demanded, in an amount to be proven at trial.

10 **FIFTH CAUSE OF ACTION**

11 **FAILURE TO PAY FINAL WAGES DUE UPON SEPARATION**

12 **(Violation of California Labor Code §§ 201, 202, and 203)**

13 **(Against All Defendants and DOES 1 through 100)**

14 74. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
15 paragraphs.

16 75. Pursuant to California Labor Code sections 201 and 202, if an employer
17 discharges an employee, the wages earned and unpaid at the time of discharge are due and
18 payable immediately, and if an employee quits his or her employment, his or her wages shall
19 become due and payable not later than seventy-two (72) hours thereafter, unless the employee
20 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the
21 employee is entitled to his or her wages at the time of quitting.

22 76. During the relevant time period, Defendants intentionally and willfully failed to
23 pay Plaintiff and the Putative Class Members their wages, earned and unpaid, upon termination
24 or within seventy-two (72) hours of them leaving Defendants' employ.

25 77. These earned and unpaid wages to Plaintiff and the Putative Class Members
26 included, without limitation, meal period premium pay for meal period violations, and vested
27 vacation pay.

28 78. Defendants' failure to pay Plaintiff and the Putative Class Members their wages,

1 earned and unpaid, either upon their termination or within seventy-two (72) hours of them
2 leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

3 79. Pursuant to California Labor Code section 203, if an employer willfully fails to
4 pay, without abatement or reduction, in accordance with sections 201 and 202, any wages of an
5 employee who is discharged or who quits, the wages of the employee shall continue as a penalty
6 from the due date thereof at the same rate until paid or until an action is commenced; but the
7 wages shall not continue for more than thirty (30) days.

8 80. Plaintiff and the Putative Class Members are entitled to recover the statutory
9 penalty for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days
10 maximum pursuant to California Labor Code section 203.

11 **SIXTH CAUSE OF ACTION**

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

13 **(Violation of California Labor Code § 226(a) and IWC Wage Order 14)**

14 **(Against All Defendants and DOES 1 through 100)**

15 81. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
16 paragraphs.

17 82. Pursuant to California Labor Code section 226, subdivision (a), every employer
18 shall furnish each of his or her employees an accurate itemized statement in writing showing: (1)
19 gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units
20 earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
21 deductions, provided that all deductions made on written orders of the employee may be
22 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
23 which the employee is paid, (7) the name of the employee and his or her social security number,
24 (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly
25 rates in effect during the pay period and the corresponding number of hours worked at each
26 hourly rate by the employee. The deductions made from payments of wages shall be recorded in
27 ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the
28 statement or a record of the deductions shall be kept on file by the employer for at least three

1 years at the place of employment or at a central location within the State of California.

2 83. Defendants intentionally and willfully failed to provide Plaintiff and the Putative
3 Class Members with complete and accurate itemized wage statements. The deficiencies included
4 one or more of the following: failure to pay at least minimum wages for all hours worked, failure
5 to pay overtime wages, failure to include meal period premium pay for meal period violations,
6 and failure to pay all wages due at separation.

7 84. Defendants' violation of California Labor Code section 226, subdivision (a),
8 caused Plaintiff, all members of the putative class, and all aggrieved employees to experience
9 actual injury because it: (1) resulted in the nonpayment of wages; (2) deprived Plaintiff and the
10 Putative Class Members of the information necessary to identify discrepancies in Defendants'
11 reported data; (3) created confusion over whether they received all wages owed to them; (4)
12 created difficulty and expense involved in reconstructing pay records; (5) forced employees to
13 make mathematical computations to analyze whether the wages paid in fact properly
14 compensated them; and (6) forced Plaintiff and the Putative Class Members to incur legal fees
15 and costs in order to determine whether they had been fully and timely paid for all hours worked.

16 85. On January 1, 2016, AB 1513 went into effect and added section 226.2 to the
17 California Labor Code, which applies "for employees who are compensated on a piece-rate basis
18 for any work performed during a pay period."

19 86. Labor Code section 226.2 establishes additional compensation and wage
20 statement requirements for rest and recovery periods and "other nonproductive time" for piece-
21 rate employees going forward from the effective date of the statute.

22 87. During the relevant time period, Plaintiff and the Putative Class Members
23 performed work for Defendants on a piece rate basis and were thus entitled to the protections of
24 Labor Code section 226.2.

25 88. Defendants violated Labor Code section 226.2 by failing to comply with such
26 compensation and wage statement requirements for Plaintiff and the Putative Class Members.

27 89. Pursuant to California Labor Code section 226(e)(1), Plaintiff and the Putative
28 Class Members are entitled to recover penalties, costs, and attorney's fees, which are hereby

1 demanded, in an amount to be proven at trial.

2 **SEVENTH CAUSE OF ACTION**

3 **FAILURE TO PROVIDE EMPLOYMENT RECORDS**

4 **(Violation of California Labor Code §§ 226(f) and 1198.5(k))**

5 **(On Behalf of Plaintiff Individually Against All Defendants and DOES 1 through 100)**

6 90. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
7 paragraphs.

8 91. On June 7, 2022, Plaintiff's legal counsel made a written request to AGRO
9 PACK for employment records pursuant to Labor Code §§ 226(b) and 1198.5. This request was
10 sent to AGRO PACK via U.S. Certified Mail, at the address listed on Plaintiff's wage
11 statements, as well as the address registered with the California Secretary of State.

12 92. Pursuant to Labor Code §§ 226(b) and 1198.5, these records were due within 21
13 and 30 days of the request, respectively. To date, even though these statutory deadlines have
14 long since passed, AGRO PACK has not provided any of the responsive records.

15 93. Pursuant to Labor Code § 226(f), Plaintiff is entitled to receive a penalty in the
16 sum of \$750.00 due to AGRO PACK's failure to timely respond to Plaintiff's request for
17 employment records within 21 days of such request pursuant to Labor Code § 226(c).

18 94. Pursuant to Labor Code § 1198.5(k), Plaintiff is also entitled to receive a second
19 penalty in the sum of \$750.00 for failure to timely respond to this request within 30 days.

20 95. Plaintiff is entitled to reasonable attorney's fees and costs, which are hereby
21 demanded, in an amount to be proven at trial.

22 **EIGHTH CAUSE OF ACTION**

23 **UNFAIR COMPETITION**

24 **(Violation of California Business & Professions Code §§ 17200 et seq.)**

25 **(Against All Defendants and DOES 1 through 100)**

26 88. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
27 paragraphs.

28 89. Defendants, and each of them, are "persons" as defined by Business and

1 Professions Code § 17201.

2 90. Defendants' conduct, as alleged in this Complaint, has been, and continues to be,
3 unfair, unlawful, and harmful to Plaintiff and the Putative Class Members and Defendants'
4 competitors. Accordingly, Plaintiff and the Putative Class Members seek to enforce important
5 rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

6 91. A violation of California Business & Professions Code sections 17200, et seq.
7 may be predicated on the violation of any state or federal law.

8 92. Defendants' activities as alleged herein are violations of California law, and
9 constitute unlawful business acts and practices in violation of California Business & Professions
10 Code sections 17200, et seq.

11 93. Defendants have previously or continue to engage in unlawful, unfair, and/or
12 fraudulent business practices in violation of California Business and Professions Code § 17200,
13 et seq., by, *inter alia*:

- 14 a. Failing to pay Plaintiff and the Putative Class Members minimum wages;
- 15 b. Failing to pay Plaintiff and the Putative Class Members overtime;
- 16 c. Failing to provide Plaintiff and the Putative Class Members legally
17 compliant meal periods;
- 18 d. Failing to pay Plaintiff and the Putative Class Members meal period
19 premium pay for meal period violations;
- 20 e. Failing to indemnify or reimburse necessary business expenses incurred
21 by Plaintiff and the Putative Class Members;
- 22 f. Failing to timely pay Plaintiff and the Putative Class Members all wages
23 due upon separation from their employment;
- 24 g. Failing to accurately report on employees' wage statements all wages due
25 for rest, recovery, and non-productive time, overtime pay due and owing,
26 meal period premiums for each day that a meal period violation occurred,
27 and all wages due at the time of separation from their employment.

28 94. Defendants, and each of them, have profited from these unlawful, unfair, and

1 fraudulent business practices at the expense of Plaintiff and the Putative Class Members, and at
2 the expense of law-abiding businesses and the public.

3 95. As a direct and proximate result of Defendants' unfair and unlawful business
4 practices as alleged herein, Plaintiff and the Putative Class Members have sustained injury and
5 damages, in amounts to be proven at trial.

6 96. Defendants, and each of them, should therefore be ordered to immediately cease
7 from engaging in the unlawful, unfair, and fraudulent conduct alleged herein, and restore as
8 restitution to Plaintiff and the Putative Class Members those amounts accrued during the relevant
9 claim period, and not otherwise awarded in connection with the previous causes of action.

10 97. Plaintiff and the Putative Class Members seek restitution of wages from all
11 Defendants in an amount to be proven at trial, and an injunction prohibiting Defendants from
12 engaging in the unlawful, unfair, and fraudulent conduct alleged herein.

13 98. In addition, Defendants are liable to Plaintiff and the Putative Class Members for
14 reasonable attorney's fees and costs, which are hereby demanded, in an amount to be proven at
15 trial.

16 **NINTH CAUSE OF ACTION**

17 **CIVIL PENALTIES PURSUANT TO**

18 **PRIVATE ATTORNEYS GENERAL ACT 2004 ("PAGA")**

19 **(Violation of California Labor Code §§ 2698, *et seq.*)**

20 **(On Behalf of Plaintiff and All Aggrieved Employees,**

21 **Against All Defendants and DOES 1 through 100)**

22 99. Plaintiff re-alleges and incorporates into this cause of action each of the preceding
23 paragraphs.

24 100. The Private Attorneys General Act 2004 (California Labor Code §§ 2698, *et seq.*)
25 ("PAGA") expressly establishes that any provision of the California Labor Code which provides
26 for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
27 divisions, commissions, boards, agencies or employees for a violation of the California Labor
28 Code, may be recovered through a civil action brought by an aggrieved employee on behalf of

1 herself or himself, and other current or former employees.

2 101. Plaintiff and the other Aggrieved Employees are “aggrieved employees” as
3 defined by California Labor Code section 2699, subdivision (c) in that they are all current or
4 former employees of Defendants, and one or more of the alleged violations were committed
5 against them.

6 102. Pursuant to California Labor Code section 2699, Plaintiff, in a representative
7 capacity on behalf of all Aggrieved Employees, requests and is entitled to recover from
8 Defendants and each of them, civil penalties according to proof, interest, attorneys’ fees and
9 costs.

10 103. Pursuant to California Labor Code section 2699, subdivision (i), civil penalties
11 recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to
12 the Labor and Workforce Development Agency for the enforcement of labor laws and education
13 of employers and employees about their rights and responsibilities and twenty-five percent
14 (25%) to the aggrieved employees.

15 104. As described in greater detail *supra*, at all times relevant to this action,
16 Defendants devised, formulated, implemented, and enforced, the following policies and
17 procedures in violation of California Law, including but not limited to the provisions of the
18 California Labor Code and Industrial Welfare Commission (“IWC”) Wage Order 14, which give
19 rise to PAGA civil penalties under Cal. Lab. Code § 2698, *et seq.*:
20

21 **Civil Penalties for Failure to Pay Minimum Wages**

22 105. Through their policies and practices, Defendants failed to pay Plaintiff and the
23 other Aggrieved Employees at least the applicable minimum wage for all hours, in violation of
24 Labor Code §§ 1194, 1197, 1191.1, and 1199, and IWC Wage Order 14.

25 **Civil Penalties for Failure to Pay Overtime**

26 106. While employed by Defendants, Plaintiff and the other Aggrieved Employees
27 were required, suffered and permitted to work overtime hours.

28 107. Through their policies and practices, Defendants failed to pay Plaintiff and the
other Aggrieved Employees overtime pay, in violation of Labor Code §§510, 1194, 1198, and

1 IWC Wage Order 14.

2 **Civil Penalties for Failure to Provide Meal Periods**

3 108. Through their policies and practices, Defendants failed to provide Plaintiff and the
4 other Aggrieved Employees with legally compliant meal periods, in violation of Labor Code
5 §§226.7, 512, and IWC Wage Order 14.

6 **Civil Penalties for Failure to Indemnify or Reimburse Business Expenses**

7 109. Through their policies and practices, Defendants failed to indemnify or reimburse
8 Plaintiff and the other Aggrieved Employees for necessary business expenses incurred in the
9 discharge of their work duties, in violation of Labor Code §2802, and IWC Wage Order 14.

10 **Civil Penalties for Failure to Timely Pay Wages Upon Separation**

11 110. Through their policies and practices, Defendants failed to timely pay Plaintiff and
12 the other Aggrieved Employees all wages due upon separation from their employment in
13 violation of California Labor Code sections 201, 202, and 203.

14 111. Further, even though Defendants failed to timely pay employees all wages due
15 upon separation, Defendants also failed to pay Plaintiff and the other Aggrieved Employees
16 continuing wages under Labor Code section 203.

17 **Civil Penalties for Failure to Timely Pay Wages During Employment**

18 112. Through their policies and practices, Defendants intentionally and willfully failed
19 to pay Plaintiff and the other Aggrieved Employees all wages due to them within the specific pay
20 periods required under California Labor Code section 204.
21

22 113. For example, in violation of Labor Code section 204(b)(1), Defendants did not
23 pay overtime pay “no later than the payday for the next regular payroll period.”

24 **Civil Penalties for Failure to Provide Compliant Wage Statements**

25 114. Through their policies and practices, Defendants failed to provide Plaintiff and the
26 other Aggrieved Employees accurate itemized wage statements in violation of California Labor
27 Code section 226, subdivision (a); and California Labor Code section 226.2.

28 **Civil Penalties for Failure to Keep Complete and Accurate Payroll Records**

115. Through their policies and practices, Defendants failed to keep complete and

1 accurate payroll records in violation of California Labor Code section 1174(d). Among other
2 violations, Defendants failed to record payment of meal period premium pay for Plaintiff and the
3 other Aggrieved Employees.

4 **Civil Penalties for Violations of IWC Wage Order 14**

5 116. Labor Code section 1199(c) makes it a misdemeanor, punishable by monetary
6 fine, for employers that, among other things, violate the provisions of the IWC Wage Orders. As
7 described herein, Defendant violated the Wage Order 14 in many respects, including without
8 limitation the failure to pay overtime, the failure to provide legally compliant meal periods, and
9 the failure to reimburse business expenses.

10 **Exhaustion of Administrative Remedies under PAGA**

11 117. On or about October 20, 2022, pursuant to Labor Code § 2699.3, Plaintiff filed
12 notice with California's Labor and Workforce Development Agency ("LWDA") and posted by
13 certified mail to Defendants notice of the specific provisions of the Labor Code that have been
14 violated, including the facts and theories to support the violations.

15 118. The LWDA has failed to notify Plaintiff of its intent to investigate these penalty
16 claims within sixty-five (65) days.

17 119. Thus, Plaintiff has exhausted administrative remedies under PAGA's Labor Code
18 § 2699.3(a)(2)(A).

19 120. Pursuant to Labor Code Section 2698 et seq., Plaintiff, in a representative
20 capacity, is entitled to recover civil penalties in connection with herself, and in connection with
21 each and every Aggrieved Employee of Defendants, for each and every pay period in which a
22 Labor Code violation or applicable IWC Wage Order violation occurred, in an amount according
23 to proof at trial.

24 121. Plaintiff and the other Aggrieved Employees are also entitled to reasonable
25 attorney's fees and costs pursuant to Labor Code §§ 2699(g), and any other applicable statute,
26 which are hereby demanded, in an amount to be proven at trial.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually, on behalf of the Putative Class Members, the
3 other Aggrieved Employees, and on behalf of all other members of the general public similarly
4 situated, jointly and severally, pray as follows:

5 **CLASS CERTIFICATION**

- 6 1. That this action be certified as a Class Action;
7 2. That Plaintiff be appointed as the representative of the Class; and
8 3. That counsel for Plaintiff be appointed as Class Counsel.

9 **AS TO THE FIRST CAUSE OF ACTION**

10 4. That the court declare, adjudge and decree that Defendants violated California
11 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
12 Plaintiff and the other class members;

13 5. For general unpaid wages and such general and special damages as may be
14 appropriate;

15 6. For statutory wage penalties pursuant to California Labor Code section 1197.1 for
16 Plaintiff and the other Putative Class Members in the amount as may be established according to
17 proof at trial;

18 7. For liquidated damages pursuant to California Labor Code section 1194.2;

19 8. For reasonable attorneys' fees, costs, and interest; and

20 9. For such other and further relief as the court may deem just and proper.

21 **AS TO THE SECOND CAUSE OF ACTION**

22 10. The court declare, adjudge and decree that Defendants violated California Labor
23 Code sections 510, 1194, 1198 and IWC Wage Order 14 by willfully failing to pay all overtime
24 wages due to Plaintiff and the other Putative Class Members;

25 11. For general unpaid wages at overtime wage rates and such general and special
26 damages as may be appropriate;

27 12. For reasonable attorneys' fees, costs, and interest; and

28 13. For such other and further relief as the court may deem just and proper.

1 **AS TO THE THIRD CAUSE OF ACTION**

2 14. That the court declare, adjudge and decree that Defendants violated California
3 Labor Code sections 226.7, 512 and IWC Wage Order 14 by willfully failing to provide legally
4 compliant meal periods to Plaintiff and the other Putative Class Members;

5 15. For compensation for meal periods not provided pursuant to Labor Code §
6 226.7(b) in an amount to be proven at trial;

7 16. For pre-judgment interest on any unpaid compensation from the date such
8 amounts were due; and

9 17. For such other and further relief as the court may deem just and proper.

10 **AS TO THE FOURTH CAUSE OF ACTION**

11 18. The court declare, adjudge and decree that Defendants violated California Labor
12 Code section 2802 by failing to indemnify or reimburse Plaintiff and the other Putative Class
13 Members necessary business expenses;

14 19. For damages equal to the unreimbursed business expenses pursuant to California
15 Labor Code § 2802;

16 20. For reasonable attorneys' fees, costs, and interest; and

17 21. For such other and further relief as the court may deem just and proper.

18 **AS TO THE FIFTH CAUSE OF ACTION**

19 22. That the court declare, adjudge and decree that Defendants violated California
20 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
21 time of termination of the employment of the other Putative Class Members no longer employed
22 by Defendants;

23 23. For statutory wage penalties pursuant to California Labor Code section 203 for all
24 Putative Class Members who have left Defendants' employ;

25 24. For pre-judgment interest on any unpaid compensation from the date such
26 amounts were due; and
27

28 25. For such other and further relief as the court may deem just and proper.

1 **AS TO THE SIXTH CAUSE OF ACTION**

2 26. That the court declare, adjudge and decree that Defendants violated the record
3 keeping provisions of California Labor Code section 226, subdivision (a); California Labor Code
4 section 226.2; and IWC Wage Order 14 as to Plaintiff and the other Putative Class Members, and
5 willfully failed to provide them accurate itemized wage statements thereto;

6 27. For statutory wage penalties for all Class members pursuant to California Labor
7 Code section 226 (e);

8 28. For reasonable attorneys' fees, costs, and interest; and

9 29. For such other and further relief as the court may deem just and proper.
10

11 **AS TO THE SEVENTH CAUSE OF ACTION**

12 30. For the penalty specified in Labor Code § 226(f) in the sum of \$750;

13 31. For the penalty specified in Labor Code § 1198.5(f) in the sum of \$750;

14 32. For attorneys' fees, costs, and interest; and

15 33. For such other and further relief as the court may deem just and proper.

16 **AS TO THE EIGHTH CAUSE OF ACTION**

17 34. For restitution of unpaid wages to Plaintiff and the other Putative Class Members
18 and all pre-judgment interest from the day such amounts were due and payable;

19 35. For the appointment of a receiver to receive, manage and distribute any and all
20 funds disgorged from Defendants and determined to have been wrongfully acquired by
21 Defendants as a result of their violation of California Business and Professions Code sections
22 17200, et seq.;

23 36. For injunctive relief and an order enjoining Defendants from engaging in further
24 unfair and unlawful business practices in violation of Business & Professions Code §§ 17200 et
25 seq.;

26 37. For reasonable attorneys' fees and costs of suit incurred herein; and

27 38. For such other and further relief as the court may deem just and proper

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