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14 Attorneys for Plaintiffs Halvorsen
15 and Zucker

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF LOS ANGELES

18 J. HALVORSEN and B. ZUCKER, individually
19 and on behalf of all others similarly situated,

20 Plaintiffs,

21 v.

22 ARTS AND SCIENCES DEPARTMENT, LLC,
23 a California Limited Liability Company; MAL F.
24 WARD, an individual; MARC MARRIE, an
25 individual; and DOE 1 through and including
26 DOE 10,

27 Defendants.

FILED
Superior Court of California
County of Los Angeles

03/13/2023

David W. Slayton, Executive Officer / Clerk of Court

By: K. Martinez Deputy

Case No: 22STCV33257
(PAGA Representative Action; Class Action)
Assigned to Hon. David S. Cunningham III, Dept.
SS11

FIRST AMENDED COMPLAINT

1. Cal. Lab. Code § 203 Continuing Wages
2. Cal. Lab. Code § 226(a), Failure to Provide Compliant Wage Statements
3. Cal. Lab. Code §§ 226.7, 512 and Wage Order 12, Failure to Provide Meal Breaks
4. Cal. Lab. Code § 226.7 and Wage Order 12, Failure to Provide Rest Breaks
5. Cal. Lab. Code §§ 1194 and 1198 Failure to Provide Pay Proper Minimum Wages
6. Cal. Bus & Prof. Code §§ 17200 *et seq.* – Restitution
7. Cal. Lab. Code § 2698, *et seq.*, PAGA civil penalties

JURY TRIAL DEMANDED

1 Plaintiffs Jerred Halvorsen (“Halvorsen”) and Benjamin Zucker (“Zucker”) (collectively,
2 “Plaintiffs”), by and through their undersigned attorneys, allege as follows:

3 **JURISDICTION AND VENUE**

4 1. This is a class action to be pursued on account of violations of the California Labor Code
5 (the “Code”), seeking relief under state law on account of unpaid wages, unpaid overtime, damages,
6 continuing wages, liquidated damages, penalties, restitution and attorneys’ fees and costs. This
7 Complaint includes a representative claim under the California Labor Code Private Attorneys General
8 Act (“PAGA”), Code § 2698, *et seq.* seeking civil penalties on behalf of Plaintiff Halvorsen and on
9 behalf of Aggrieved Employees. Plaintiff Halvorsen has provided statutory notice to the California
10 Labor and Workforce Development Agency (“LWDA”) of the claims set forth in this Complaint and to
11 Defendants. Since the statutory period has expired, Plaintiff has amended the Complaint to assert a
12 claim for relief under PAGA on behalf of all those similarly situated.

13 2. Venue as to Defendants is proper in this judicial district, pursuant to California Code of
14 Civil Procedure sections 395(a) and 395.5. Defendants maintain an office, transact business, have an
15 agent, or are found in the County of Los Angeles and are within the jurisdiction of this Court for
16 purposes of service of process. The violations of the PAGA alleged herein had a direct effect on and
17 were committed within the State of California, impacting Plaintiffs and the Aggrieved Employees.

18 3. Emergency Rule 9 as promulgated by the Judicial Council of California on insert date,
19 provides: “Notwithstanding any other law, the statutes of limitations and repose for civil causes of
20 action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.” The Advisory
21 Committee Comment notes that: “Emergency rule 9 is intended to apply broadly to toll any statute of
22 limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of
23 action” includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of
24 the code (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of
25 a civil nature”). . . . The rule also applies to statutes of limitations on filing of causes of action in court
26 found in codes other than the Code of Civil Procedure.”

27 **THE PARTIES**

28 4. Plaintiffs Halvorsen and Zucker are individuals, who, during the time periods relevant to

1 this Complaint, were resident of the County of Los Angeles, State of California.

2 5. Defendant Arts & Sciences Department, LLC (“ASD”) is a California Limited Liability
3 Company, which at all times relevant herein, conducted business within the County of Los Angeles,
4 State of California, engaged in the production of motion pictures, including television commercials.

5 6. Defendant Mal F. Ward (“Ward”) is an owner of ASD. Defendant Marc Marrie
6 (“Marrie”) is an owner of ASD. Defendants Doe One through and including Doe Ten are sued herein
7 under the provisions of section 474 of the California Code of Civil Procedure. Plaintiffs are unaware of
8 the true names, identities or capacities, whether corporate, individual or otherwise, of said fictitiously
9 named defendants, but leave of Court will be prayed to amend this pleading to insert the same herein
10 when finally ascertained. Plaintiffs are informed, believe and thereupon allege that each of the
11 fictitiously named Defendants is an entity, which during the relevant time period maintained a place of
12 business in the County of Los Angeles of the State of California. Defendants ASD, Ward, Marrie and
13 Does One through and including Doe Ten are hereinafter collectively referred to as Defendants.
14 Defendants are “temporary services employers” as defined by California Labor Code (the “Code”) §
15 201.3 and required to pay freelance motion picture production workers such as Plaintiffs no less
16 frequently than weekly.

17 7. Defendants are “temporary services employers” as defined by Code § 201.3 and required
18 to pay Plaintiffs and other, similarly situated crew no less frequently than weekly. Section 201.3
19 provides, in part:

20 (a) For purposes of this section, the following definitions apply:

21 (1) “Temporary services employer” means an employing unit that contracts with clients
22 or customers to supply workers to perform services for the clients or customers and that
23 performs all of the following functions:

24 (A) Negotiates with clients and customers for matters such as the time and place where
25 the services are to be provided, the type of work, the working conditions, and the quality
26 and price of the services.

27 (B) Determines assignments or reassignments of workers, even if workers retain the right
28 to refuse specific assignments.

(C) Retains the authority to assign or reassign a worker to another client or customer
when the worker is determined unacceptable by a specific client or customer.

(D) Assigns or reassigns workers to perform services for clients or customers.

(E) Sets the rate of pay of workers, whether or not through negotiation.

(F) Pays workers from its own account or accounts.

(G) Retains the right to hire and terminate workers.

...
(4) “Client” and “customer” mean the person with whom a temporary services employer

has a contractual relationship to provide the services of one or more individuals employed by the temporary services employer.

(b)(1)(A) Except as provided in paragraphs (2) to (5), inclusive, if an employee of a temporary services employer is assigned to work for a client, that employee's wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any calendar week shall be due and payable not later than the regular payday of the following calendar week. A temporary services employer shall be deemed to have timely paid wages upon completion of an assignment if wages are paid in compliance with this subdivision.

...

(c) A temporary services employer who violates this section is subject to the civil penalties provided for in Section 203 and to any other penalties available at law.

(d) This section shall not be interpreted to limit any rights or remedies otherwise available under state or federal law.

Code § 201.3.

8. As a "temporary services employer," Defendants are an employing unit which contracts with clients to supply workers to perform services to its clients. Defendants perform all of the following functions: (A) Negotiates with clients and customers for matters such as the time and place where the services are to be provided, the type of work, the working conditions, and the quality and price of the services; (B) Determines assignments or reassignments of workers, even if workers retain the right to refuse specific assignments; (C) Retains the authority to assign or reassign a worker to another client or customer when the worker is determined unacceptable by a specific client or customer; (D) Assigns or reassigns workers to perform services for clients or customers; (E) Sets the rate of pay of workers, whether or not through negotiation; (F) Pays workers from its own account or accounts; and (G) Retains the right to hire and terminate workers.

9. Plaintiffs are informed and believe and thereon allege that all defendants, including the fictitious Doe defendants, were at all relevant times acting as actual agents, conspirators, ostensible agents, alter egos, partners and/or joint venturers and/or employees of all other defendants, and that all acts alleged herein occurred within the course and scope of said agency, employment, partnership, and joint venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge, consent authorization and ratification of their co-defendants; however, each of these allegations are deemed "alternative" theories whenever not doing so would result in a contradiction with other allegations

GENERAL ALLEGATIONS

10. Defendants employed Plaintiff Halvorsen in the production of a television commercial

1 promoting “crypto” known as “Blockfolio #37441” as a crew member from Monday, July 26 to Friday,
2 July 30, 2021. Plaintiff was not paid timely. His wages were due on or before Friday, August 6, 2021,
3 but his paycheck was not even prepared until on or after Wednesday, August 11, 2021. Thereafter,
4 Defendants employed Halvorsen in the production of a television commercial known as “KFC #37451”
5 as a crew member from Thursday, October 14, 2021 to Friday, October 15, 2021. Again, Halvorsen was
6 not paid timely. His wages were due on or before Friday, October 22, 2021, but his paycheck was not
7 even prepared until on or after Tuesday, October 26, 2021.

8 11. Defendants employed Plaintiff Zucker in the production of a television commercial
9 known of “Dominos #37363” as a crewmember on Thursday, October 10, 2019. Zucker was not paid
10 timely. His wages were due on or before Friday, October 18, 2019, but his paycheck was not even
11 prepared until on or about Thursday, October 24, 2019.

12 12. Plaintiffs and Class Members, were also required to keep their walkie talkie radios or cell
13 phones with them at all times, including during meal and rest breaks. Some breaks were simply not
14 provided at all. This policy precluded Defendants from providing Plaintiff and others the ability to enjoy
15 legally compliant meal and rest breaks as required by California law. Augustus v. ABM Sec. Servs. Inc., 2
16 Cal. 5th 257, 260 (2016).

17 13. Plaintiffs and Class Members were routinely laid off from their work as crewmembers,
18 and not provided a return date for further work.

19 14. Defendants were joint employers and/or client employers of Plaintiffs and Class
20 Members. Employees and/or representatives of the production department of ASD were on location and
21 worked alongside Plaintiffs and Class Members, directing their work, providing feedback and making
22 final decisions. They gave specific instructions on the manner in which work was to be completed and
23 reviewed and approved such work. They had creative and operational authority and reviewed and
24 approved various aspects of the Production including the specific details in the way Plaintiffs did their
25 jobs.

26 15. Plaintiffs are typically hired as an employee on the production of filmed content. They
27 typically work under the direction and supervision of producers, directors, ad agencies and clients.
28 Some supplies and equipment were provided by Defendants and/or leased by them for use on the

1 Production. Defendants secured and provided the location for each production where the work took
2 place.

3 16. At all relevant times mentioned herein, Wage Order 12 of the California Industrial
4 Welfare Commission applied to Plaintiffs and Class Members. In part, the Wage Order reflects
5 employer obligations regarding hours and days of work, reporting time pay, records, meal periods and
6 rest periods (obligations which the employer, here, failed to fulfill, both with respect to Plaintiffs and
7 Class Members). The Wage Order provides, in relevant part:

8 **3. Hours and Days of Work.**

9 (A) Daily Overtime - General Provisions

10 (1) The following overtime provisions are applicable to employees 18 years of age or
11 over and to employees 16 or 17 years of age who are not required by law to attend
12 school and are not otherwise prohibited by law from engaging in the subject work. Such
13 employees shall not be employed more than eight (8) hours in any workday or more than
14 40 hours in any workweek unless the employee receives one and one-half (1.5) times
such employee's regular rate of pay for all hours worked over 40 hours in the workweek.
Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in
any workday or more than six (6) days in any workweek is permissible provided the
employee is compensated for such overtime as follows:

15 (a) Employees may be employed up to a maximum of sixteen (16) hours including meal
16 periods in any one day from the time they are required and do report until dismissed,
provided the employee is compensated for such overtime at not less than:

17 (1) For daily employees and weekly employees, excluding weekly employees guaranteed
18 more than forty (40) hours a workweek and "on call" employees, one and one-half (1.5)
times the employee's regular rate of pay for all hours worked in excess of eight (8) hours
up to and including twelve (12) hours in any one workday, and for the first eight (8)
hours worked on the seventh (7th) consecutive day of work in a workweek; and

19 (2) Double the employee's regular rate of pay for all hours worked in excess of twelve
20 (12) hours in any workday, and for all hours worked in excess of eight (8) hours on the
seventh (7th) consecutive day of work in a workweek.

21 (3) Overtime payments shall not be compounded and all payments made by the employer
22 for daily overtime on the basis herein above specified shall be applied toward any sum
for weekly overtime.

23 (4) The overtime rate of compensation required to be paid to a nonexempt full-time
24 salaried employee shall be computed by using the employee's regular hourly salary as
one fortieth (1/40) of the employee's weekly salary. The overtime rate of compensation
25 required to be paid to a nonexempt full-time salaried employee shall be computed by
using the employee's regular hourly salary as one-fortieth (1/40) of the employee's
26 weekly salary.

...

27 **7. Records.**

(A) Every employer shall keep accurate information with respect to each employee
including the following:

28 (1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

...

11. Meal Periods.

(A) No employer shall employ any person for a work period of more than six (6) hours without a meal period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal period for all employees shall be called not later than six (6) hours after the termination of the preceding meal period.

(B) Unless the employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(C) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

(D) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

12. Rest Periods.

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half

1 (3.5) hours. Authorized rest period time shall be counted as hours worked for which there
2 shall be no deduction from wages.

3 (B) If an employer fails to provide an employee a rest period in accordance with the
4 applicable provisions of this Order, the employer shall pay the employee one (1) hour of
5 pay at the employee's regular rate of compensation for each work day that the rest period
6 is not provided.

7 Cal. Code of Regs., tit. 8, § 11120 ("Wage Order 12").

8 17. At all times relevant herein, section 201.5 of the California Labor Code (the "Code")
9 provided in part:

10 (a) For purposes of this section, the following definitions apply:

11 (1) "An employee engaged in the production or broadcasting of motion pictures" means
12 an employee to whom both of the following apply:

13 (A) The employee's job duties relate to or support the production or broadcasting of
14 motion pictures or the facilities or equipment used in the production or broadcasting of
15 motion pictures.

16 (B) The employee is hired for a period of limited duration to render services relating to or
17 supporting a particular motion picture production or broadcasting project, or is hired on
18 the basis of one or more daily or weekly calls.

19 (2) "Daily or weekly call" means an employment that, by its terms, will expire at the
20 conclusion of one day or one week, unless renewed.

21 (3) "Next regular payday" means the day designated by the employer, pursuant to Section
22 204, for payment of wages earned during the payroll period in which the termination
23 occurs.

24 (4) "Production or broadcasting of motion pictures" means the development, creation,
25 presentation, or broadcasting of theatrical or televised motion pictures, television
26 programs, commercial advertisements, music videos, or any other moving images,
27 including, but not limited to, productions made for entertainment, commercial, religious,
28 or educational purposes, whether these productions are presented by means of film, tape,
live broadcast, cable, satellite transmission, Web cast, or any other technology that is now
in use or may be adopted in the future.

(b) An employee engaged in the production or broadcasting of motion pictures whose
employment terminates is entitled to receive payment of the wages earned and unpaid at
the time of the termination by the next regular payday.

(c) The payment of wages to employees covered by this section may be mailed to the
employee or made available to the employee at a location specified by the employer in
the county where the employee was hired or performed labor. The payment shall be
deemed to have been made on the date that the employee's wages are mailed to the
employee or made available to the employee at the location specified by the employer,
whichever is earlier.

(d) For purposes of this section, an employment terminates when the employment
relationship ends, whether by discharge, lay off, resignation, completion of employment
for a specified term, or otherwise.

(e) Nothing in this section prohibits the parties to a valid collective bargaining agreement
from establishing alternative provisions for final payment of wages to employees covered

1 by this section if those provisions do not exceed the time limitation established in Section
2 204.

3 Code § 201.5.

4 18. Defendants employed individuals such as Plaintiffs and Class Members to work on the
5 production on motion pictures, yet Defendants failed to timely or fully pay them, all in violation, inter
6 alia, of Code sections 201.3, 201.5 and 204.

7 19. At all relevant times mentioned herein, section 203 of the Code provided:

8 If an employer willfully fails to pay, without abatement or reduction, in accordance with
9 Sections 201, 201.5, 202 and 202.5, any wages of an employee who is discharged or who
10 quits, the wages of the employee shall continue as a penalty from the due date thereof at
11 the same rate until paid or until action therefore is commence; but the wages shall not
12 continue for more than 30 days.

13 Code § 203. By failing to pay Plaintiffs and Class Members all wages when due at termination,
14 Plaintiffs and Class Members are entitled to continuing wages pursuant to section 203 of the California
15 Labor Code.

16 20. At all times relevant herein, section 204 of the California Labor Code provided in part:

17 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
18 by any person in any employment are due and payable twice during each calendar month,
19 on days designated in advance by the employer as the regular paydays. Labor performed
20 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
21 the 16th and the 26th day of the month during which the labor was performed, and labor
22 performed between the 16th and the last day, inclusive, of any calendar month, shall be
23 paid for between the 1st and 10th day of the following month.

24 Cal. Lab. Code § 204.

25 21. In no event should Plaintiffs or Class Members have been paid later than the time periods
26 established by sections 201.3, 201.5 or 204 of the California Labor Code, but certain payments to
27 Plaintiffs were made after they were due, some have yet to be made, all leading to penalties and civil
28 penalties under sections 203 and 204 of the California Labor Code, all as described in the Naranjo v.
Spectrum Security Services, Inc., 2022 Cal. LEXIS 2878 (May 23, 2022).

22. At all times relevant herein, section 210 of the California Labor Code provided:

In addition to, and entirely independent and apart from, any other penalty provided in this
article, every person who fails to pay the wages of each employee as provided in Sections
204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay

1 each employee; (b) For each subsequent violation, or any willful or intentional violation,
2 two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
amount unlawfully withheld.

3 Cal. Lab. Code § 210. Further, the Defendants' policy has been to devote insufficient resources to the
4 payroll accounting function, with the inevitable result that employees are routinely paid in tardy fashion,
5 in violation of sections 203 and 204 of the Code, and otherwise in violation of the Code.

6 23. Labor Code sections 226.7, 512 and Section 12 of the Wage Order require an employer to
7 pay an additional hour of compensation for each meal period the employer fails to provide. Section 12
8 requires that "No employer shall employ any person for a work period of more than six (6) hours
9 without a meal period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal
10 period for all employees shall be called not later than six (6) hours after the termination of the preceding
11 meal period." Defendants failed to maintain a policy informing all Class Members of these rights.

12 24. Defendants implemented a timekeeping system that does not permit employees to track
13 and record their actual hours worked insofar as all are required to report meal breaks of exactly thirty
14 minutes. This policy and practice has the routine and recurrent impact of artificially insulating the
15 employer from incurring additional expense on account of tardy, missed, interrupted and/or short meal
16 periods and depriving compensation for all hours worked. Further, the workers are logged on the clock
17 only at artificially created "call times" which do not reflect when the work day commenced.

18 25. Here, Defendants failed to apprise all Class Members of their rights associated with meal
19 periods and failed to provide timely meal periods. Defendants have had a consistent policy of: (1)
20 requiring all Class Members to take late meal breaks that occurred after the first 6 hours of each shift;
21 (2) requiring Class Members to work shifts over 12 hours without providing a second meal period of 30
22 minutes in length; and (3) failing to pay such employees 1 hour of pay at the employees regular rate of
23 compensation for each workday in which a proper meal break was not provided. At all relevant times
24 mentioned herein, section 226.7 of the California Labor Code provided:

25 (a) As used in this section, "recovery period" means a cooldown period afforded an
employee to prevent heat illness.

26 (b) An employer shall not require an employee to work during a meal or rest or recovery
27 period mandated pursuant to an applicable statute, or applicable regulation, standard, or
28 order of the Industrial Welfare Commission, the Occupational Safety and Health
Standards Board, or the Division of Occupational Safety and Health.

1 (c) If an employer fails to provide an employee a meal or rest or recovery period in
2 accordance with a state law, including, but not limited to, an applicable statute or
3 applicable regulation, standard, or order of the Industrial Welfare Commission, the
4 Occupational Safety and Health Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one additional hour of pay at the
employee's regular rate of compensation for each workday that the meal or rest or
recovery period is not provided.

5 Cal. Lab. Code § 226.7.

6 26. At all relevant times mentioned herein, section 226 of the Code provided:

7 (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
8 each of his or her employees, either as a detachable part of the check, draft, or voucher
9 paying the employee's wages, or separately when wages are paid by personal check or
10 cash, an itemized statement in writing showing (1) gross wages earned, (2) total hours
11 worked by the employee, except for any employee whose compensation is solely based
12 on a salary and who is exempt from payment of overtime under subdivision (a) of Section
13 515 or any applicable order of the Industrial Welfare Commission, (3) the number of
14 piece rate units earned and any applicable piece rate if the employee is paid on a piece-
15 rate basis, (4) all deductions, provided, that all deductions made on written orders of the
16 employee may be aggregated and shown as one item, (5) net wages earned, (6) the
17 inclusive dates of the period for which the employee is paid, (7) the name of the
18 employee and his or her social security number, except that by January 1, 2008, only the
19 last four digits of his or her social security number or an employee identification number
other than a social security number may be shown on the itemized statement, (8) the
name and address of the legal entity that is the employer, and (9) all applicable hourly
rates in effect during the pay period and the corresponding number of hours worked at
each hourly rate by the employee. The deductions made from payments of wages shall
be recorded in ink or other indelible form, properly dated, showing the month, day, and
year, and a copy of the statement or a record of the deductions shall be kept on file by the
employer for at least three years at the place of employment or at a central location within
the State of California.

20

21 (e) An employee suffering injury as a result of a knowing and intentional failure by an
22 employer to comply with subdivision (a) is entitled to recover the greater of all actual
23 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an
award of costs and reasonable attorney's fees.

24

25 (g) An employee may also bring an action for injunctive relief to ensure compliance with
26 this section, and is entitled to an award of costs and reasonable attorney's fees.

27 Code § 226. Defendants employed Plaintiffs and 226 Class Members, but, in all cases, Defendants
28 failed to provide them with the data required by section 226(a) of the Code. Defendants did not provide
a wage statement which identifies the legal name and address of the employer, instead listing one entity

1 as the “Payroll Employer” and another as the “Controlling Employer,” as well as failing to describe the
2 inclusive dates of the pay period and substituting the days worked, all of which prevents the worker
3 from determining “from the wage statement alone” when their wages were due and whether they were
4 paid all overtime wages which accrued during the pay period, all in violation of the plain statutory
5 language. All of the foregoing was intentional misconduct of Defendants that injured Plaintiffs and
6 Class Members insofar as they were subjected to confusion and deprived of information to which they
7 were legally entitled.

8 27. At all relevant times mentioned herein, section 510(a) of the California Labor Code
9 provided:

10 Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday
11 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
12 seventh day of work in any one workweek shall be compensated at the rate of at least one and
13 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one
14 day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.
15 In addition, any work in excess of eight hours on any seventh day of a workweek shall be
16 compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in
17 this section requires an employer to combine more than one rate of overtime compensation in
18 order to calculate the amount to be paid to an employee for any hour of overtime work.

19 Cal. Lab. Code § 510.

20 28. Class Members were not timely paid proper overtime wages to which they were entitled
21 in violation of Code §§ 510, 515 and 1194. Both late payment and nonpayment of overtime wages for
22 all hours worked violates the overtime wage statute. Defendants are subject to the civil penalties for
23 which provision is made in Code § 558 by failing to pay each Class Member their overtime wages.

24 29. Prior to 2013, section 515(d) of the Code provided:

25 For the purpose of computing the overtime rate of compensation required to be paid to a
26 nonexempt full-time salaried employee, the employee’s regular hourly rate shall be
27 1/40th of the employee’s weekly salary.

28 Code § 515(d). Thereafter, the State Legislature enacted A.B. 2103 to amend section 515 to expressly
overturn Arechiga v. Dolores Press, Inc., 192 Cal. App. 4th 567, 571 (2011), which upheld an agreement
in which the employee agreed to work 66 hours per week for a weekly salary of \$880. AB 2103, which
took effect on January 1, 2013 added section 515(d)(2), which clarifies and conforms the statute to the
interpretation that the Department of Labor Standards Enforcement had always used prior to 2013 and

1 provides:

2 Payment of a fixed salary to a nonexempt employee shall be deemed to provide
3 compensation only for the employee's regular, nonovertime hours, notwithstanding any
4 private agreement to the contrary.

5 According to the California Supreme Court, a daily wage rate is "deemed to provide compensation only
6 for the employee's regular, nonovertime hours" too. Alvarado v. Dart Container Corp. of Cal., 4 Cal.
7 5th 542, 564–65 (2018), as modified (Apr. 25, 2018) ("the Legislature expressly endorsed the principle
8 that flat sum nonhourly compensation should be factored into an employee's regular rate of pay by
9 dividing the flat sum by the number of nonovertime hours that exist in the relevant period, and that the
10 flat sum compensates the worker for only nonovertime hours worked.").

11 30. At all relevant times mentioned herein, section 1194 of the Code provided:

12 Notwithstanding any agreement to work for a lesser wage, any employee receiving less
13 than the legal minimum wage or the legal overtime compensation applicable to the
14 employee is entitled to recover in a civil action the unpaid balance of the full amount of
15 this minimum wage or overtime compensation, including interest thereon, reasonable
16 attorney's fees, and costs of suit.

17 Code § 1194.

18 31. At all relevant times mentioned herein, section 2802 of the California Labor Code
19 provided in part:

20 (a) An employer shall indemnify his or her employee for all necessary
21 expenditures or losses incurred by the employee in direct consequence of the discharge of
22 his or duties

23 (b) All awards made by a court . . . for reimbursement of necessary expenditures
24 under this section shall carry interest at the same rate as judgments in civil actions.
25 Interest shall accrue from the date on which the employee incurred the necessary
26 expenditure or loss.

27 (c) For purposes of this section, the term "necessary expenditures or losses" shall
28 include all reasonable costs, including, but not limited to, attorney's fees incurred by the
29 employee enforcing rights granted by this section.

30 Cal. Lab. Code § 2802. Defendants failed to reimburse Plaintiffs and Class Members for
31 necessary business expenses incurred in the performance of their duties, such as for the use of a
32 personal cell phone and for motion picture production equipment and supplies.

33 32. At all relevant times mentioned herein, section 558 of the California Labor Code
34 provided:

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.

Cal. Lab. Code § 558. Defendants are the employers or other persons acting on behalf of an employer who violated, or caused to be violated the relevant sections of the California Labor Code referenced herein.

33. At all relevant times mentioned herein, section 558.1 of the California Labor Code provided:

(a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

(b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

(c) Nothing in this section shall be construed to limit the definition of employer under existing law.

Cal. Lab. Code § 558.1. Defendants are the joint employers or other persons acting on behalf of an employer who violated, or caused to be violated the relevant sections of the Code referenced herein. Defendants directly and/or indirectly controlled the Class Members’ wages, working conditions and hours. Defendants’ personnel and/or representatives were on the set of the productions and actively participated in the productions, and/or had the authority to do so.

37. At all relevant times mentioned herein, section 2810.3 of the California Labor Code provided:

(a) As used in this section:

(1) (A) “Client employer” means a business entity, regardless of its form, that obtains or is provided workers to perform labor within its usual course of business from a labor contractor.

(2) “Labor” has the same meaning provided by Section 200.

(3) “Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s

usual course of business.

(4) “Wages” has the same meaning provided by Section 200 and all sums payable to an employee or the state based upon any failure to pay wages, as provided by law.

(5) “Worker” does not include an employee who is exempt from the payment of an overtime rate of compensation for executive, administrative, and professional employees pursuant to wage orders by the Industrial Welfare Commission described in Section 515.

(6) “Usual course of business” means the regular and customary work of a business, performed within or upon the premises or worksite of the client employer.

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

(1) The payment of wages.

(2) Failure to secure valid workers’ compensation coverage as required by Section 3700.

(c) A client employer shall not shift to the labor contractor any legal duties or liabilities under Division 5 (commencing with Section 6300) with respect to workers supplied by the labor contractor.

(d) At least 30 days prior to filing a civil action against a client employer for violations covered by this section, a worker or his or her representative shall notify the client employer of violations under subdivision (b).

(e) Neither the client employer nor the labor contractor may take any adverse action against any worker for providing notification of violations or filing a claim or civil action.

(f) The provisions of subdivisions (b) and (c) are in addition to, and shall be supplemental of, any other theories of liability or requirement established by statute or common law.

...

Cal. Lab. Code § 2810.3. Various vendors of fried chicken, pizza, crypto currency and the like were the client employers of Plaintiffs and Class Members, and Defendants were the labor contractors.

CLASS-ACTION ALLEGATIONS

38. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class action pursuant to section 382 of the Code of Civil Procedure. Plaintiffs seek to represent a “Code Class” composed of and defined as follows:

For the period three years and 180 days prior to the filing of this Complaint to date, all persons paid wages on account of services provided for Defendant ASD in the production of Motion Pictures¹ (such persons are referred to hereafter as Code Class Members, and such period is referred to hereafter as the Class Period)

Further, Plaintiff seeks to represent a “17200 Class” composed of and defined as follows:

All persons paid wages on account of services provided for Defendant ASD in the production of Motion Pictures in California during the period beginning no earlier than four years and 180 days prior to the filing hereof to the date of a decision on a Motion for Class Certification (such persons are referred to as “Class Members,” and such period is referred to hereafter as the “Class Period”).

¹ See Cal. Lab. Code § 201.5 defining Motion Pictures.

1 Further, Plaintiff seeks to represent a “226 Class” composed of and defined as follows:

2 For the period one year prior to the filing of this Complaint to date, all persons paid wages on
3 account of services provided for Defendant ASD in the production of Motion Pictures in
4 California until the date of a decision on a Motion for Class Certification (such persons are
5 referred to hereafter as 226 Class Members, and such period is referred to hereafter as the 226
6 Class Period).

7 39. This action has been brought and may be properly maintained as a class action under the
8 provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of
9 interest in the litigation and the proposed Class is easily ascertainable.

10 40. Defendants, as to Plaintiffs and Code Class Members, failed to pay all accrued minimum
11 wages and overtime for all hours worked pursuant to sections 510, 515 and 1194 of the Code.
12 Accordingly, each Plaintiff and Class Member is entitled to payment of his or her unpaid overtime and
13 interest as well as reimbursement of their attorneys’ fees and reasonable costs.

14 41. Defendants, as to Plaintiffs and 226 Class Members, also failed to accurately provide the
15 data required by section 226(a) of the Code and, accordingly, Defendants’ failure to provide such data
16 entitles Plaintiffs and each 226 Class Member to either actual damages or statutory liquidated damages,
17 whichever is greater.

18 42. Defendants, as to Plaintiffs and Code Class Members, failed to timely compensate the
19 workers as required by sections 201.3, 201.5, 203 and 204 of the Code and, accordingly, Defendants’
20 failure to make timely payment entitles Plaintiffs and each Class Member to statutory damages.

21 43. Defendants, as to Plaintiffs (with respect to rest breaks) and Plaintiff Zucker (with respect
22 to meal breaks) and 17200 Class Members, failed to provide meal and rest breaks as required by sections
23 226.7, 512 of the Code and Wage Order 12, and, accordingly, Defendants’ failure to provide meal and
24 rest breaks entitles Plaintiffs and Class Members to either actual damages or statutory damages,
25 whichever is greater, as well as continuing wages for which provision is made by Naranjo.

26 **A. Numerosity**

27 44. The potential members of the Class as defined are so numerous that joinder of all the
28 members of the Class is impracticable. While the precise number of Class Members has not been
determined at this time, Plaintiffs are informed and believe that Defendants employed during the

1 relevant time periods at least 1,750 workers in the State of California. The number of Class Members is
2 great, but not so great as to make the class unmanageable. It therefore is impractical to join each Class
3 Member as a named plaintiff. Accordingly, utilization of a class action is the most economically
4 feasible means of determining the merits of this litigation.

5 45. Despite the size of the proposed Class, the Class Members are readily ascertainable
6 through an examination of the records that Defendants are required by law to keep. Likewise, the dollar
7 amount owed to each Class Member is readily ascertainable by an examination of those same records.

8 **B. Commonality**

9 46. There are questions of law and fact common to the Class that predominate over any
10 questions affecting only individual Class Members. These common questions of law and fact include,
11 without limitation:

- 12 a. Whether Defendants failed to pay all wages in a timely fashion upon the discharge of
13 Code Class Members, all in violation of sections 201.3, 201.5 and 203 of the Code.
 - 14 b. Whether Defendants failed to pay all wages during employment, all in violation of
15 sections 204 and 210 of the Code
 - 16 c. Whether Defendants' failure to provide accurate itemized wage statements to 226 Class
17 Members violates section 226.
 - 18 d. Whether Defendants failed to provide meal breaks to 17200 Class Members.
 - 19 e. Whether Defendants failed to provide rest breaks to 17200 Class Members.
 - 20 f. Whether Defendants failed to pay proper minimum wages to Code Class Members under
21 Code sections 1194 and 1194.2.
 - 22 g. Whether Defendants failed to pay proper overtime wages to 17200 Class Members under
23 Code sections 510, 515 and 1194.
 - 24 h. Whether Defendants failed to reimburse necessary business expenses to Code Class
25 Members under Code sections 2802.
 - 26 i. Whether Class Members are entitled to restitution due to Defendants' unfair or unlawful
27 business practices under Cal. Bus & Prof. Code sections 17200 *et seq.*
- 28

1 **C. Typicality**

2 47. There is a well-defined community of interest in the questions of law and fact common to
3 the Class Members.

4 48. The claims of the named Plaintiffs are typical of the claims of the Class, which claims all
5 arise from the same general operative facts, namely, Defendants did not compensate its employees as
6 required by the Code and applicable Wage Order. Plaintiffs and all members of the Class sustained
7 injuries and damages arising out of and caused by the Defendants' common course of conduct in
8 violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.
9 Plaintiffs have no conflict of interest with the other Class Members and are able to represent the Class
10 Members' interests fairly and adequately.

11 **D. Adequacy of Representation**

12 49. Plaintiffs will fairly and adequately represent and protect the interests of the members of
13 the Class. Counsel who represent Plaintiffs are competent and experienced in litigation large
14 employment class actions. Neither Plaintiffs nor their counsel have any conflict with the Class.

15 **E. Superiority of Class Action**

16 50. A class action is superior to other available means for the fair and efficient adjudication
17 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and
18 fact common to the Class predominate over any questions affecting only individual members of the
19 Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants'
20 illegal policy and/or practice of failing to pay hourly wages, failing to pay overtime wages, failing to
21 provide Class Members rest and meal periods without legal compensation. Class action treatment will
22 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
23 economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are
24 likely to be construed in the management of this action that would preclude its maintenance as a class
25 action. The disposition of all claims of the members of the Class in a class action, rather than in
26 individual actions, benefits the parties and the Court. The interest of the Class Members in controlling
27 the prosecution of separate claims against Defendants is small when compared with the efficiency of a
28 class action.

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FIRST CAUSE OF ACTION

(Continuing Wages, California Labor Code §§ 201.3, 201.5, 203
On Behalf of Plaintiffs and the Code Class Against All Defendants)

51. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

52. Defendants employed Plaintiffs on the productions described above as crew members. Plaintiffs were not timely paid all wages accrued.

53. Defendants' failure to compensate Plaintiffs and Code Class Members within the time for which provision is made by sections 201.3 and 201.5 of the California Labor Code, despite their knowledge of their obligation to do so, was and is "willful" as the word is used in Labor Code section 203.

54. Plaintiff and Code Class Members consistently worked more than 6-hour and/or 12-hour shifts. However, they were required to keep their walkie talkies, radios and/or cell phones on their persons, turned on and audible at all times, including during their rest periods and meal breaks and/or they were precluded from leaving the set and its immediate environs during their breaks, all due to the requirements of the Filmmakers Code of Professional Responsibility. Accordingly, they were denied their breaks and are entitled to an additional thirty minutes of wages for each faux meal break, funds which remain unpaid.

55. Pursuant to section 203 of the California Labor code, Plaintiffs and Code Class Members are entitled to continuing wages from Defendants in an amount according to proof, and Plaintiffs are entitled to penalties of at least \$20,000, each. Plaintiffs and Code Class Members are also entitled to recover costs and reasonable attorneys' fees under section 218.5 of the California Labor Code, a total in excess of \$750,000.

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SECOND CAUSE OF ACTION

(Failure to Provide Compliant Pay Stubs, Cal. Lab. Code § 226(a)
On Behalf of Plaintiffs and the 226 Class Against Defendants)

56. Plaintiffs reallege and incorporate by reference each and every allegation set forth in this Complaint as though fully set forth herein.

57. Defendants failed to provide Plaintiffs and 226 Class Members with wage statements conforming to the requirements of section 226(a) of the Code. Defendants failed to provide a wage statement at all.

58. The foregoing was intentional misconduct of Defendants that injured Plaintiffs and 226
Class Members insofar as they were deprived of information to which they were legally entitled,
including but not limited to the name and address of the legal entity that is the employer, inclusive dates
of the weekly period for which the employee is paid and all applicable rates of pay.

59. The failure of Defendants to provide compliant wage statements violates section 226(a) of the Code. The failure caused them injury by depriving them of information to which they are legally entitled. Accordingly, Plaintiffs and 226 Class Members are entitled to damages in an amount according to proof and costs and reasonable attorney's fees in accordance with the provisions of Code section 226(e), all in a sum according to proof. Plaintiffs are entitled to an amount according to proof of at least \$4000, each, not including interest thereon, reasonable attorneys' fees and cost of suit

THIRD CAUSE OF ACTION

(Failure to Provide Meal Breaks, Cal. Lab. Code §§ 226.7 and 512 and Wage Order
On Behalf of Plaintiffs and the 17200 Class Against Defendants)

60. Plaintiffs reallege and incorporate by reference each and every allegation set forth in this Complaint as though fully set forth herein.

61. At all times herein relevant, sections 226.7 and 512 of the California Labor Code and IWC Wage Order 12 provided that employees must receive meal periods of not less than thirty minutes if an employee works for a period of more than six hours and a second thirty minute meal period after no less than six hours after the termination of the preceding meal period. By its failure to provide minimum statutory meal periods to Plaintiffs and Class Members, Defendants willfully violated the provisions of Labor Code sections 226.7 and 512, and IWC Wage Order 12.

62. Defendants failed to apprise Plaintiffs and 17200 Class Members of their rights associated with meal periods and failed to provide timely meal periods. Defendants have had a consistent policy of: (1) requiring all workers to take late meal breaks that occurred after the first 6 hours of each shift; (2) required Aggrieved Employees to work shifts over 12 hours without providing a

1 second meal period of 30 minutes in length; and (3) failed to pay such employees 1 hour of pay at the
2 employees regular rate of compensation for each workday in which a proper meal break was not
3 provided. Plaintiffs and Class Members were not permitted to leave the set of the Production for meal
4 periods.

5 63. Because Defendants failed to properly provide the proper meal periods, it is liable
6 to Plaintiffs for one hour of additional pay at the regular rate of compensation for each workday that the
7 proper meal periods were not provided.

8 64. As a result of the unlawful acts of Defendants, Plaintiffs and 17200 Class Members have
9 been deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are
10 entitled to recovery of such amounts, plus interest thereon, and costs.

11 **FOURTH CAUSE OF ACTION**

12 (Failure to Provide Rest Breaks, Cal. Lab. Code § 226.7 and IWC Wage Order)

13 On Behalf of Plaintiffs and the 17200 Class Against Defendants)

14 65. Plaintiffs reallege and incorporate by reference each and every allegation set forth in this
15 Complaint as though fully set forth herein.

16 66. At all times herein relevant, sections 226.7 of the California Labor Code and IWC Wage
17 Order 12 provided that employees must receive rest periods of ten (10) minutes net rest time per four (4)
18 hours or major fraction thereof.

19 67. By its failure to provide required breaks to Plaintiffs and 17200 Class Members,
20 Defendants willfully violated the provisions of Labor Code sections 226.7 and IWC Wage Order 12.

21 68. Plaintiffs and 17200 Class Members were not permitted to leave the set of the Production
22 for any purported rest periods. They were required to be available via radio or cell phone at all times.

23 69. Because Defendants failed to properly provide the proper rest breaks, it is liable to
24 Plaintiffs and Class Members for one hour of additional pay at the regular rate of compensation for each
25 workday that the proper rest breaks were not provided, pursuant to Labor Code section 226.7 and IWC
26 Wage Order 12.

70. As a result of the unlawful acts of Defendants, Plaintiffs and 17200 Class Members have been deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, fees, and costs.

FIFTH CAUSE OF ACTION

(Damages for Unpaid Minimum Wages,

California Labor Code §§ 1194, 1194.2 and 1198

On Behalf of Plaintiffs and the Code Class Against All Defendants)

71. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

72. Plaintiffs and the Code Class Members, worked many hours for Defendants, without compensation for work performed, as required by law. Both late payment and non-payment of minimum wages violate the state statute requiring the payment of a minimum hourly wage.

73. Plaintiffs and Class Members are entitled to recover liquidated damages under section 1194.2 of the California Labor Code in an amount according to proof. Plaintiffs and Code Class Members are also entitled to recover costs and reasonable attorneys' fees under section 1194 of the California Labor Code.

SIXTH CAUSE OF ACTION

(Unfair Business Practices Business and Professions Code section 17200 *et seq.*)

On Behalf of Plaintiffs and the 17200 Class Against Defendants)

74. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

75. Business and Professions Code section 17200 *et seq.* prohibits acts of unfair competition, including any “unlawful, unfair, or fraudulent business act or practice.” Cal. Bus. & Prof. Code § 17200 *et seq.* Plaintiffs allege that Defendants engaged in unfair business practices in California by the above-described failure to timely pay all wages due including overtime wages.

76. Defendants' violation of California wage and hour laws as herein articulated constitutes a business practice because Defendants' aforementioned acts and omissions were done repeatedly over a significant period of time, and in a systematic manner, to the detriment of Plaintiffs.

77. As a result of Defendants' unfair and unlawful business practices, Defendants have reaped unfair and illegal profits during the relevant time period herein at the expense of Plaintiffs and the Class Members and members of the public. Defendants should be made to disgorge its ill-gotten gains and to restore them to Plaintiffs and Class Members.

78. The actions of Defendants entitle Plaintiffs to seek the remedies available under section 17200 *et seq.* Plaintiffs seek full restitution of said amounts from Defendants, as necessary and according to proof, to restore any and all amounts—including interest—withheld, acquired, or converted by Defendants by means of the unfair practices complained of herein. Plaintiffs, on behalf of themselves, as well as on behalf of the general public, further seeks attorney’s fees and costs pursuant to sections 218.5 of the Labor Code and 1021.5 of the Code of Civil Procedure. In addition, Plaintiffs seek the appointment of a receiver as necessary.

SIXTH CAUSE OF ACTION

(PAGA Civil Penalties, Cal. Lab. Code § 2698, et seq.

On Behalf of Plaintiff Halvorsen, the California Labor & Workforce Development Agency and
Aggrieved Employees Against Defendants)

79. Plaintiffs reallege and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

80. Pursuant to section 2699.3(a)(1) of the Labor Code, on or about October 5, 2022, Plaintiff Halvorsen submitted his PAGA Claim Notice online to the California Labor and Workforce Development Agency (“LWDA”) and notified the LWDA of the specific provisions of the Labor Code alleged to have been violated by Defendants, including the theories set forth in the Complaint. Also, on that day, Plaintiff gave written notice by certified mail to Defendants of the specific provisions of the Labor Code alleged to have been violated by Defendants.

81. Plaintiff seeks to represent all Aggrieved Employees, defined as Plaintiff and/or other persons who performed services in California for Defendants during the period of time commencing one year prior to October 5, 2022.

82. At all relevant times, California Labor Code section 2699.3(a)(2)(A) provided:

The agency shall notify the employer and the aggrieved employee or representative by _____ certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice

received pursuant to Paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to Paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

Cal. Lab. Code § 2699.3(a)(2)(A).

83. When sixty-five (65) calendar days of the postmark date of the notice sent by Plaintiff have passed, Plaintiff may “commence a civil action pursuant to Section 2699.” Cal. Lab. Code § 2699.3(a)(2)(A). More than sixty-five calendar days have passed since Plaintiff gave written notice of the PAGA violations to the LWDA and Defendants.

84. Plaintiff contends that sections 201.3, 201.5, 202, 203, 204, 210, 226, 226.7, 226.8, 510, 512, 515, 558, 558.1, 1194, 1197, 1198, 1198.5, and 2699 *et seq.* of the Labor Code enables him to recover civil penalties under PAGA, as well as attorney’s fees and costs, from Defendants, through a civil action on behalf of himself and other Aggrieved Employees.

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

86. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code provisions, among others:

- a. Failure to timely pay wages during employment to Plaintiff and Aggrieved Employees in violation of Labor Code §§ 201.3, 204 and/or 210. Plaintiff was not compensated for wages earned by the times prescribed by the Code. Plaintiff contends that the failure of Defendants to make timely payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 210 of the California Labor Code and that, accordingly, each Aggrieved Employee who was not timely paid his or her timely wages during their employment is entitled to civil penalty. Labor Code section 210 provides for a penalty of \$100 for each initial violation and \$200 for each subsequent, or willful or intentional violation plus 25 percent of the amount unlawfully withheld.
- b. Failure to pay wages and/or final wages to Plaintiff and Aggrieved Employees in violation of Labor Code §§ 201.3, 201.5 and 203. With respect to violations of Labor

1 Code § 201.3 and/or 201.5, Plaintiff contends that the failure of Defendants to make final
2 payments within the time provided for has been and is “willful” within the meaning of
3 such word as used in Section 203 of the California Labor Code and that, accordingly,
4 each Aggrieved Employee who was not timely paid his or her final wages is entitled to
5 civil penalties. Labor Code section 2699(f)(2) imposes a civil of \$100 per pay period per
6 Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved
7 Employee for subsequent violations for all Labor Code provisions for which a civil
8 penalty is not specifically provided.

9 c. Failure to provide compliant itemized wage statements to Plaintiff and Aggrieved
10 Employees in violation of Labor Code § 226(a). Plaintiff and other Aggrieved Employees
11 have not been provided compliant wage statements as required by Labor Code section
12 226(a). The foregoing was the intentional misconduct of Defendants that was intended to
13 mislead and injure Plaintiff and other Aggrieved Employees insofar as they were
14 subjected to confusion and deprived of information to which they were legally entitled.
15 Section 226(e) provides that any employee who suffers injury as a result of a knowing
16 and intentional failure by the employer to comply with its obligation to provide wage
17 statements containing all of the information referenced above is entitled to recover the
18 greater of his actual damages or \$50 for the first violation by the employer. The employee
19 is also entitled to recover \$100 for each violation in a subsequent pay period, not to
20 exceed an aggregate penalty of \$4,000.

21 d. Failure to provide proper rest and meal periods to Plaintiff and Aggrieved Employees.
22 Plaintiff and Aggrieved Employees were not provided with timely meal and rest periods
23 in violation of Labor Code section 226.7 and the applicable Wage Order sections. Labor
24 Code section 226.7 requires “one additional hour of pay at the employee’s regular rate of
25 compensation for each workday that the meal or rest or recovery period is not provided.”

26 e. Failure to pay minimum and overtime wages to Plaintiff and Aggrieved Employees in
27 violation of Labor Code §§ 510, 558, 1194, and 1198. Both late payment and non-
28 payment of minimum wages violate the state statute requiring the payment of a minimum

hourly wage. Labor Code section 558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages, and one hundred (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

- f. Failure to keep complete and accurate payroll records. Failure to keep complete and accurate payroll records relating to Plaintiff and Aggrieved Employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).
- g. With respect to violations of Labor Code sections 201.3, 201.5 and 203 Plaintiff contend that the failure of Defendants to make payments within the time provided for has been and is “willful” within the meaning of such word as used in Section 203 of the California Labor Code and that, accordingly, each Aggrieved Employee who was not timely paid his or her final wages is entitled to civil penalty for which provision is made in Section 210 of the Labor Code on account of violations of section 204.

87. Labor Code § 2699(f) imposes a civil penalty of one hundred dollars (\$100) per pay period, per Aggrieved Employee for initial violations, and two hundred dollars (\$200) per pay period, per Aggrieved Employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

WHEREFORE, Plaintiffs pray judgment as follows:

1. That the Court certify a Class Action.
2. That, under the First Cause of Action, it be adjudged that the failure of Defendants to make payment of Plaintiffs’ and Class Members’ wages was in violation of sections 201.3 and 201.5, and 204 of the California Labor Code, and was “willful” as that word is used in section 203 of the California Labor Code, and that the Court enter judgment against Defendants in favor of Plaintiffs and Class Members. That judgment be entered in favor of Plaintiffs, of not less than \$20,000, and Class Members in an amount prescribed by section 203 of the California Labor Code, a total in excess of

1 \$750,000, and costs and reasonable attorneys' fees in accordance with the provisions of California Labor
2 Code section 218.5.

3 3. That, under the Second Cause of Action, this Court enter judgment in favor of Plaintiffs,
4 of at least \$4,000 each, not including interest thereon, reasonable attorneys' fees and cost of suit, and
5 enter judgment in favor of the 226 Class Members against Defendants in the amount of damages,
6 interest, and costs, according to proof, and costs and reasonable attorneys' fees in accordance with the
7 provisions of Labor Code section 226(e).

8 4. That, under the Third Cause of Action, this Court enter judgment in favor of Plaintiffs
9 and Class Members and award them their damages, penalties, and costs of suit, all according to proof, of
10 no less than \$230 for each Plaintiff, pursuant to section 218.5 and other relevant sections of the Labor
11 Code.

12 5. That, under the Fourth Cause of Action, this Court enter judgment in favor of Plaintiffs
13 and Class Members and award them their damages, penalties, and costs of suit, all according to proof,
14 pursuant to section 218.5 and other relevant sections of the Labor Code.

15 6. That, under the Fifth Cause of Action, this Court enter judgment in favor of Plaintiffs and
16 Class Members and award them their damages, penalties, liquidated damages, reasonable attorney's fees
17 and costs of suit, all according to proof, of no less than \$100 for Plaintiffs, pursuant to section 218.5,
18 1194, 1194.2 and other relevant sections of the Labor Code.

19 7. That, under the Sixth Cause of Action, it be adjudged that Defendants' violations of the
20 applicable Wage Order and above cited sections of the California Labor Code and violated section
21 17200 *et seq.* of the California Business and Professions Code. Accordingly, Plaintiffs request that the
22 Court order Defendants to pay restitution with interest to Plaintiffs and Class Members. Finally,
23 Plaintiffs request that the Court award Plaintiffs' reasonable attorneys' fees and costs, pursuant to
24 section 218.5 of the Labor Code and section 1021.5 of the California Code of Civil Procedure.

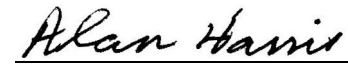
25 8. That, under the Seventh Cause of Action, this Court award Plaintiff Halvorsen, the State
26 of California, and other former and current Aggrieved Employees their civil penalties, attorney's fees,
27 and costs of suit, all according to proof, pursuant to sections 201.3, 201.5, 203, 204, 210, 226, 226.7,
28 510, 512, 515, 558, 558.1, 1174, 1194, 1194.2, 1197, 1198, and 2699 *et seq.* of the California Labor Cod

1 eand the applicable IWC Wage Orders as heretofore articulated.

2 9. For such further relief as the Court may order, including attorney's fees, costs, and
3 interest pursuant to Labor Code sections 218.5 and 218.6, and Code of Civil Procedure section 1021.5,
4 in an amount according to proof.

5 DATED: March 3, 2023

HARRIS & RUBLE

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7 Alan Harris
8 Alan Harris
9 Attorney for Plaintiffs
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PROOF OF SERVICE

I am over the age of eighteen years, and not a party to the within action. My business address is Harris & Ruble, 655 North Central Avenue, 17th Floor, Glendale, California 91203. On March 13, 2023, I served the within documents:

FIRST AMENDED COMPLAINT

Electronic Service: I caused the above-entitled document(s) to be served through Case Anywhere addressed to all parties appearing on the electronic service list for the above-entitled case and on the interested parties in this case:

Scott Witlin
Michael Witczak
Barnes & Thornburg LLP
2029 Century Park East, Ste. 300
Los Angeles, CA 90067

I declare under penalty of perjury that the above is true and correct. Executed on March 13, 2023, at Los Angeles, California.



Priya Mohan