

FALAKASSA LAW, P.C.

Joshua S. Falakassa, CA Bar No. 295045

josh@falakassalaw.com

1901 Avenue of the Stars, Suite 450

Los Angeles, California 90067

Tel: (818) 456-6168; Fax: (888) 505-0868

BOKHOUR LAW GROUP, P.C.

Mehrdad Bokhour, Esq., CA Bar No. 285256

mehrdad@bokhourlaw.com

1901 Avenue of the Stars, Suite 450

Los Angeles, California 90067

Tel: (310) 975-1493; Fax: (310) 675-0861

Attorneys for Plaintiff and the Putative Classes

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

KAYLA SMART, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

MASTEC SERVICES COMPANY, INC., a
Florida Corporation; SEFNCO
COMMUNICATIONS, INC., a Florida
Corporation; and DOES 1-50, inclusive.

Defendants.

CASE NO.: 34-2022-00328496

**SECOND AMENDED CLASS AND PAGA
ACTION COMPLAINT FOR:**

- (1) FAILURE TO PAY ALL OVERTIME WAGES;
- (2) FAILURE TO PAY ALL SICK TIME WAGES;
- (3) MEAL PERIOD VIOLATIONS;
- (4) REST PERIOD VIOLATIONS;
- (5) WAGE STATEMENT VIOLATIONS;
- (6) WAITING TIME PENALTIES;
- (7) FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES;
- (8) UNFAIR COMPETITION;
- (9) PAGA PENALTIES
- (10) FAILURE TO PAY MINIMUM WAGES;
- (11) FAILURE TO MAINTAIN PAYROLL RECORDS;
- (12) FAILURE TO PROVIDE COPIES OF RECORDS;
- (13) FAILURE TO TIMELY PAY WAGES OWED DURING EMPLOYMENT;
- (14) FAILURE TO PROVIDE WRITTEN NOTICE OF EMPLOYMENT TERMINATIONS;

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- (15) FAILURE TO PROVIDE/PROPERLY
PAY PAID TIME OFF;
 - (16) FAILURE TO PROVIDE SAFETY
DEVICES AND SAFEGUARDS; and
 - (17) FAILURE TO PROVIDE RECOVERY
PERIODS;

DEMAND FOR JURY TRIAL

1 Plaintiff Kayla Smart (“Plaintiff”), on behalf of herself and all other similarly situated non-
2 exempt employees, alleges and complains of defendant Mastec Services Company, Inc., and
3 defendant Sefnco Communications, Inc., and DOES 1 to 50 (collectively, “Defendants”) and each of
4 them, as follows:

5 **INTRODUCTION**

6 1. Defendants specialize in designing, constructing, and maintaining modern
7 communication networks and infrastructure, including power plants and renewable energy
8 construction. Plaintiff brings this class action against Defendants for alleged violations of the
9 California Labor Code and Business and Professions Code.

10 2. As set forth below, Plaintiff, on behalf of herself and all others similarly situated,
11 alleges that Defendants failed to: (1) pay minimum wages for all hours worked while off the clock;
12 (2) include all hours worked and forms of compensation when calculating the “regular rate of pay”
13 used for payment of overtime wages; (3) pay all sick time and vacation or paid time off at the
14 separation of employment and at the “regular rate of pay”; (4) provide all compliant/timely meal, rest
15 and recovery periods, or premium wages at the “regular rate of pay” in lieu thereof; (5) reimburse
16 non-exempt employees for all necessary business expenses; (6) provide safety devices and safeguards
17 such as earplugs, which were required by Defendants’ policies; (7) maintain and provide payroll
18 records and personnel files; and (8) provide written notice of material employment information
19 changes, including notices of termination of employment.

20 3. As a result of the foregoing, Plaintiff alleges that Defendants failed to provide non-
21 exempt employees with accurate written itemized wage statements, failed to provide timely wages
22 owed during employment, and failed to timely pay all final wages upon separation of employment.

23 4. Based on these alleged Labor Code violations, Plaintiff now brings this class action
24 and PAGA representative to recover unpaid wages, restitution, penalties, and other related relief on
25 behalf of herself and all others similarly situated.

26 **JURISDICTION AND VENUE**

27 5. Plaintiff, on behalf of herself and all other similarly situated employees, hereby brings
28 this class action for recovery of unpaid wages and penalties under Labor Code §§ 200-204, 210, 221,

223, 226, 226.2, 226.3, 226.7, 227.3, 233, 234, 246, 246.5, 256, 432, 510, 512, 516, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800, 2802, 2804, 2810.5, 6401, and 6403, and applicable Wage Orders, in addition to seeking declaratory relief and restitution pursuant to California Business and Professions Code § 17200, *et. seq.*, as well as reasonable attorneys' fees and costs pursuant to Labor Code §§ 218.5, 226, 1194, and Code of Civil Procedure § 1021.5, and prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289.

6. This class action is brought pursuant to California Code of Civil Procedure § 382.

7. This Court has jurisdiction over Defendants' violations of the California Labor Code and applicable Wage Orders because the amount in controversy exceeds this Court's jurisdictional minimum.

8. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, Defendants own and/or operate within the County of Sacramento, and/or otherwise are found within the County of Sacramento and Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

9. At all relevant times herein, Plaintiff, who is over 18, was and currently is a California resident residing in the State of California.

10. Plaintiff is informed and believes and thereon alleges that Defendants are corporations authorized to do business in California and are and/or were the legal employer of Plaintiff and the Classes during the applicable statutory periods. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein and has been deprived of the rights guaranteed to her by California Labor Code §§ 200-204, 210, 221, 223, 226, 226.2, 226.3, 226.7, 227.3, 233, 234, 246, 246.5, 256, 432, 510, 512, 516, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800, 2802, 2804, 2810.5, 6401, and 6403, and applicable Wage Orders, in addition to seeking declaratory relief and restitution pursuant to California Business and Professions Code § 17200, *et. seq.*, as well as reasonable attorneys' fees and costs pursuant to Labor Code §§ 218.5, 226, 1194, and Code of Civil Procedure § 1021.5, and prejudgment interest on all due

1 and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289.

2 11. Plaintiff is informed and believes, and based thereon alleges, that during the four years
3 preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to
4 do) business in the State of California, County of Sacramento.

5 12. Plaintiff does not know the true names or capacities, whether individual, partner, or
6 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
7 Defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
8 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and
9 believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or
10 corporate, were responsible in some manner for the acts and omissions alleged herein, and
11 proximately caused Plaintiff and the Classes to be subject to the unlawful employment practices
12 alleged herein.

13 13. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
14 herein, Defendants were and are the employers of Plaintiff and all members of the Classes. At all
15 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
16 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
17 them, were the agents, servants, and employees of each and every one of the other Defendants, as
18 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
19 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
20 and/or otherwise ratified each and every one of the acts or omissions complained of herein.

21 14. At all times mentioned herein, Defendants, including MasTec Network Solutions, Inc.,
22 MasTec Network Solutions, LLC, MasTec, Inc., MasTec North America, Inc., MasTec Renewables
23 Construction, Company were members of and engaged in a joint venture, partnership, and common
24 enterprise, and acting within the course and scope of and in pursuance of said joint venture,
25 partnership, and common enterprise. Further, Plaintiff alleges that all Defendants and herein named
26 related entities were joint employers for all purposes of Plaintiff and all members of the Classes.

27 **COMMON FACTUAL ALLEGATIONS**

28 15. Defendants specialize in designing, constructing and maintaining modern

1 communication networks and infrastructure, including power plants and renewable energy
2 construction. Plaintiff worked for Defendants as a "Project Coordinator" from August 1, 2016, until
3 the termination of her employment on July 29, 2022. Defendants employed Plaintiff and other non-
4 exempt employees (including laborers, project coordinators, and all other non-exempt positions)
5 throughout California. Plaintiff and other non-exempt employees were responsible for all aspects of
6 Defendants' business operations in California.

7 16. First, at all relevant times, Plaintiff and other non-exempt employees were not properly
8 paid minimum wages for all hours worked. Plaintiff and other non-exempt employees were required
9 to work while off-the-clock, and Defendants failed to record those hours worked and failed to pay
10 Plaintiff and other non-exempt employees for said hours worked off the clock.

11 17. Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed
12 by an applicable state or local law or by an order of the commission a civil penalty, restitution of
13 wages, and liquidated damages as follows: (1) for any initial violation that is intentionally committed,
14 one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
15 is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred
16 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
17 underpaid regardless of whether the initial violation was intentionally committed.

18 18. As set forth above, Defendants failed to compensate Plaintiff and other non-exempt
19 employees for all hours worked. Accordingly, through PAGA and to the extent permitted by law
20 Plaintiff and other non-exempt employees are entitled to recover liquidated damages for violations
21 of Labor Code § 1197.1.

22 19. As a result of Defendants' failure to record or pay Plaintiff and other non-exempt
23 employees for hours worked off the clock, Plaintiff and other non-exempt employees were not
24 properly paid at their overtime rate for all hours worked off the clock in excess of eight (8) hours per
25 workday and/or forty (40) hours per workweek.

26 20. Furthermore, at all relevant times, Plaintiff and other non-exempt employees were not
27 properly paid at the correct overtime rate for all hours worked in excess of eight (8) hours per workday
28 and/or forty (40) hours per workweek. Although Plaintiff and other non-exempt employees regularly

1 worked overtime hours, they were not compensated at one and one-half times their "regular rate of
2 pay" because Defendants failed to include all forms of compensation, including, but not limited to,
3 non-discretionary bonuses, shift differentials, incentive pay, and other forms of remuneration when
4 calculating the "regular rate of pay" used for payment of overtime wages.

5 21. Under the California Labor Code (as well as the FLSA), courts have consistently held
6 that regularly paid non-discretionary bonuses (and other forms of pay) must be included in
7 determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v.*
8 *The Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency
9 bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc.* 435 F.
10 Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgment to Plaintiff under California
11 and federal law on the grounds that Defendant improperly calculated overtime by excluding annual
12 bonuses paid to employees from the "regular rate of compensation"].)

13 22. By their policy of requiring Plaintiff and the other non-exempt employees to work in
14 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating
15 them at the lawful rate of one-half (1 1/2) their "regular rate of pay," Defendants willfully violated
16 the provisions of Labor Code § 510 and the applicable Wage Orders.

17 23. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
18 are entitled to recover unpaid wages and penalties for violations of Labor Code §§ 204, 210, 510,
19 1197.1.

20 24. Moreover, at all relevant times, Defendants failed in its obligation to provide Plaintiff
21 and other non-exempt employees the legally required paid sick days at the legal "regular rate of pay"
22 pursuant to Labor Code §§ 246(a),(b).

23 25. Pursuant to Labor Code §§ 246(a),(b), "[a]n employee who, on or after July 1, 2015,
24 works in California for the same employer for 30 or more days within a year from the commencement
25 of employment is entitled to paid sick days. . . at the rate of not less than one hour per every 30 hours
26 worked, beginning at the commencement of employment." Additionally, Labor Code § 246(l)(1)
27 provides that paid sick time for non-exempt employees must be "calculated in the same manner as
28 the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not

1 the employee actually works overtime in that workweek." Furthermore, Labor Code § 246(1)(2) states
2 that the paid sick time must be "calculated by dividing the employee's total wages, not including
3 overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90
4 days of employment." Finally, Labor Code § 246(i) requires employers to "provide an employee with
5 written notice that sets forth the amount of paid sick leave available, or paid time off leave an
6 employer provides in lieu of sick leave, for use on either the employee's itemized wage statement
7 described in Section 226 or in a separate writing provided on the designated pay date with the
8 employee's payment of wages."

9 26. Here, at all relevant times, Defendants failed in its obligation to provide Plaintiff and
10 other non-exempt employees the legally required paid sick days at the "regular rate of pay" pursuant
11 to Labor Code §§246(a),(b). Instead, Defendants paid sick time at the non-exempt employees' base
12 rate of pay, rather than the "regular rate of pay" as required by Labor Code §§246(1)(1-2).

13 27. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
14 are entitled to recover unpaid sick wages and penalties for violations of Labor Code § 246.

15 28. Moreover, Labor Code section 227.3 provides that whenever a contract of employment
16 or employer policy provides for paid vacations, and an employee is separated without having used
17 his or her vested vacation time, all vested vacation time shall be paid as wages at their final rate in
18 accordance with such contract of employment or employer policy respecting eligibility or time.

19 29. At all relevant times, Defendants held a policy and practice of providing paid vacation
20 time or paid time off to Plaintiff and other non-exempt employees. However, at all relevant times,
21 Defendants failed in its obligation to provide Plaintiff and other non-exempt employees the legally
22 required paid vacation time or paid time off at the time of their separation of employment with
23 Defendants, pursuant to Labor Code section 227.3. As such, Defendants have violated Labor Code
24 section 227.3 with respect to Plaintiff and other non-exempt employees.

25 30. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
26 are entitled to recover unpaid vacation wages and penalties for violations of Labor Code § 227.3.

27 31. At all relevant times, Plaintiff and the non-exempt employees were denied compliant
28 and timely 30-minute off-duty meal periods as mandated by California law. Due to Defendants'

1 uniform meal period policies/practices and work demands, the non-exempt employees were often
2 unable to take timely and uninterrupted 30-minute first meal periods before the end of the fifth hour
3 of work.

4 32. Further, when the non-exempt employees worked in excess of 10.0 hours in a shift,
5 they were not always allowed and permitted to take a mandated second meal period before the end
6 of the tenth hour of work in violation of the Labor Code and applicable Wage Orders.

7 33. Additionally, the non-exempt employees were not properly paid meal period premiums
8 for missed or non-compliant meal periods at the "regular rate of pay" pursuant to *Ferra v. Loews*
9 *Hollywood Hotel, LLC* (2021) 11 5th 858 and Labor Code § 226.7.

10 34. Defendants' Meal Periods and Breaks Policy, provides in relevant part as follows:
11 "Employees who work a full day receive a break for a meal period near the middle of the workday
12 and as required by applicable law. The length of your meal period may vary, but normally it is thirty
13 (30) minutes to one (1) hour. Your meal period is unpaid. Non-exempt employees must clock out at
14 the beginning of their meal period and clock back in when they resume working. No employee is
15 permitted to perform any work during any part of his/her designated meal period. You may not take
16 your meal period at the beginning or end of any scheduled workday. Your supervisor will help you
17 determine the appropriate time for your meal period. Every effort will be made to arrange lunch or
18 dinner periods with consideration for your personal needs, while minimizing disruptions to daily
19 operations."

20 35. Here, Defendants' meal period policy is facially invalid because it fails to provide for
21 the timing of first meal periods, (i.e., before the fifth hour of work), and fails to account for second
22 meal periods whatsoever. Further, the policy fails to state that employees are entitled to meal period
23 premiums for missed or non-compliant meal periods at the "regular rate of pay" pursuant to Labor
24 Code § 226.7.

25 36. Accordingly, due to Defendants' uniform meal period practices, Plaintiff and non-
26 exempt employees were also regularly denied legally compliant meal periods in violation of Labor
27 Code §§ 226.7, 512, 516, and applicable Wage Orders.

28 37. Next, at all relevant times, Plaintiff and the non-exempt employees were not provided

1 with all 10-minute rest periods for every four hours worked, or major fraction thereof due to
2 Defendants' uniform rest period policies/practices and work demands. As a result, the non-exempt
3 employees were and are routinely unable to take a net 10-minute duty free rest periods for every
4 major fraction of four hours worked. This includes a second rest period for shifts in excess of six
5 hours, and a third rest period for shifts in excess of 10 hours in a workday.

6 38. As to rest periods, Defendants' Meal Periods and Breaks Policy, provides in relevant
7 part as follows "Depending upon the laws of the state in which you are employed, you may also be
8 entitled to rest periods based on the number of hours worked. The Company will comply with all
9 applicable laws pertaining to meal and break periods."

10 39. Here, Defendants' rest period policy also facially fails to conform with the Labor Code,
11 which requires the provision of a net 10-minute rest period for every four hours of work "or major
12 fraction thereof," including a second meal period for shifts of 8.0 hours and third meal periods for
13 shifts in excess of 10.0 hours. Finally, the policy fails to provide for payment of rest period premium
14 payments at the "regular rate of pay" as required by Labor Code § 226.7.

15 40. In practice, by not relieving all non-exempt employees of all duties during rest periods,
16 Defendants failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services,*
17 *Inc.* (2016) 2 Cal. 5th 257, 269 [concluding that "during rest periods employers must relieve
18 employees of all duties and relinquish control over how employees spend their time."]. In *Augustus*,
19 the California Supreme Court expressly rejected the employers' assertion that it could provide an on-
20 duty rest period to employees who worked as security guards and further explained "that employers
21 [must] relinquish any control over how employees spend their break time and relieve their employees
22 of all duties." *Id.* at 273.

23 41. Each time the non-exempt employees were unable to take a compliant rest period,
24 Defendants failed and continues to fail to adequately pay rest period premium payments at the
25 "regular rate of pay" as required by Labor Code § 226.7.

26 42. Accordingly, due to Defendants' uniform rest period policies/practices and work
27 demands, the non-exempt employees were also regularly denied legally compliant rest breaks in
28 violation of Labor Code §§ 226.7, 512, and applicable Wage Orders.

1 43. Additionally, at all relevant times, Plaintiff and the non-exempt employees were not
2 provided with all legally required recovery periods due to Defendants' work demands. As a result,
3 the non-exempt employees were and are routinely unable to take recovery periods as required by
4 Labor Code § 226.7.

5 44. Labor Code § 226.7(a) states that, “‘recovery period’ means a cooldown period
6 afforded an employee to prevent heat illness.” California Code of Regulations, Title 8, § 3395(d)(3)
7 provides that, “[e]mployees shall be allowed and encouraged to take a preventative cool-down rest in
8 the shade when they feel the need to do so to protect themselves from overheating. Such access to
9 shade shall be permitted at all times. An individual employee who takes a preventative cool-down
10 rest . . . shall not be ordered back to work until any signs or symptoms of heat illness have abated but
11 in no event less than 5 minutes in addition to the time needed to access the shade.” Labor Code §
12 226.7(b) states that, “[a]n employer shall not require an employee to work during a . . . recovery period
13 mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the
14 Industrial Welfare Commission, the Occupational and Health Standards Board, or the Division of
15 Occupational Safety and Health.”

16 45. At all relevant times, Defendants prevented or discouraged Plaintiff and other non-
17 exempt employees from taking necessary recovery periods to prevent heat illness due to Defendants'
18 work demands. Even though Plaintiff and other non-exempt employees were not authorized and
19 permitted to take off-duty recovery periods, Defendants did not pay Plaintiff and other non-exempt
20 employees appropriate recovery period premium wages for each day in which Defendants did not
21 authorize and permit Plaintiffs and other non-exempt employees to take compliant recovery periods,
22 in violation of Labor Code § 226.7 and California Code of Regulations, Title 8, § 3395(d).

23 46. Furthermore, California Code of Regulations, Title 8, § 3395(i) provides that “[t]he
24 employer shall establish, implement, and maintain, an effective heat illness prevention plan. The plan
25 shall be in writing in both English and the language understood by the majority of the employees and
26 shall be made available at the worksite to employees and to representatives of the Division upon
27 request.”
28

1 47. However, at all relevant times, Defendants entirely failed to establish, implement, and
2 maintain any heat illness prevention plan. Defendants' employee handbook contains Defendants'
3 Meal Periods and Breaks Policy but does not include any information related to recovery periods or
4 a heat illness prevention plan. On information and belief, Plaintiff herein alleges that Defendants
5 failed to notify Plaintiff or other non-exempt employees of any heat illness prevention plan or rights
6 to take recovery periods.

7 48. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
8 are entitled to recover one additional hour of pay at the employee's "regular rate of pay" for each
9 workday that the recovery period is not provided pursuant to Labor Code § 226.7(c).

10 49. As a result of Defendants' failure to pay Plaintiff and other non-exempt employees all
11 minimum wages, overtime wages, sick pay, vacation pay, and meal, rest, and recovery period
12 premiums at the "regular rate of pay," Defendants issued wage statements which failed to accurately
13 identify the gross wages earned, the total hours worked, the net wages earned, and the correct
14 corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a)(1, 2,
15 5, and 9). In addition, Defendants' wage statements independently fail to state "all applicable rates
16 of pay and units" in violation of Labor Code 226(a)(9).

17 50. Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of
18 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
19 employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for
20 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
21 deduction statement or fails to keep the required in subdivision (a) of Section 226."

22 51. Thus, for the violations of Labor Code § 226 described above, Plaintiff and other non-
23 exempt employees may also recover Labor Code § 226.3 penalties for Defendants' violations of Labor
24 Code § 226(a). Consequently, because Defendants failed to comply with Labor Code § 226(a),
25 Plaintiff and other non-exempt employees would be entitled to recover penalties under Labor Code §
26 226(e).

27 52. As a further result of Defendants' failure to pay all minimum wages, overtime wages,
28 sick pay and vacation wages, and meal, rest, and recovery period premiums at the "regular rate of

1 pay," Defendants also failed and continues to fail to pay the non-exempt employees all wages owed
2 during their employment and at their time of separation from employment in violation of Labor Code
3 §§ 201-204.

4 53. At all relevant times, Plaintiff and other non-exempt employees, at the direction of
5 Defendants and/or Defendants' knowledge and acquiescence, have used their personal cell phones to
6 communicate with their supervisors, managers, and co-workers in the discharge of their duties, and
7 for other work-related purposes. Defendants required Plaintiff and other non-exempt employees to
8 incur the costs associated with business use of their personal cell phones and did not provide any
9 reimbursement of these costs. (See *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th
10 1137 ("We hold that when employees must use their personal cell phones for work-related calls,
11 Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell
12 phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable
13 percentage of their cell phone bills.") (reversing denial of class certification in cell phone
14 reimbursement class action and setting forth the applicable law for these claims); *Aguilar v. Zep, Inc.*,
15 2014 WL 4245988 *17 (N.D. Cal. 2014) (granting Plaintiff's motion for partial summary judgment
16 on the Mr. Toys' cell phone reimbursement claim); *Ritchie v. Blue Shield of California*, 2014 WL
17 6982943, at *21 (N.D. Cal. 2014) (certifying class of cell phone reimbursement claim and adopting
18 the logic of *Cochran*).

19 54. Here, although Plaintiff and other non-exempt employees routinely used their personal
20 cell phones in the discharge of their job duties with the knowledge or acquiescence of Defendants,
21 they were not reimbursed in any amount for expenses incurred. Defendants' failure to reimburse
22 Plaintiff and other non-exempt employees for their ongoing cell phone business expenses incurred in
23 the discharge of their duties continues through the present day. Indeed, any reimbursement is absent
24 from Plaintiff's wage statements during her employment.

25 55. Accordingly, due to Defendants' failure to reimburse for necessary business
26 expenditures in violation of Labor Code §§ 2802-2804 and applicable Wage Orders.

27 56. Moreover, at all relevant times, Plaintiff and other non-exempt employees were
28 required by Defendants' policies and procedures to use personal protective equipment, such as

1 earplugs, while performing work duties and responsibilities, for safety reasons. However, at all
2 relevant times, Defendants failed to provide Plaintiff and the Putative Classes with personal protective
3 equipment, such as earplugs, to keep them safe.

4 57. Labor Code section 6401 states: “Every employer shall furnish and use safety devices
5 and safeguards, and shall adopt and use practices, means, methods, operations, and processes which
6 are reasonably adequate to render such employment and place of employment safe and healthful.
7 Every employer shall do every other thing reasonably necessary to protect the life, safety, and health
8 of employees.”

9 58. Accordingly, Defendants failed to provide all necessary equipment to Plaintiff and the
10 Putative Classes to ensure they were safe while working, in violation of Labor Code sections 6401
11 and 6403. As such, Plaintiff and the Putative Classes are entitled to recover penalties, attorneys’ fees,
12 costs, and interest thereon, pursuant to Labor Code section 2699(a), (f), and (g).

13 59. Furthermore, at all relevant times, Defendants, as the relevant employers here, were
14 required to maintain certain employment and payroll records for Plaintiff and other non-exempt
15 employees.

16 60. Pursuant to Labor Code § 1174, subdivision (d), an employer shall keep at a central
17 location in the state or at the plants or establishments at which employees are employed, payroll
18 records showing the hours worked daily by and wages paid to employees employed at the respective
19 plants or establishments. These records must be kept in accordance with rules established for this
20 purpose by the commission, but in any case, shall be kept on file for not less than two years.

21 61. Defendants have intentionally and willfully failed to keep accurate and complete
22 records showing the daily hours worked and wages paid to Plaintiff and other non-exempt employees.
23 Thus, Plaintiff and the other non-exempt employees have been denied their legal right and protected
24 interest in having available at a central location at the plant or establishment where they are employed
25 accurate and complete payroll records showing the hours worked daily and the wages paid to,
26 employees at those respective locations pursuant to Labor Code § 1174.

27 62. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
28 are entitled to recover a civil penalty of \$500 for an employer’s failure to maintain accurate and

1 complete records pursuant to Labor Code § 1174.5.

2 63. Moreover, at all relevant times, Defendants failed to provide or timely provide Plaintiff
3 and other non-exempt employees with their respective personnel files, signed documents and payroll
4 records.

5 64. Labor Code section 226(c), in relevant part, states: “An employer who receives a
6 written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
7 or former employee shall comply with the request as soon as practicable, but no later than 21 calendar
8 days from the date of the request.”

9 65. Additionally, Labor Code section 1198.5(a), states: “Every current and former
10 employee, or his or her representative, has the right to inspect and receive a copy of the personnel
11 records that the employer maintains relating to the employee’s performance or to any grievance
12 concerning the employee.” Further, California Labor Code section 1198.5(b)(1), in relevant part,
13 states: “The employer shall make the contents of those personnel records available for inspection to
14 the current or former employee, or his or her representative, at reasonable intervals and at reasonable
15 times, but not later than 30 calendar days from the date the employer receives a written request, unless
16 the current or former employee, or his or her representative, and the employer agree in writing to a
17 date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35
18 calendar days from the employer’s receipt of the written request.”

19 66. Finally, Labor Code section 432, states: “If an employee or applicant signs any
20 instrument relating to the obtaining or holding of employment, he shall be given a copy of the
21 instrument upon request.”

22 67. However, at all relevant times, Defendants have intentionally and willfully failed to
23 provide or timely provide personnel and payroll records to Plaintiff and other non-exempt employees
24 upon their respective requests for the same. Therefore, Defendants failed to permit Plaintiff and the
25 Putative Classes to inspect their respective personnel files and payroll records in violation of
26 California Labor Code sections 226, 432, and 1198.5.

27 68. Accordingly, to the extent permitted by law, Plaintiff and other non-exempt employees
28 are entitled to recover a seven-hundred-fifty-dollar (\$750) penalty from Defendants pursuant to Labor

1 Code §§ 226(f) and 1198.5(k), in addition to reasonable attorneys' fees and costs pursuant to Labor
2 Code § 1198.5(l).

3 69. Finally, at all relevant times, Defendants failed to provide Plaintiff and other non-
4 exempt employees with written notice that included all material information changes related to
5 Plaintiff's and other non-exempt employees' respective employment, including "rates of pay and
6 basis thereof ... Allowances... [and] [t]he regular payday designated by the employer." Labor Code
7 section 2810.5(a)(1)(A)-(C).

8 70. Labor Code section 2810.5, California's Wage Theft Prevention Act, ensures that
9 employees are provided with basic and material information about their employment by their
10 employer, in writing, at the commencement of employment. Further, the employer must provide the
11 employee with a new and updated writing any time material information about the employee's
12 employment is changed or modified. Labor Code section 2810.5(a)(1)(A)-(C).

13 71. However, at all relevant times, Defendants failed to so provide Plaintiff and other non-
14 exempt employees with such written notices. Accordingly, Plaintiff and the Putative Classes are
15 entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

16 **CLASS ACTION ALLEGATIONS**

17 72. Plaintiff brings this action on behalf of herself and the following Classes pursuant to §
18 382 of the Code of Civil Procedure:

19 All non-exempt employees who work or worked for Defendants in
20 California during the four years immediately preceding the filing of the
Complaint through the date of trial. ("Class");

21 All non-exempt employees who worked for Defendants in California and
22 who worked overtime hours during at least one shift during the four years
23 immediately preceding the filing of the Complaint through the date of trial.
("Overtime Subclass");

24 All non-exempt employees who work or worked for Defendants in
25 California during one year immediately preceding the filing of the
26 Complaint through the date of trial. ("Wage Statement Subclass")

27 All non-exempt employees who work or worked for Defendants in
28 California, and who left their employ during the three years immediately

preceding the filing of the Complaint through the date of trial. (“Waiting Time Penalty Subclass”)
(collectively “the Classes”)

73. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes consist of at least one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants’ employment and payroll records.

74. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

1. Whether Defendants’ pay policies/practices resulted in a failure to pay all minimum wages because Defendants required off the clock work and did not record off the clock hours worked;

2. Whether Defendants’ pay policies/practices resulted in a failure to pay all overtime wages because Defendants required off the clock work and did not record off the clock hours worked.

3. Whether Defendants’ pay policies/practices resulted in a failure to pay all overtime wages at the “regular rate of pay” because Defendants failed to include all forms of compensation, including, but not limited to, shift differentials, non-discretionary bonuses, incentive pay, and other forms of remuneration;

4. Whether Defendants’ payroll policies/practices resulted in a failure to pay all sick pay at the “regular rate of pay”;

5. Whether Defendants’ payroll policies/practices resulted in a failure to pay all vacation or paid time off wages at the separation of employment with Defendants;

6. Whether Defendants provided legally compliant meal, rest, and recovery periods or proper compensation in lieu thereof to members of the Class;

7. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Subclass pursuant to Labor Code § 226(a);

8. Whether the timing and amount of payment of final wages to members of the Waiting

1 Time Penalty Subclass at the time of separation from employment were unlawful;

2 9. Whether the timing and amount of payment of wages made to members of the Class
3 during employment were unlawful;

4 10. Whether Defendants failed to maintain necessary personnel and payroll records;

5 11. Whether Defendants failed to provide copies of personnel and payroll records upon
6 request;

7 12. Whether Defendants failed to provide written notice of changes to material employment
8 information, including termination of employment;

9 13. Whether Defendants failed to provide safety devices and safeguards; and

10 14. Whether Defendants failed to reimburse necessary business expenses.

11 75. **Predominance of Common Questions:** Common questions of law and fact
12 predominate over questions that affect only individual members of the Classes. The common
13 questions of law set forth above are numerous and substantial and stem from Defendants' policies
14 and/or practices applicable to each individual class member, such as but without limitation,
15 Defendants' failure to pay all overtime wages and sick pay at the "regular rate" including all forms
16 of compensation, Defendants' practice of failing to provide all compliant meal, rest and recovery
17 periods or adequate compensation at the "regular rate of pay" in lieu thereof, Defendants' resulting
18 failure to provide accurate itemized wage statements and to pay for all wages due upon separation of
19 employment. As such, the common questions predominate over individual questions concerning each
20 class member's showing as to his or her eligibility for recovery or the amount of his or her damages.

21 76. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
22 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
23 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein,
24 Plaintiff, like the members of the Classes, was deprived of minimum wages, overtime wages, and
25 sick pay at the "regular rate," was subject to Defendants' meal, rest, and recovery period
26 policies/practices, was not provided accurate itemized wage statements, was not provided her
27 personnel file and payroll records upon request to Defendant, was not provided all necessary safety
28 equipment and safeguards, was not provided written notice of material changes to employment, was

1 not reimbursed for all business expenses, and was not paid all wages owed upon separation of
2 employment.

3 77. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
4 represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
5 attorneys are ready, willing, and able to fully and adequately represent the members of the Classes.
6 Plaintiff's attorneys have prosecuted and are actively litigating several wage-and-hour class actions
7 in state and federal courts and are committed to vigorously prosecuting this action on behalf of the
8 members of the Classes.

9 78. **Superiority:** The California Labor Code is broadly remedial in nature and serves an
10 important public interest in establishing minimum working conditions and standards in California.
11 These laws and labor standards protect the average working employee from exploitation by
12 employers who have the responsibility to follow the laws and who may seek to take advantage of
13 superior economic and bargaining power in setting onerous terms and conditions of employment. The
14 nature of this action and the format of laws available to Plaintiff and members of the Classes make
15 the class action format a particularly efficient and appropriate procedure to redress the violations
16 alleged herein. If each employee were required to file an individual lawsuit, Defendants would
17 necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the
18 limited resources of each individual plaintiff with their vastly superior financial and legal resources.

19 79. Moreover, requiring each member of the Classes to pursue an individual remedy would
20 also discourage the assertion of lawful claims by employees who would be disinclined to file an action
21 against their former and/or current employer for real and justifiable fear of retaliation and permanent
22 damages to their careers at subsequent employment. Further, the prosecution of separate actions by
23 the individual class members, even if possible, would create a substantial risk of inconsistent or
24 varying verdicts or adjudications with respect to the individual class members against Defendants
25 herein and which would establish potentially incompatible standards of conduct for Defendants;
26 and/or legal determinations with respect to individual class members which would, as a practical
27 matter, be dispositive of the interest of the other class members not parties to adjudications or which
28 would substantially impair or impede the ability of the class members to protect their interests.

1 Further, the claims of the individual members of the class need to be sufficiently large to warrant
2 vigorous individual prosecution, considering all of the concomitant costs and expenses attending
3 thereto. As such, the Classes identified in Paragraph 71 are maintainable as Classes under § 382 of
4 the Code of Civil Procedure.

5 **FIRST CAUSE OF ACTION**

6 **FAILURE TO PAY ALL OVERTIME WAGES**

7 **(AGAINST ALL DEFENDANTS)**

8 80. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 81. This cause of action is brought pursuant to Labor Code §§ 204, 210, 510, 558, 1194,
10 and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime
11 hours worked and provide a private right of action for the failure to pay all overtime compensation
12 for overtime work performed.

13 82. At all times relevant herein, Defendants were required to properly pay Plaintiff and
14 members of the Overtime Subclass for all overtime hours worked pursuant to California Labor Code
15 § 1194 and the applicable Wage Orders.

16 83. Section 3 of the applicable Wage Order requires an employer to pay an employee “one
17 and one-half (1 1/2) times the employee’s regular rate of pay” for work in excess of 8 hours per
18 workday and/or in excess of 40 hours of work in the workweek. The same section also requires an
19 employer to pay an employee double the employee’s regular rate of pay for work in excess of twelve
20 hours each workday and/or for work in excess of 8 hours on the seventh consecutive day of work in
21 the workweek. Defendants caused Plaintiff to work overtime hours but did not compensate Plaintiff
22 or members of the Overtime Subclass at one and one-half times their regular rate of pay for such
23 hours.

24 84. Defendants failed to include all forms of compensation, including, but not limited to,
25 shift differentials, non-discretionary bonuses, incentive pay, and other forms of remuneration when
26 calculating the “regular rate of pay” used in payment of overtime wages, all of which resulted in
27 Plaintiff and the Overtime Subclass not being paid all overtime wages owed.

85. The foregoing policies and practices are unlawful and create an entitlement to recovery by Plaintiff and the members of the Overtime Subclass in a civil action for the unpaid amount of overtime wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code §§ 204, 210, 510, 1194, and 1198, the applicable Wage Orders, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

FAILURE TO PAY ALL SICK TIME

(AGAINST ALL DEFENDANTS)

86. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

87. This cause of action is brought pursuant to Labor Code §§ 246, 558, 1194.2, 1197.1, 1198, and 1199 which provide that non-exempt employees are entitled to have their sick time paid at the regular rate, including all forms of compensation/remuneration.

88. At all times relevant herein, Defendants were required to properly pay Plaintiff and members of the Class for all accrued sick leave taken, pursuant to California Labor Code § 246.

89. Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful policy/practice of failing to include all forms of compensation, including but not limited to shift differentials, non-discretionary bonuses, and other forms of remuneration into the calculation of the "regular rate of pay," which resulted in Plaintiff and the Class not being paid all sick time wages owed.

90. The foregoing policies and practices are unlawful and creates an entitlement to recovery by Plaintiff and the members of the Class in a civil action for the unpaid amount of sick time wages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code §§ 233, 234, 246, 246.5, 558, 1194.2, 1197.1, 1198, the applicable Wage Orders, and Code of Civil Procedure § 1021.5.

THIRD CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

91. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

1 92. Labor Code § 512(a), in part, provides that employers, including Defendants, may
2 not employ an employee for a work period of more than five (5) hours per day without providing
3 the employee the opportunity to take an uninterrupted meal period of not less than thirty (30)
4 minutes, except that if the total work period per day of the employee is no more than six (6) hours,
5 the meal period may be waived by mutual consent of both the employer and the employee.
6 Employers may not employ an employee for a work period of more than ten (10) hours per day
7 without providing the employee with a second meal period of not less than thirty (30) minutes.
8 Furthermore, Labor Code § 512(b) requires employers to provide uninterrupted meal periods to
9 employees before the commencement of the employees' sixth (6th) hour of work.

10 93. Pursuant to Labor Code § 226(b) and the applicable IWC Wage Order, Defendants
11 shall pay an employee one (1) additional hour of pay at the employee's "regular rate of pay" for
12 each meal period that is missed.

13 94. At all relevant times, Plaintiff and the Class were denied compliant and timely 30-
14 minute off-duty meal periods as mandated by California law. Specifically, due to Defendants'
15 uniform meal period policies/practices and operating requirements, Plaintiff and the Class often
16 could not take timely and uninterrupted 30-minute first meal periods before the end of the fifth hour
17 of work. Further, when Plaintiff and the Class worked in excess of 10.0 hours in a shift, they were
18 not always allowed and permitted to take a mandated second meal period before the end of the tenth
19 hour of work in violation of the Labor Code and applicable Wage Orders.

20 95. Additionally, for each missed or non-compliant meal period, Defendants failed to
21 maintain a mechanism by which non-exempt employees were paid meal period premiums at the
22 "regular rate of pay" pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 5th 858 and Labor
23 Code § 226.7.

24 96. Accordingly, as a result of Defendants' failure to provide legally compliant meal
25 periods in violation of Labor Code §§ 226.7, 510, 516, and applicable IWC Wage Orders.

26 **FOURTH CAUSE OF ACTION**

27 **REST PERIODS VIOLATIONS**

28 **(AGAINST ALL DEFENDANTS)**

1 97. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

2 98. During the relevant time period, Plaintiff and the Class were not provided with all
3 10-minute rest periods for every four hours worked, or a major fraction thereof due to Defendants'
4 uniform rest period policies/practices and scheduling practices. As a result, Plaintiff and the Class
5 were and are often unable to take a net 10-minute duty-free rest period for every major fraction of
6 four hours worked. This includes a second rest period for shifts in excess of six hours and a third
7 rest period for shifts in excess of 10 hours in a workday.

8 99. By not relieving all non-exempt employees of all duties during rest periods, PGP
9 failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc.* (2016)
10 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve employees of all
11 duties and relinquish control over how employees spend their time.”]. In *Augustus*, the California
12 Supreme Court expressly rejected the employer’s assertion that it could provide an on-duty rest
13 period to employees who worked as security guards and further explained: “that employers [must]
14 relinquish any control over how employees spend their break time and relieve their employees of
15 all duties.” *Id.* at 273.

16 100. Additionally, for each missed or non-compliant rest period, Defendants failed to
17 maintain a mechanism by which non-exempt employees were paid rest period premiums at the
18 “regular rate of pay” pursuant to Labor Code § 226.7.

19 101. Accordingly, as a result of Defendants’ failure to provide legally compliant rest
20 periods in violation of Labor Code §§ 226.2, 226.7, 512, and applicable IWC Wage Orders.

21 **FIFTH CAUSE OF ACTION**

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

23 **(AGAINST ALL DEFENDANTS)**

24 102. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 103. Labor Code § 226(a) states in pertinent part the following:

26 “(a) An employer, semimonthly or at the time of each payment of wages,
27 shall furnish to his or her employee, either as a detachable part of the check,
28 draft, or voucher paying the employee’s wages, or separately if wages are
paid by personal check or cash, an accurate itemized statement in writing

1 showing (1) gross wages earned, (2) total hours worked by the employee,
2 (3) the number of piece-rate units earned and any applicable piece rate if the
3 employee is paid on a piece-rate basis, (4) all deductions, provided that all
4 deductions made on written orders of the employee may be aggregated and
5 shown as one item, (5) net wages earned, (6) the inclusive dates of the
6 period for which the employee is paid, (7) the name of the employee and
7 only the last four digits of his or her social security number or an employee
8 identification number other than a social security number, (8) the name and
9 address of the legal entity that is the employer, and (9) all applicable hourly
10 rates in effect during the pay period and the corresponding number of hours
11 worked at each hourly rate by the employee.”

12 104. As set forth above, during the Class Period, Defendants issued and continue to issue
13 wage statements to its employees including Plaintiff and members of the Wage Statement Subclass,
14 which are inadequate under Labor Code section 226(a).

15 105. As a result of Defendants failure to pay Plaintiff and the Wage Statement Subclass for
16 all and overtime wages and sick pay at the regular rate of pay, Defendants failed to include required
17 information on Plaintiff and the Wage Statement Subclass’ wage statements, including, but not
18 limited to, the gross wages earned, the net wages earned in violation of Labor Code section
19 226(a)(1,2,5, and 9).

20 106. Further, during the relevant time period, Defendants’ wage statements also failed to
21 state “all applicable rates of pay and units” in violation of Labor Code § 226(a)(9).

22 107. Defendants’ failure to comply with section 226(a) of the Labor Code was knowing
23 and intentional.

24 108. As a result of Defendants’ issuance of inaccurate itemized wage statements to Plaintiff
25 and members of the Wage Statement Subclass in violation of section 226(a) of the California Labor
26 Code, Plaintiff and members of the Wage Statement Subclass are each entitled to recover an initial
27 penalty of \$50, and subsequent penalties of \$100, up to an amount not exceeding an aggregate penalty
28 of \$4,000 per Plaintiff and per every member of the Wage Statement Subclass from Defendants
pursuant to section 226(e) of the Labor Code, costs and reasonable attorneys’ fees.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY NECESSARY BUSINESS EXPENSES**

3 **(AGAINST ALL DEFENDANTS)**

4 79. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 80. It was necessary for Plaintiffs and Class members to incur various expenses as outlined
6 above in the discharge of their job duties. These expenses include but are not limited to expenses
7 associated with using a personal cell phone with a data plan and expenses related to the performance
8 of their job duties. Although Plaintiffs and members of the Class incurred these expenses at the
9 direction of Defendants and/or in the direct discharge of their job duties, Defendants did not
10 adequately reimburse these employees for such necessary work expenditures during the four years
11 preceding the filing of the Complaint.

12 81. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
13 states that “an employer shall indemnify his or her employees for all necessary expenditures or losses
14 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
15 obedience to the directions of the employer.”

16 82. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
17 states that “any contract or agreement, express or implied, made by any employee to waive the
18 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
19 employee or his personal representative of any right or remedy to which he is entitled under the laws
20 of this State.”

21 83. As a proximate result of Defendants’ policies and/or practices in violation of Labor
22 Code §§ 2802 and 2804, Plaintiff and members of the Classes were damaged in sums, which will be
23 shown according to proof at trial.

24 84. Plaintiff and members of the Classes are entitled to attorneys’ fees and costs of suit
25 pursuant to Labor Code § 2802(c) for bringing this action.

26 85. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
27 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiffs
28 and members of the Class are entitled to interest, which shall accrue from the date on which they

1 incurred the initial necessary expenditure.

2 **SEVENTH CAUSE OF ACTION**

3 **WAITING TIME PENALTIES**

4 **(AGAINST ALL DEFENDANTS)**

5 86. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

6 87. The actionable period for this cause of action is three years prior to the filing of this
7 Complaint through the present, and on-going until the violation is corrected or the class is certified.

8 88. Labor Code §§ 201 and 202 require Defendants to pay all compensation due and owing
9 to Plaintiff and the Waiting Time Subclass during the actionable period for this cause of action at or
10 around the time that their employment is or was terminated or ended.

11 89. Labor Code § 203 provides that if an employer willfully fails to pay compensation
12 promptly upon discharge or resignation, as required by Labor Code sections 201 and 202, then the
13 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

14 90. Defendants willfully failed to pay all overtime wages, sick pay, and premium wages
15 for missed meal and rest periods prior to or upon termination or separation from employment with
16 Defendants as required by Labor Code §§ 201 and 202.

17 91. As a result, Defendants are liable to the Waiting Time Subclass for waiting time
18 penalties amounting to thirty (30) days wages for Plaintiff and the Waiting Time Subclass pursuant
19 to Labor Code §§ 203 and 256. *See, e.g., DLSE Manual, 4.3.4 (Failure to pay any wages due upon*
20 *separation entitles an employee to recover waiting time penalties).*

21 **EIGHTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **(AGAINST ALL DEFENDANTS)**

24 92. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 93. Defendants have engaged and continue to engage in unfair and/or unlawful business
26 practices in California in violation of California Business and Professions Code § 17200 *et seq.* by
27 failing to pay all minimum and overtime wages, sick and vacation pay, and premium wages for missed
28 meal, rest and recovery periods.

94. Defendants' utilization of these unfair and/or unlawful business practices deprives Plaintiff and continues to deprive members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

95. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for herself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

96. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

97. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current hourly non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which she is entitled to recover under Code of Civil Procedure § 1021.5.

NINTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT PENALTIES

(AGAINST ALL DEFENDANTS)

109. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

110. Defendants have committed several Labor Code violations against Plaintiff and other non-exempt employees. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other non-exempt employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly non-exempt employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided based on the following Labor Code violations:

1 a. dFailing to provide Plaintiff and other non-exempt employees all minimum and
2 overtime wages, sick and vacation pay compensation at the appropriate premium rate in violation of
3 Labor Code §§ 204, 210, 221, 223, 227.3, 233, 234, 246, 246.5, 510, 558, 558.1, 1182.12, 1194,
4 1194.2, 1197, 1197.1, 1198, and 1199;

5 b. Failing to provide Plaintiff and other non-exempt employees with all of their
6 statutorily mandated meal, rest or recovery periods or compensation at the “regular rate of pay” in
7 lieu thereof in violation of Labor Code §§ 204, 226.2, 226.7, 510, 512, 516, 558, 1194 and 1198, and
8 California Code of Regulations, Title 8, § 3395;

9 c. Failing to reimburse Plaintiff and other non-exempt employees for all necessary
10 business expenditures in violation of Labor Code §§ 2800, 2802, and 2804;

11 d. Failing to timely compensate Plaintiff and other non-exempt employees with all
12 earnings during and at their separation of employment in violation of Labor Code §§ 200-204, 210,
13 216, 218, 218.5, and 256;

14 e. Failing to furnish Plaintiff and other non-exempt employees with complete,
15 accurate, itemized wage statements in violations of Labor Code §§ 226(a) and 226.3;

16 f. Failing to maintain and provide copies of employment records, personnel files and
17 payroll records in violation of Labor Code §§ 226, 432, 1174, 1174.5, and 1198.5;

18 g. Failing to provide written notice of material changes to employment, including
19 termination of employment in violation of Labor Code § 2810.5; and

20 h. Failing to provide safety devices and safeguards in violation of Labor Code §§ 6401
21 and 6403.

22 111. On or about October 13, 2022 and January 10, 2024, Plaintiff notified Defendants
23 MasTec Services Company, Inc. Sefnco Communications, Inc., via certified mail, and the California
24 Labor and Workforce Development Agency (“LWDA”) via its website of Defendants’ violations of
25 the California Labor Code § 2698 *et seq.*, with respect to violations of the California Labor Code
26 identified in Paragraph 110(a)-(h).

27 112. Plaintiff will have exhausted her administrative requirements for bringing a claim
28 under the Private Attorneys General Act with respect to these violations.

1 113. Plaintiff was compelled to retain the services of counsel to file this court action to
2 protect their interests and the interests of other non-exempt employees, and to assess and collect the
3 civil penalties owed by Defendants. Plaintiff has hereby incurred attorneys' fees and costs, which she
4 is entitled to receive under California Labor Code § 2698 *et seq.*

5
6 **TENTH CAUSE OF ACTION**
7 **FAILURE TO PAY MINIMUM WAGES**
8 **(AGAINST ALL DEFENDANTS)**

9 114. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

10 115. Section 4 of the applicable Wage Orders and California Labor Code §§ 1197 and
11 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts
12 set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been
13 paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance
14 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to
15 the unpaid wages and interest accrued thereon.

16 116. At all relevant times herein, Defendants failed to conform their pay practices to the
17 requirements of the law. This unlawful conduct includes but is not limited to Defendants' requiring
18 that Plaintiff and the Classes work while off the clock, resulting in these individuals not being paid
19 for all hours actually worked. Accordingly, Plaintiff and the Classes were not compensated for all
20 hours worked including, but not limited to, all hours they were subject to the control of Defendants
21 and/or suffered or permitted to work under the California Labor Code and applicable Wage Orders.

22 117. Labor Code § 1198 makes unlawful the employment of an employee under
23 conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an
24 employer who has failed to pay its employees the legal minimum wage is liable to pay those
25 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal
26 to the wages due and interest thereon.

27 118. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
28 Plaintiff and the Classes have sustained economic damages, including but not limited to unpaid wages

1 and lost interest, in an amount to be established at trial, and they are entitled to recover economic and
2 statutory damages and penalties and other appropriate relief as a result of Defendants' violations of
3 the California Labor Code and applicable Wage Orders.

4 119. Defendants' practice and uniform administration of corporate policy regarding
5 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the
6 Classes in a civil action for the unpaid amount of minimum wages, liquidated damages, including
7 interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code §§ 204,
8 558, 558.1, 1194 *et seq.*, 1197, 1197.1 1198, and Code of Civil Procedure § 1021.5.

9 **ELEVENTH CAUSE OF ACTION**

10 **FAILURE TO MAINTAIN PAYROLL RECORDS**

11 **(AGAINST ALL DEFENDANTS)**

12 120. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 121. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall
14 keep at a central location in the state or at the plants or establishments at which employees are
15 employed, payroll records showing the hours worked daily by and wages paid to employees employed
16 at the respective plants or establishments. These records must be kept in accordance with rules
17 established for this purpose by the commission, but in any case shall be kept on file for at least two
18 years.

19 122. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure
20 to maintain accurate and complete records.

21 123. Defendants have intentionally and willfully failed to keep accurate and complete
22 records showing the hours worked daily and wages paid to Plaintiff and the Classes. Thus, Plaintiff
23 and the Classes have been denied their legal right and protected interest in having available at a central
24 location at the plant or establishment where they are employed, accurate and complete payroll records
25 showing the hours worked daily by, and the wages paid to, employees at those respective locations
26 pursuant to Labor Code § 1174.

1 **TWELFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE COPIES OF RECORDS**

3 **(AGAINST ALL DEFENDANTS)**

4 124. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 125. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall
6 keep at a central location in the state or at the plants or establishments at which employees are
7 employed, payroll records showing the hours worked daily by and wages paid to employees employed
8 at the respective plants or establishments. These records must be kept in accordance with rules
9 established for this purpose by the commission, but in any case shall be kept on file for not less than
10 two years.

11 126. California Labor Code section 226(c), in relevant part, states: "An employer who
12 receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to
13 a current or former employee shall comply with the request as soon as practicable, but no later than
14 21 calendar days from the date of the request." Further, Cal. Labor Code § 226(f) states: "A failure
15 by an employer to permit a current or former employee to inspect or copy records within the time set
16 forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover
17 a seven-hundred-fifty-dollar (\$750) penalty from the employer."

18 127. California Labor Code section 432, states: "If an employee or applicant signs any
19 instrument relating to the obtaining or holding of employment, he shall be given a copy of the
20 instrument upon request."

21 128. California Labor Code section 1198.5(a), states: "Every current and former
22 employee, or his or her representative, has the right to inspect and receive a copy of the personnel
23 records that the employer maintains relating to the employee's performance or to any grievance
24 concerning the employee." Further, California Labor Code section 1198.5(b)(1), in relevant part,
25 states: "The employer shall make the contents of those personnel records available for inspection to
26 the current or former employee, or his or her representative, at reasonable intervals and at reasonable
27 times, but not later than 30 calendar days from the date the employer receives a written request, unless
28 the current or former employee, or his or her representative, and the employer agree in writing to a

1 date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35
2 calendar days from the employer's receipt of the written request." Further, California Labor Code
3 section 1198.5(k) states: "If an employer fails to permit a current or former employee, or his or her
4 representative, to inspect or copy personnel records within the times specified in this section, or times
5 agreed to by mutual agreement as provided in this section, the current or former employee or the
6 Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer."
7 Further, California Labor Code § 1198.5(l) states: "A current or former employee may also bring an
8 action for injunctive relief to obtain compliance with this section and may recover costs and
9 reasonable attorney's fees in such an action."

10 129. Defendants have intentionally and willfully failed to provide or timely provide
11 personnel and payroll records to Plaintiff and the Records Request Subclass upon their respective
12 requests for the same. Therefore, Defendants failed to permit Plaintiff and the Records Request
13 Subclass to inspect their respective personnel files and payroll records in violation of California Labor
14 Code sections 226, 432, and 1198.5.

15 **THIRTEENTH CAUSE OF ACTION**

16 **FAILURE TO TIMELY PAY WAGES OWED DURING EMPLOYMENT**

17 **(AGAINST ALL DEFENDANTS)**

18 130. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 131. Labor Code § 200 provides that "wages" include all amounts for labor performed by
20 employees of every description, whether the amount is fixed or ascertained by the standard of time,
21 task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that
22 all wages earned by any person in any employment are payable twice during the calendar month and
23 must be paid not more than seven days following the close of the period when the wages were earned.
24 Labor Code section 210, subdivision (a), makes employers who violate Labor Code section 204
25 subject to a penalty of \$100 for any initial failure to timely pay each employee's full wages and \$200
26 for each subsequent violation, plus 25% of the amount unlawfully withheld.

27 132. Labor Code section 216 establishes that it is a misdemeanor for any person, with
28 regards to wages due, to "falsely deny the amount or validity thereof, or that the same is due, with

1 intent to secure himself, his employer or other person, any discount upon such indebtedness, or with
2 intent to annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is
3 due.”

4 133. Defendants as a matter of established company policy and procedure in the State of
5 California, without limitation, scheduled, required, suffered, and/or permitted Plaintiff and the
6 Classes, to work without full compensation, to work without legally-compliant off-duty meal periods,
7 to work without legally-compliant off-duty rest and recovery periods, failed to reimburse all business
8 expenses, failed to pay sick wages, and thereby failed to fully pay Plaintiff and the Classes within
9 seven days of the close of payroll, as required by law.

10 134. Defendants, as a matter of established company policy and procedure in the State of
11 California, falsely deny they owe Plaintiff and the Classes these wages, with the intent of securing
12 for itself a discount upon its indebtedness and/or to annoy, harass, oppress, hinder, delay, and/or
13 defraud Plaintiff and the Classes.

14 135. Defendants’ pattern, practice, and uniform administration of its corporate policy of
15 illegally denying employees compensation, as described herein, is unlawful and entitles Plaintiff and
16 the Classes to recover, pursuant to Labor Code section 218, the unpaid balance of the compensation
17 owed to them in a civil action and any applicable penalties, attorney fees, and interest owed to them
18 pursuant to Labor Code sections 210 and 218.5.

19 **FOURTEENTH CAUSE OF ACTION**

20 **FAILURE TO PROVIDE WRITTEN NOTICE OF EMPLOYMENT TERMINATION**
21 **(AGAINST ALL DEFENDANTS)**

22 136. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 137. Labor Code section 2810.5, California’s Wage Theft Prevention Act, ensures that
24 employees are provided with basic and material information about their employment by their
25 employer, in writing, at the commencement of employment. Further, the employer must provide the
26 employee with a new and updated writing any time material information about the employee’s
27 employment is changed or modified. Labor Code section 2810.5(a)(1)(A)-(C).

28 138. An employer must provide the “rates of pay and basis thereof ... Allowances... [and]

1 [t]he regular payday designated by the employer.” Labor Code section 2810.5(a)(1)(A)-(C).

2 139. At all relevant times, Defendants failed to provide Plaintiff and the Termination
3 Notice Subclass with written notice that included all information required by Labor Code section
4 2810.5(a)(1)(A)-(C).

5 140. Accordingly, Plaintiff and the Classes are entitled to recover civil penalties pursuant
6 to Labor Code sections 2699(a), (f), and (g).

7 **FIFTEENTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE/PROPERLY PAY PAID TIME OFF**

9 **(AGAINST ALL DEFENDANTS)**

10 141. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

11 142. Labor Code section 227.3 provides, in part, that when “an employee is terminated
12 without having taken off his vested vacation time, all vested vacation shall be paid to him as wages
13 at his final rate.”

14 143. At all relevant times, Defendants maintained a vacation or paid time off policy, yet
15 Defendants failed to pay all vacation time to the non-exempt employees at their respective final rates
16 of pay at their time of separation.

17 144. Labor Code section 227.3 provides that whenever a contract of employment or
18 employer policy provides for paid vacations, and an employee is separated without having used his
19 or her vested vacation time, all vested vacation time shall be paid as wages at their final rate in
20 accordance with such contract of employment or employer policy respecting eligibility or time. At
21 all relevant times, Defendants maintained such a paid vacation policy, yet Defendants failed to pay
22 all vacation time to the non-exempt employees at their respective final rates of pay at their time of
23 separation. As such, Defendants have violated Labor Code section 227.3.

24 145. Accordingly, Plaintiff and the Waiting Time Penalty Subclass are entitled to unpaid
25 vacation pay and to civil and statutory penalties to the extent permitted by law.

26 **SIXTEENTH CAUSE OF ACTION**

27 **FAILURE TO PROVIDE SAFETY DEVICES AND SAFEGUARDS**

28 **(AGAINST ALL DEFENDANTS)**

1 146. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

2 147. Labor Code section 6401 states: “Every employer shall furnish and use safety
3 devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes
4 which are reasonably adequate to render such employment and place of employment safe and
5 healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety,
6 and health of employees.”

7 148. At all relevant times, Defendants held and enforced a policy that required Plaintiff
8 and the Classes to use personal protective equipment, including earplugs, while performing work
9 duties and responsibilities for safety reasons. However, at all relevant times, Defendants failed to
10 provide Plaintiff and the Classes with personal protective equipment, such as earplugs, to keep them
11 safe.

12 149. Accordingly, Defendants failed to provide all necessary equipment to Plaintiff and
13 the Classes to ensure they were safe while working, in violation of Labor Code sections 6401 and
14 6403. As such, Plaintiff and the Classes are entitled to recover penalties, attorneys’ fees, costs, and
15 interest thereon, pursuant to Labor Code section 2699(a), (f), and (g).

16 **SEVENTEENTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE RECOVERY PERIODS**

18 **(AGAINST ALL DEFENDANTS)**

19 150. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

20 151. Labor Code § 226.7(a) states that, “‘recovery period’ means a cooldown period
21 afforded an employee to prevent heat illness.”

22 152. Labor Code § 226.7(b) states that, “[a]n employer shall not require an employee to
23 work during a ... recovery period mandated pursuant to an applicable statute, or applicable regulation,
24 standard, or order of the Industrial Welfare Commission, the Occupational and Health Standards
25 Board, or the Division of Occupational Safety and Health.”

26 153. California Code of Regulations, Title 8, § 3395(d)(1) provides that, “[s]hade shall
27 be present when the temperature exceeds 80 degrees Fahrenheit. When the outdoor temperature in
28 the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas

1 with shade at all times while employees are present that are either open to the air or provided with
2 ventilation or cooling The shade shall be located as close as practicable to the areas where the
3 employees are working.”

4 154. California Code of Regulations, Title 8, § 3395(d)(3) provides that, “[e]mployees
5 shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel
6 the need to do so to protect themselves from overheating. Such access to shade shall be permitted at
7 all times. An individual employee who takes a preventative cool-down rest . . . shall not be ordered
8 back to work until any signs or symptoms of heat illness have abated, but in no event less than 5
9 minutes in addition to the time needed to access the shade.”

10 155. California Code of Regulations, Title 8, § 3395(i) provides that “[t]he employer shall
11 establish, implement, and maintain, an effective heat illness prevention plan. The plan shall be in
12 writing in both English and the language understood by the majority of the employees and shall be
13 made available at the worksite to employees and to representatives of the Division upon request.”

14 156. Defendants failed to make a heat illness prevention plan available at the worksite to
15 Plaintiff and the Classes. Plaintiff and the Classes were subject to the same policies, practices, and
16 procedures governing the provision and scheduling of recovery periods. Defendants have a policy of
17 requiring Plaintiff and the Classes to remain on duty at all times, and of not providing them with
18 compliant recovery periods when the outdoor temperature in the work area exceeded 80 degrees
19 Fahrenheit.

20 157. Labor Code § 226.7(d) requires employers, including Defendants, to provide to their
21 non-exempt employees, including Plaintiff and the Classes, paid recovery periods as mandated by
22 California law. Labor Code § 226.7(c) states that “[i]f an employer fails to provide an employee a . .
23 . recovery period in accordance with a state law, including, but not limited to, an applicable statute
24 or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational
25 Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer
26 shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for
27 each work day that the . . . recovery period is not provided.”

28 158. Even though Plaintiff and the Classes were not authorized and permitted to take off-

1 duty recovery periods, Defendants did not pay Plaintiff and the Classes appropriate recovery period
2 premium wages for each day in which Defendants did not authorize and permit Plaintiff and the
3 Classes to take compliant recovery periods, in violation of Labor Code § 226.7 and California Code
4 of Regulations, Title 8, § 3395(d).

5 159. On information and belief, Defendants have a common policy, pattern, and practice
6 of failing to compensate Plaintiff and the Classes with an hour of pay at their regular rate of pay for
7 the times that Plaintiff and the Classes were not authorized to take recovery periods, in violation of
8 Labor Code § 226.7 and California Code of Regulations, Title 8, § 3395(d).

9 160. Plaintiff and the Classes suffered and continue to suffer losses related to Defendants'
10 failure to pay an additional hour of pay for each day a recovery period was not provided and the
11 associated use and enjoyment of compensation due and owing to them as a direct result of
12 Defendants' Labor Code and California Code of Regulations, Title 8 violations.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Plaintiff prays for judgment for herself and for all others on whose behalf
15 this suit is brought against Defendants, as follows:

- 16 1. For an order certifying the proposed Classes;
- 17 2. For an order appointing Plaintiff as representative of the Classes;
- 18 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 19 4. Upon the First Cause of Action, for compensatory, consequential, general and
20 special damages according to proof pursuant to Labor Code §§ 204, 210, 510, 558, 1194, and 1198;
- 21 5. Upon the Second Cause of Action, for compensatory, consequential, general and
22 special damages according to proof pursuant to Labor Code §§ 246, 558, 1194.2, 1197.1, 1198, 1199;
- 23 6. Upon the Third Cause of Action, for compensatory, consequential, general and
24 special damages according to proof pursuant to Labor Code §§ 226.7 and 512;
- 25 7. Upon the Fourth Cause of Action, for compensatory, consequential, general and
26 special damages according to proof pursuant to Labor Code §§ 226.7 and 516.
- 27 8. Upon the Fifth Cause of Action, penalties pursuant to Labor Code § 226(a), and
28 reasonable costs and attorneys' fees;

1 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
2 Labor Code §§ 201-203;

3 10. Upon the Seventh Cause of Action, for repayment of unreimbursed expenses,
4 penalties, and attorneys and costs pursuant to Labor Code § 2802;

5 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
6 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
7 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;

8 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other non-
9 exempt aggrieved employees, and the State of California according to proof pursuant to Labor Code
10 § 2699 (a) and (f) including, but not limited to: (1) \$100 for each initial violation and \$200 for each
11 subsequent violation per employee per pay period for those violations of the Labor Code for which
12 no civil penalty is specifically provided under the Labor Code;

13 13. Upon the Tenth Cause of Action, for compensatory, consequential, general and
14 special damages according to proof pursuant to Labor Code §§ 204, 210, 558, 558.1, 1182.12, 1194,
15 1194.2, 1197, 1197.1, 1198, and 1199;

16 14. Upon the Eleventh Cause of Action, for statutory penalties pursuant to Labor Code
17 §§ 226(a), 1174, and 1174.5;

18 15. Upon the Twelfth Cause of Action, for statutory penalties pursuant to Labor Code
19 §§ 226, 432, and 1198.5;

20 16. Upon the Thirteenth Cause of Action, for compensatory, consequential, general and
21 special damages according to proof and statutory penalties pursuant to Labor Code §§ 200, 204, 210,
22 216, 218, and 218.5;

23 17. Upon the Fourteenth Cause of Action, for statutory penalties pursuant to Labor Code
24 § 2810.5;

25 18. Upon the Fifteenth Cause of Action, for compensatory, consequential, general and
26 special damages according to proof and statutory penalties pursuant to Labor Code § 227.3;

27 19. Upon the Sixteenth Cause of Action, for statutory penalties pursuant to Labor Code
28 §§ 6401 and 6403;

1 20. Upon the Seventeenth Cause of Action, for compensatory, consequential, general
2 and special damages according to proof and statutory penalties pursuant to Labor Code §§ 226.2,
3 226.7 and California Code of Regulations, Title 8, § 3395;

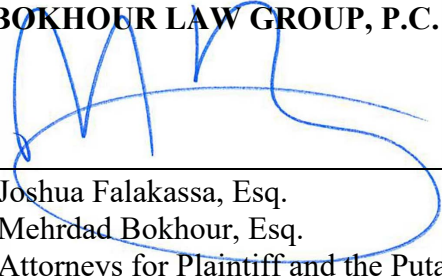
4 21. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
5 § 218.6 and Civil Code §§ 3287 and 3289;

6 22. For attorneys' fees and costs as provided by Labor Code §§ 218.5, 226, 1194, and
7 Code of Civil Procedure § 1021.5; and

8 23. For such other relief that the Court may deem just and proper.

9
10 Dated: March 21, 2024

FALAKSSA LAW, P.C.
BOKHOOR LAW GROUP, P.C.

11
12
13 By: 

14 Joshua Falakassa, Esq.
15 Mehrdad Bokhour, Esq.
16 Attorneys for Plaintiff and the Putative Classes
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the action; my business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, California 90067.

On March 21, 2024, I served the following document(s) described as **SECOND AMENDED CLASS ACTION AND PAGA COMPLAINT** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

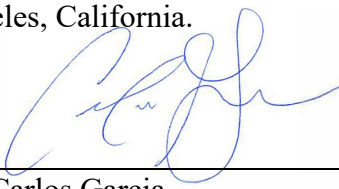
Steven A. Groode, Esq.
sgroode@littler.com
Nathaniel H. Jenkins, Esq.
njenkins@littler.com
LITTLER MENDELSON, P.C.
1255 Treat Boulevard, Suite 600
Walnut Creek, California 94597

**Counsel for Defendants MASTEC SERVICES
COMPANY, INC. and SEFNCO COMMUNICATIONS, INC.**

BY ELECTRONIC SERVICE: I transmitted the above-referenced document(s) via electronic service provider First Legal to the person(s) identified above at the email address(es) indicated and did not, within a reasonable time after transmission, receive any message or communication indicating that delivery failed or that any other error had occurred which would delay or caused failure in transmission and delivery of the document and/or any attachments thereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 21, 2024, in Los Angeles, California.



Carlos Garcia