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Attorneys for Plaintiff ANDREW HELFET,
individually and on behalf of all other persons
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CENTRAL DISTRICT, UNLIMITED JURISDICTION

ANDREW HELFET, individually and on behalf
of all other persons similarly situated, and on
behalf of the general public;

Plaintiff,

v.

MOTIVE ENERGY, INC., a California
corporation; MOTIVE ENERGY
TELECOMMUNICATIONS GROUP, INC., a
California corporation; MOTIVE ENERGY
STORAGE SYSTEMS, INC., a California
corporation; MOTIVE ENERGY, LLC, a
California limited liability company;
ADVANCED CHARGING TECHNOLOGIES,
INC., a California corporation; PRESCOTT
COMMUNICATIONS, INC., a California
corporation; ROBERT J. ISTWAN, an individual;
LEONARD STEIN, an individual; LARRY
SNEGG, an individual; and DOES 1 through 50,
inclusive;

Defendants.

Case No. 22STCV37392

{Assigned for all purposes to the Honorable
Carolyn B. Kuhl, department 12}

**SECOND AMENDED CLASS ACTION
COMPLAINT**

1. Failure to Pay Overtime Wages;
2. Failure to Provide Meal Periods;
3. Failure to Provide Rest Periods;
4. Failure to Provide Accurate Itemized Wage Statements ;
5. Waiting Time Penalties;
6. Failure to Pay Minimum Wages;
7. Failure to Reimburse Business Expenses;
8. Failure to Furnish Employment Records;
9. Failure to Provide Notice of Employment Information;
10. Violation of the California's Investigative Consumer Reporting Agencies Act;
11. Violation of California's Credit Reporting Agencies Act;
12. Unfair Business Practices (Bus. & Prof. Code, § 17200 et seq.); and,
13. California Lab. Code Private Attorneys General Act (PAGA).

DEMAND FOR JURY TRIAL

1 Plaintiff ANDREW HELFET, by his undersigned attorneys, on behalf of himself, on behalf
2 of all others similarly situated, in an action against Defendants MOTIVE ENERGY, INC., a
3 California corporation; MOTIVE ENERGY TELECOMMUNICATIONS GROUP, INC., a
4 California corporation; MOTIVE ENERGY STORAGE SYSTEMS, INC., a California corporation;
5 MOTIVE ENERGY, LLC, a California limited liability company; ADVANCED CHARGING
6 TECHNOLOGIES, INC., a California corporation; PRESCOTT COMMUNICATIONS, INC., a
7 California corporation; ROBERT J. ISTWAN, an individual; LEONARD STEIN, an individual;
8 LARRY SNEGG, an individual; and DOES 1 through 50, inclusive, (collectively, “Defendants”)
9 alleges as follows:

10 **JURISDICTION AND VENUE**

11 1. The Superior Court of the State of California, for the County of Los Angeles, Central
12 District has jurisdiction over this case due to the fact that many of the alleged violations including
13 but not limited to (a) of California Labor Code, (b) California Business and Professions Code §§
14 17200 et seq. and (c) related common law occurred in the County of Los Angeles.

15 2. Venue is proper in the Central District of the Los Angeles County Superior Court
16 pursuant to Code of Civil Procedure 10 §395(a) and 395.5, because at least some of the acts
17 complained of herein occurred in the County of Los Angeles, including but not limited to 9275
18 Corbin Avenue, Northridge, CA 91324.

19 3. At all times mentioned herein, Defendants were qualified to do business in the State
20 of California.

21 **PARTIES**

22 4. At all times mentioned herein, Plaintiff, ANDREW HELFET (“Plaintiff” or
23 “HELFET”) has been a resident of the State of California.

24 5. Plaintiff is informed and believes, and thereon alleges that at all times relevant for
25 purposes of this First Amended Class Action Complaint (“Complaint” or “FAC”), Defendants were
26 doing business in the State of California.
27
28

1 6. Plaintiff is informed and believes ROBERT J. ISTWAN, LEONARD STEIN, and
2 LARRY SNEGG, are each named as an individual defendant under California Labor Code §§ 558
3 and 558.1, as they are natural persons who are an owner, director, officer, managing agent and/or
4 person acting on behalf of one or more of the other defendants who violated or caused to be violated
5 the provisions regulating minimum wages or hours and days of work in any order of the industrial
6 welfare commission and/or Labor Code sections 203, 226, 226.7, 1193.6, 1194 and/or 2802 as
7 alleged herein.

8 7. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
9 associate, or otherwise, of Defendants named herein as DOES 1 through 50, inclusive, and therefore
10 sues Defendants by such fictitious names. Defendants DOES 1 through 50, at all times relevant for
11 purposes of this Complaint were employees, agents, officers and/or members of the board of
12 directors of Defendants. Plaintiff will amend this complaint to allege the true names and capacities
13 of the Defendants designated herein as DOES 1 through 50, inclusive, when they have been
14 ascertained.

15 8. Plaintiff is informed and believes, and on that basis alleges, that Defendants
16 designated herein as DOES 1 through 50, inclusive, are responsible in some manner for the acts,
17 events and occurrences alleged herein, and caused or contributed to the damages sustained by
18 Plaintiff.

19 9. Plaintiff is informed and believes, and on that basis alleges, that at all times relevant
20 for purposes of this Complaint, the Defendants designated herein as DOES 1 through 50, inclusive,
21 acted as the agents, employees, directors, officers, co-venturers, and partners of the named
22 Defendants and such fictitiously-named Defendants. Each of them, while acting in the course and
23 scope of their agency, employment, corporate capacities, and partnership, performed the acts and
24 conduct hereinafter alleged, and said acts and conduct were ratified and approved by each defendant.

25 10. This court has jurisdiction to hear both statutory and common law claims against
26 Defendant and DOES 1 through 50.

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28

CLASS ACTION ALLEGATIONS

11. This action is brought and may properly be maintained as a class action pursuant to the provisions of Code of Civil Procedure section 382.

12. Plaintiff reserves the right under Rule 1855 (b), California Rules of Court, to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues.

13. Pursuant to section 382 of the Code of Civil Procedure, this action qualifies as a class action because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

14. Class Definition. The Class the Plaintiff represents is compromised of the following categories:

a. All current and former employees of Defendants who worked in the State of California (“Class Complainants”) who were not paid for all hours worked at the correct regular rate of pay, including any overtime compensation owed for hours worked in excess of 8 hours each day or 40 hours in each week, as well as any double-time compensation owed for hours worked in excess of 12 hours each day, within four (4) years of the date of commencement of this action through the date of final disposition of this action;

b. All current and former employees of Defendants who worked in the State of California (“Class Complainants”) who were denied lawful duty-free meal periods and who were not paid one additional hour of pay at the employee’s regular rate for each day that a lawful duty-free meal period was not provided within four (4) years of the date of commencement of this action through the date of final disposition of this action;

c. All current and former employees of Defendants who worked in the State of California (“Class Complainants”) who were not provided with duty-free rest periods and who were not paid one additional hour of pay at the employee’s regular rate for each day that a rest period was not provided within four (4) years of the date of commencement of this action through the date of final disposition of this action;

1 d. All current and former employees of Defendants who worked in the State of
2 California (“Class Complainants”) who were not provided with accurate itemized wage statements
3 within four (4) years of the date of commencement of this action through the date of final disposition
4 of this action;

5 e. All current and former employees of Defendants who worked in the State of
6 California (“Class Complainants”) who incurred necessary business-related expenses and costs that
7 were not reimbursed within four (4) years of the date of commencement of this action through the
8 date of final disposition of this action;

9 f. All current and former employees of Defendants who worked in the State of
10 California (“Class Complainants”) who requested their employment records and were not provided
11 the records within four (4) years of the date of commencement of this action through the date of final
12 disposition of this action;

13 g. All current and former employees of Defendants who worked in the State of
14 California (“Class Complainants”) who were not provided with notice of employment related
15 information pursuant to California Labor Code 2810.5 within four (4) years of the date of
16 commencement of this action through the date of final disposition of this action;

17 h. All current and former employees of Defendants who worked in the State of
18 California (“Class Complainants”) who were paid on a salary basis and were classified as “exempt”,
19 but were not paid at least the minimum wage for all hours worked due to Defendants’ failure to
20 compensate them a fixed annual salary that met the minimum exemption salary requirement within
21 four (4) years of the date of commencement of this action through the date of final disposition of this
22 action;

23 i. All former employees of Defendants who worked in the State of
24 California (“Class Complainants”) that did not receive a timely payment of wages due and owing
25 upon separation of their employment within four (4) years of the date of commencement of this
26 action through the date of final disposition of this action;

27 j. All persons residing in the State of California (“Class Complainants”) who
28

1 applied for a job with Defendants in the State of California and did not receive a proper statutory
2 disclosure and authorization prior to executing Defendants' standard "Background Check
3 Disclosure" form within five (5) years of the date of commencement of this action through the date
4 of final disposition of this action;

5 k. All persons residing in the State of California ("Class Complainants") who
6 were required to submit to a background check and requested a copy of the consumer report by
7 checking a box on Defendants' disclosure and authorization form, but did not receive a timely copy
8 of the investigative consumer report after it was provided to Defendants, within five (5) years of the
9 date of commencement of this action through the date of final disposition of this action.

10 l. All persons residing in the State of California ("Class Complainants") who
11 were required to submit to a background check for employment purposes but did not receive proper
12 written notice from Defendants that they are obtaining a credit report, within five (5) years of the
13 date of commencement of this action through the date of final disposition of this action.

14 Excluded from the Class are all Defendants, their officers, subsidiaries, affiliates, and any
15 entity which Defendants have a controlling interest. Plaintiff reserves the right under California
16 Rule of Court rule 3.765m subdivision (b) to amend or modify the class description with greater
17 specificity, further divide the defined class into subclasses, and to further specific or limit the issues
18 for which certification is sought.

19 15. Numerosity. Plaintiff is informed, believes, and thereon alleges that the potential
20 membership in the Class is so numerous that joinder of all members is impractical. Moreover, the
21 disposition of the claims of the Class in a single action will provide substantial benefits to all parties
22 and the Court. While the exact number of Class members is presently unknown to Plaintiff, Plaintiff
23 is informed and believes, and based thereon alleges, Defendants currently employ hundreds of
24 individuals in the State of California. The exact number and specific identities of the members of
25 the Class may be readily ascertained through inspection of Defendants' business records.

26 16. Commonality. There are numerous questions of law or fact common to Plaintiff and
27 the Class members. These questions include, but are not limited to, the following:
28

- a. Whether Defendants have engaged in a common course of failing to provide overtime and/or double time pay to members of the Class who worked shifts in excess of 8 and/or 12 hours each day;
- b. Whether Defendants were required to pay Plaintiff and other salary exempt Class members at least the minimum wage for all hours they were performing the job duties as a Project Coordinator/Project Specialist;
- c. Whether Defendants failed to account for bonus compensation when determining the regular rate of pay when calculating overtime compensation due to Plaintiff and other members of the Class;
- d. Whether Defendants failed to provide Plaintiff and other members of the Class with duty-free meal periods;
- e. Whether Defendants failed to provide Plaintiff and other members of the Class with paid duty-free rest periods;
- f. Whether Defendants failed to reimburse Plaintiff and other members of the Class for necessary business expenses;
- g. Whether Defendants failed to provide Plaintiff and other members of the Class with notice of employment related information pursuant to California Labor Code section 2810.5;
- h. Whether Defendants have engaged in a common course of failing to furnish Plaintiff and other members of the Class accurate itemized wage statements;
- i. Whether Defendants have engaged in a common course of failing to furnish Plaintiff and other members of the Class employment records;
- j. Whether Defendants have engaged in a common course of failing to provide Plaintiff and other former employees with all wages owed upon at the time of termination or within 72 hours of giving notice of intent to quit;
- k. Whether Defendants violated the California Labor Code and IWC Wage Orders by the actions alleged herein;

- 1 l. Whether Defendants violated the ICRAA by the actions alleged herein;
- 2 m. Whether Defendants violated sections 17200 et seq. of the California Business
- 3 and Professions Code by the actions alleged herein;
- 4 n. Whether Defendants violated the CCRAA under California Civil Code section
- 5 1785.1 et seq. including by failing to include the proper disclosures and proper
- 6 authorization required by law;
- 7 o. Whether Plaintiff and other members of the Class are entitled to damages,
- 8 restitution, wages, statutory penalties, premium wages, declaratory relief,
- 9 punitive damages, attorneys' fees, interest, and costs, and/or other relief
- 10 pursuant to California Labor Code, IWC Wage Orders, California Business
- 11 and Professions Code sections 17200 et seq., and/or ICRAA; and,
- 12 p. The nature and extent of class-wide injuries and the measure of damages,
- 13 restitution, and disgorgement for the injuries.
- 14

15 17. There are no individualized factual or legal issues for the Court to resolve that would
16 prevent this case from proceeding as a class action.

17 18. Typicality. The claims of the representative Plaintiff are typical of the claims of the
18 Class Complainants. Plaintiff is a former employee of Defendants and is a member of the proposed
19 Class. Plaintiff's claims, like the claims of other members of the Class, arise out of the same
20 common course of conduct by Defendants and are based on the same legal and remedial theories.

21 19. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.
22 Plaintiff has retained competent and capable counsel with experience in class action litigation,
23 including employment law. Plaintiff and his counsel are committed to prosecuting this action
24 vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiff nor his
25 counsel has interests that are contrary to or that conflict with those of the proposed Class.

26 20. Predominance. Defendants have engaged in a common course of wage and hour
27 violations toward Plaintiff and other members of the Class in that Defendants willfully: failed to
28 provide minimum wages; failed to provide duty-free meal periods, failed to provide timely first meal

1 periods by the end of the fifth hour of work, failed to provide second meal periods, failed to provide
2 duty-free rest periods, failed to pay Plaintiff and the Class for all wages (i.e., as a result of working
3 off-the-clock through their meal and rest periods), including minimum, and/or overtime and/or
4 double-time compensation earned, failed to include bonuses and/or commissions in the regular rate
5 of pay for overtime compensation; failed to provide accurate itemized statements, failed to reimburse
6 Plaintiff and the Class for necessary incurred business expenses, failed to furnish employment
7 records to Plaintiff and the Class, failed to provide notice of employment related information to
8 Plaintiff and the Class, and failed to provide those wages owed to former employees upon their
9 separation from employment.

10 21. A class action is superior to other available means for the fair and efficient
11 adjudication of this controversy since individual joinder of all members of the class is impracticable.
12 Class action treatment will permit a large number of similarly situated persons to prosecute their
13 common claims in a single forum simultaneously, efficiently, and without the unnecessary
14 duplication of effort and expense that numerous individual actions would engender. Furthermore,
15 the cost to the court system of adjudication of such individualized litigation would be substantial.
16 Individualized litigation could also present the potential for inconsistent or contradictory judgments.

17 **SUMMARY OF FACTUAL ALLEGATIONS**

18 22. This is a class action pursuant to California Code of Civil Procedure section 382 to
19 vindicate rights afforded to the class by the California Labor Code, the applicable IWC Wage
20 Orders, California Business and Professions Code section 17200 et seq., California Code of Civil
21 Procedure, and California decisional law. This action is brought on behalf of Plaintiff and other
22 members of the Class comprising of all current and former employees employed by Defendants in
23 the State of California during the applicable liability period, and all prospective employees and/or
24 current employees employed by, or formerly employed by Defendants in California who: (1) did not
25 receive a proper statutory disclosure and authorization prior to executing Defendants' standard
26 "Background Check Disclosure" form and (2) did not receive a copy of the investigative consumer
27 report within three business days after it was provided to Defendants.

28 23. At all times during the applicable liability period, Defendants owned and operated an

1 energy company that provided infrastructure, telecommunications, and energy-related services to
2 consumers throughout California.

3 24. At all times relevant to this action, Defendants controlled Plaintiff's wages, hours,
4 and working conditions. Defendants hired Plaintiff. Defendants directed and supervised Plaintiff's
5 work at its worksites. Defendants negotiated and set Plaintiff's rates of pay for the work he
6 performed and the method of compensation. Defendants provided Plaintiff with a place to work and
7 determined his hours and conditions of employment. Defendants exclusively controlled the day-to-
8 day operations at their worksites. Defendants had the power to either cause Plaintiff to work or
9 prevent him from working on their behalf. Defendants had exclusive control over Plaintiff's work
10 activities, and the tasks Plaintiff performed were for the benefit of Defendants and an integral part of
11 Defendants' regular business operations.

12 25. As a project coordinator/project specialist, Plaintiff's average work schedule was
13 from approximately 6:30 a.m. to 3:45 p.m. and therefore, was entitled to at least two 10-minute rest
14 periods each day that he worked.

15 26. As a project coordinator/project specialist, Plaintiff regularly did not receive duty-free
16 meal and rest periods. Defendants' volume of work, policies of understaffing, and customer calls
17 prevented Plaintiff from taking his duty-free meal and rest periods during his employment.

18 27. Plaintiff and other members of the Class frequently did not receive a first meal period
19 by the end of the fifth hour of work, due to the need to attend to phone calls, respond to phone calls
20 in a timely manner, attend meetings, and respond to questions from customers and Defendants, as
21 well as due to understaffing.

22 28. The meal and rest periods that Defendants "provided" were not duty-free.
23 Defendants had written and/or oral policies that restricted Plaintiff and other members of the Class
24 from leaving the workplace during meal and/or rest periods. Moreover, because of workload and
25 lack of staff, Plaintiff and other members of the Class had no choice but to work through their meal
26 and rest periods. Defendants also observed Plaintiff and other members of the Class working
27 through their meal and rest periods, but did not take any steps to ensure that they had the
28 opportunities to take duty-free meal and rest periods.

29. During the applicable liability period, Defendants failed to pay Plaintiff and other

1 members of the Class for all hours worked at the correct regular rate of pay due to Defendants’
2 failure to account for bonuses and/or commissions in its calculations.

3 30. During the applicable liability period, Defendants denied Plaintiff and other members
4 of the Class lawful duty-free meal periods, and did not pay one additional hour of pay at the
5 employee’s regular rate for each day that a lawful duty-free meal period that was not provided. For
6 example, Plaintiff and other members of the Class would frequently have their meal breaks
7 interrupted by Defendants and/or Defendants’ customers.

8 31. During the applicable liability period, Defendants denied Plaintiff and other members
9 of the Class lawful duty-free rest periods, and did not pay one additional hour of pay at the
10 employee’s regular rate for each day that a lawful duty-free rest period that was not provided.

11 32. During the applicable liability period, Defendants failed to pay Plaintiff and other
12 members of the Class for minimum wages earned because they were not compensated with salary
13 that met the *minimum* exemption salary requirement. To qualify as exempt within the
14 “administrative, executive, or professional” exemption in the applicable IWC Wage Order, Plaintiff
15 and other salary employees were required to receive a minimum “monthly salary equivalent to no
16 less than two times the state minimum wages for full-time employment.” See IWC Wage Order 4-
17 2001, subd. (1)(A)(1)(f); Cal. Lab. Code §515, subd. (c). At all relevant times, Plaintiff and other
18 salary employees were compensated with a fixed annual salary that fell well below the *minimum*
19 exemption salary requirement (i.e. less than \$45,760 from January 1, 2018 to January 1, 2019, less
20 than \$49,920 from January 1, 2019 to January 1, 2020, less than \$54,080 from January 1, 2020 to
21 January 1, 2021, less than \$58,240 from January 1, 2021 to January 1, 2022, and less than \$62,400
22 from January 1, 2022 to January 1, 2023). For example, Plaintiff’s annual base salary was \$52,000
23 from on or about May 31, 2021 to April of 2022. Defendants knew, or reasonably should have
24 known that the Plaintiff and other salary employees were not being paid at least the minimum wage
25 for all hours worked in violation of California wage and hour laws.

26 33. During the applicable liability period, Plaintiff and other members of the Class were
27 employed to perform job duties on the behalf of Defendants and received compensation on an hourly
28 and salary basis. During the applicable liability period, Plaintiff and members of the Class were
employed to perform job duties on the behalf of Defendants and earned compensation for their

1 labor. The primary obligations and responsibilities of Plaintiff and members of the Class included
2 performing job duties for the purpose of serving Defendants and Defendants' customers. Plaintiff
3 and members of the Class are not exempt from any of the provisions of the IWC Wage Orders
4 because they were not compensated on a salary basis that met the *minimum* exemption salary
5 requirement and more than half their compensation did not represent commissions.

6 34. Plaintiff is informed and believes, and based thereon alleges, Defendants currently
7 employ hundreds of individuals, including hundreds of hourly-paid and salary-paid employees, in
8 the State of California.

9 35. For at least four years prior to the filing of this action and through to the present,
10 Defendants wrongfully withheld compensation for minimum wages and overtime earned.
11 Defendants systematically maintained and uniformly enforced against its non-exempt hourly-paid
12 and salary-paid employees unlawful employment practices and policies in violation of California
13 wage and hour laws, including:

- 14 a. failing to properly pay Class members, including Plaintiff, for overtime time
15 worked pursuant to the California Labor Code and IWC Wage Orders;
- 16 b. failing to properly Class members, including Plaintiff, for minimum wages
17 earned pursuant to the California Labor Code and IWC Wage Orders;
- 18 c. failing to provide members of the Class, including Plaintiff, paid duty-free rest
19 periods of at least (10) minutes per four (4) hours worked or major fraction
20 thereof and failing to pay such employees one (1) hour of pay at the
21 employee's regular rate of compensation for each paid rest period that is not
22 provided;
- 23 d. failing to provide members of the Class, including Plaintiff, uninterrupted off-
24 duty thirty (30) minute meal breaks during work shifts of more than five hours
25 and failing to pay such employees one (1) hour of pay at the employee's
26 regular rate of compensation for each uninterrupted off-duty meal period that
27 was not provided;
- 28 e. failing to provide Class members, including Plaintiff, with accurate itemized
wage statements, as required by California law;

- f. failing to provide class members, including Plaintiff, with timely production of their employment records upon request pursuant to California Labor Code;
- g. failing to reimburse members of the Class, including Plaintiff, for necessary incurred business expenses;
- h. failing to provide class members, including Plaintiff, with notice of employment related information pursuant to California Labor Code;
- i. failing to pay Class members, including Plaintiff, all wages due upon the separation of their employment; and,
- j. failing to pay Class members, including Plaintiff, statutory penalties pursuant to California Labor Code.

36. The thirteenth cause of action is brought primarily as a non-class California Labor Code PAGA claim. Plaintiff Andrew Helfet has a substantive right, pursuant to the California Labor Code, to stand in the shoes of the State of California for purposes of this claim and no class certification is required for it, as the claim is primarily that of the State of California and are primarily an enforcement action. As such, Plaintiff Andrew Helfet wishes to pursue the PAGA claim as a non-class action claim to recover penalties and wages on behalf of the State of California. In the alternative, Plaintiff Andrew Helfet can pursue the PAGA claim as a California Code of Civil Procedure section 382 class action.

37. The procedural requirements of a PAGA claim, pursuant to California Labor Code section 2699.3, subdivision (a), require first that the aggrieved employee or representative shall give written notice by online submission to the California Labor and Workforce Development Agency and certified mail to the employer(s). Plaintiff Andrew Helfet has met this requirement.

38. Second, the procedural requirements, pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A) provides that:

The agency shall notify the employer and 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

1 date of the notice given pursuant to paragraph (1), the aggrieved
2 employee may commence a civil action pursuant to Section 2699.

3 39. Plaintiff Andrew Helfet has met this procedural requirement: (a) on November 28,
4 2022, Plaintiff Andrew Helfet provided notice to the California Labor and Workforce Development
5 Agency and Defendants of his intent to commence a PAGA action for Defendants' alleged
6 violations; (b) 65 calendar days have passed without the California Labor and Workforce
7 Development Agency providing notice of its intent to investigate. As such, Plaintiff Andrew Helfet
8 has complied with the administrative requirements of PAGA.

9 40. On information and belief, Defendants were well aware that Plaintiff and other
10 members of the Class were not provided with the foregoing. Defendants' denial of wages and other
11 compensation due to Plaintiff and members of the Class was willful and deliberate.

12 41. For at least four years prior to the filing of this action and through to the present,
13 Defendants wrongfully withheld compensation due and owing by failing to timely pay wages upon
14 employees' separation of employment.

15 42. This action seeks recovery of wages and compensation due and owing to Plaintiff and
16 the Class under California law for the maximum period allowed.

17 43. For at least five years prior to the filing of this action and through to the present,
18 Defendants unlawfully conducted credit and/or background checks of job applicants including
19 Plaintiff and other members of the Class in violation of state law. Defendants willfully violated the
20 California Investigative Consumer Reporting Agencies Act ("ICRAA") by not providing a
21 disclosure and authorization that was in a stand-alone document and with a notice that was clear and
22 conspicuous prior to conducting a background check, and by not providing a copy of the
23 investigative consumer report with three business days after it was provided to Defendants. This
24 action seeks recovery of statutory damages and penalties, penalties under California Private
25 Attorneys General Act of 2004 ("PAGA"), and punitive damages on the behalf of Plaintiff and the
26 Class for the maximum period allowed.

27 44. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
28 routinely acquire consumer, investigative and/or consumer credit reports (referred to collectively as
"background checks") to conduct background checks as described herein on Plaintiff and other

1 prospective, current and former employees and use information from the background checks without
2 providing proper disclosures and obtaining proper authorization in compliance with the law,
3 including Civil Code § 1785.1, et seq. (the “Consumer Credit Reporting Agencies Act” or the
4 “CCRAA”)

5 45. Plaintiff and the classes are therefore entitled to class-wide remedy, including
6 injunctive relief, monetary damages, and all statutory penalties, plus interest, attorneys’ fees and all
7 other costs associated with Defendants’ labor code and civil code violations mentioned above.

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PAY OVERTIME WAGES (Lab. Code §§ 510, 1194, 1198)**

10 (Against all Defendants and DOES 1-50, inclusive)

11 46. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
12 this Class Action Complaint as if fully alleged herein.

13 47. At all relevant times, California *Labor Code* sections 510 and various applicable
14 wage orders of the IWC were in full force and binding upon Defendants, and each of them.

15 48. *Labor Code* section 510, subdivision (a) provides in pertinent part,

16 “Any work in excess of eight hours in one workday and any work in excess of 40
17 hours in any one workweek and the first eight hours worked on the seventh day of
18 work in any one workweek shall be compensated at the rate of no less than one and
19 one-half times the regular rate of pay for an employee. Any work in excess of 12
20 hours in one day shall be compensated at the rate of no less than twice the regular rate
21 of pay for an employee.

22 49. “Hours worked” is defined as the time during which an employee is subject to an
23 employer’s control and includes all the time the employee is permitted to work, whether or not
24 required to do so. Wage Order No. 4-2001, §2(K). The IWC Wage Orders define “employ” to mean
25 “engage, suffer, or permit to work.” 8 Cal. C. Regs. §11140, ¶(C), (F). The proprietor “suffers or
26 permits” that work by failing to prevent it although having the power to do so: “(T)he basis of
27 liability is the defendant’s knowledge of and *failure to prevent* the work from occurring.” *Martinez*
28 *v. Combs* (2010) 49 Cal. 4th 35, 52-63.

50. Employees need only show that they have worked hours for which they were not

1 compensated. The burden is *not* on the employees to prove the *precise extent* of uncompensated
2 work. *Bell v. Farmers Ins. Exch.* (2004) 115 Cal. App. 4th 715, 747-748.

3 51. As set forth above, Defendants, and each of them, willfully failed to pay Plaintiff and
4 members of the Class wages for each hour worked (including off-the-clock work), by failing to pay
5 them at regular rates, as well as for overtime rates for hours worked in excess of 8 in a day, as well
6 as at overtime rates for hours worked in excess of 40 hours in a week, as well as at double-time rates
7 for hours worked in excess of 12 hours in a day, in violation of *Labor Code* section 510.

8 52. Additionally, Defendants maintained and enforced policies and practices of refusing
9 to pay Plaintiff and other salary-exempt Class members for all overtime hours worked because they
10 misclassified them as exempt from the payment of overtime premium wages. Defendants failed to
11 pay Plaintiff and other members of the Class for minimum wages earned because they were not
12 compensated with salary that met the *minimum* exemption salary requirement. To qualify as exempt
13 within the “administrative, executive, or professional” exemption in the applicable IWC Wage
14 Order, Plaintiff and other salary employees were required to receive a minimum “monthly salary
15 equivalent to no less than two times the state minimum wages for full-time employment.” See IWC
16 Wage Order 4-2001, subd. (1)(A)(1)(f); Cal. Lab. Code §515, subd. (c). At all relevant times,
17 Plaintiff and other salary employees were compensated with a fixed annual salary that fell well
18 below the *minimum* exemption salary requirement (i.e. less than \$45,760 from January 1, 2018 to
19 January 1, 2019, less than \$49,920 from January 1, 2019 to January 1, 2020, less than \$54,080 from
20 January 1, 2020 to January 1, 2021, less than \$58,240 from January 1, 2021 to January 1, 2022, and
21 less than \$62,400 from January 1, 2022 to January 1, 2023). For example, Plaintiff’s annual base
22 salary was \$52,000 from May 31, 2021 to April of 2022. Defendants knew, or reasonably should
23 have known that the Plaintiff and other salary employees were not being paid at least the minimum
24 wage for all hours worked in violation of California wage and hour laws.

25 53. To date, Defendants have not fully compensated Plaintiff and members of the Class
26 for the above-mentioned period.

27 54. As a result of the unlawful acts of Defendants, Plaintiff and members of the Class
28 seek wages in amounts to be determined at trial, plus interest and penalties, attorney’s fees and costs
pursuant to *Labor Code* sections 218.5, 218.6, 226, 510, 1194, 1198, 1174(d), 2699, subdivision

1 (g)(1), and applicable IWC Wage Orders.

2 55. By failing to keep adequate records as required by sections 226 and 1174(d) of the
3 *Labor Code*, Defendants have injured Plaintiff and members of the Class and made it difficult to
4 calculate the compensation due to Plaintiff and members of the Class.

5 56. Defendants are further liable for civil penalties and reasonable attorneys' fees and
6 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

7 **SECOND CAUSE OF ACTION**

8 **FAILURE TO PROVIDE MEAL PERIODS (Lab. Code §§ 226.7, 512)**

9 (Against all Defendants and DOES 1-50, inclusive)

10 57. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
11 this Class Action Complaint as if fully alleged herein.

12 58. No employer may require an employee to work during any meal period that an IWC
13 Wage Order mandates. [8 *Cal.C.Reg.* §11040 et seq.] An employer who fails to provide meal
14 periods must pay the employee one additional hour of pay at the employee's regular rate for each
15 day that a meal period was not provided. *Lab.C.* §226.7(c).

16 59. *Labor Code* section 512, subdivision (a) states:

17 An employer may not employ an employee for a work period of more than
18 five hours per day without providing the employee with a meal period of not
19 less than 30 minutes, except that if the total work period per day of the
20 employee is no more than six hours, the meal period may be waived by
21 mutual consent of both the employer and employee. An employer may not
employ an employee for a period of more than 10 hours per day without
providing the employee with a second meal period of not less than 30 minutes,
except that if the total hours worked is no more than 12 hours, the second
meal period may be waived by mutual consent of the employer and the
employee only if the first meal period was not waived.

22 60. Defendants and each of them had a policy and practice of failing to provide first meal
23 periods by the end of the fifth hour of work. Defendants and each of them also had a policy and
24 practice of failing to provide duty-free meal periods. Further, Defendants and each of them had a
25 policy and practice of failing to provide second meal periods when Plaintiff and other employees
26 worked in excess of 10 hours in a shift. Defendants and each of them had a policy and practice of
27 failing to pay premium payments in lieu of providing duty-free meal periods.

28 61. By failing to provide meal periods or one hour's wages in lieu of the meal period,

Defendants willfully violated *Labor Code* sections 226.7 and 512, section 11 of the *IWC Wage Orders*, and *Cal. Code Regs.*, Title 8, section 11040 et seq.

62. The right to meal periods is a generally applicable labor standard that is not subject to waiver by agreement. *Franco v. Athens Disposal Co., Inc.* (2009) 171 Cal. App. 4th 1277, 1294.

63. By failing to keep adequate records as required by sections 226 and 1174(d) of the *Labor Code*, Defendants have injured Plaintiff and members of the Class and made it difficult to calculate the unpaid meal period compensation due to Plaintiff and members of the Class.

64. As a result of the unlawful acts of Defendants, Plaintiff and members of the Class seek wages in amounts to be determined at trial, plus interest and penalties, attorney's fees and costs pursuant to *Labor Code* sections 203, 226, 226.7, 2699, subdivision (g)(1), and applicable IWC Wage Orders.

65. Defendants are further liable for civil penalties and reasonable attorneys' fees and costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS (Lab. Code §§ 226.7, 512)

(Against all Defendants and DOES 1-50, inclusive)

66. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of this Class Action Complaint as if fully alleged herein.

67. "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." Industrial Welfare Commission Wage Order No. 4-2001 ("Wage Order No. 4"), §12.

68. No employer may require an employee to work during any rest period that an IWC Wage Order mandates. [8 *Cal.C.Reg.* §11040 et seq.] An employer who fails to provide rest periods must pay the employee one additional hour of pay at the employee's regular rate for each day that a rest period was not provided. *Lab.C.* §226.7(c).

69. Furthermore, "during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time." *Augustus v. ABM Security Services, Inc.*

1 (2016) 5 Cal.5th 257, 269 (citations omitted).

2 70. Defendants and each of them also had a policy and practice of failing to provide duty-
3 free rest periods to Plaintiff and the Class. Defendants and each of them had a policy and practice of
4 failing to pay premium payments in lieu of providing duty-free rest periods. For example,
5 Defendants' written rest break policy states "During your rest periods...will not be permitted to
6 leave the premises due to the short duration of the rest period." As a result of Defendants' company-
7 wide policies and practices, Plaintiff and other Class members were compelled to stay on
8 Defendants' premises during the entire duration of any attempted rest period, and therefore were not
9 authorized to permitted to take rest periods because they remained subject to the control of
10 Defendants. As a matter of policy and practice, Defendants did not pay Plaintiff and other Class
11 members any rest period premiums for rest breaks they were not authorized and/or permitted to take.

12 71. By failing to provide rest periods or one hour's wages in lieu of the rest period,
13 Defendants willfully violated *Labor Code* section 226.7, section 12 of the *IWC Wage Orders*, and
14 *Cal. Code Regs.*, Title 8, section 11040 et seq.

15 72. The right to rest periods is a generally applicable labor standard that is not subject to
16 waiver by agreement. *Franco v. Athens Disposal Co., Inc.* (2009) 171 Cal. App. 4th 1277, 1294.

17 73. By failing to keep adequate records as required by sections 226 and 1174(d) of the
18 *Labor Code*, Defendants have injured Plaintiff and members of the Class and made it difficult to
19 calculate the unpaid rest period compensation due to Plaintiff and members of the Class.

20 74. As a result of the unlawful acts of Defendants, Plaintiff and members of the Class
21 seek wages in amounts to be determined at trial, plus interest and penalties, attorney's fees and costs
22 pursuant to *Labor Code* sections 203, 226, 226.7, 2699, subdivision (g)(1), and applicable IWC
23 Wage Orders.

24 75. Defendants are further liable for civil penalties and reasonable attorneys' fees and
25 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Lab. Code §

226(a))

(Against all Defendants and DOES 1-50, inclusive)

76. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of this Class Action Complaint as if fully alleged herein.

77. Pursuant to *Labor Code* §226 (a):

“Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security 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...”

78. At all relevant times, Defendants, and each of them, have violated the rights of Plaintiff and members of the Class under *Labor Code* 226(a) by knowingly and intentionally failing to provide them with written wage statements to accurately reflect the applicable hourly rates and/or hours worked as a result of: (1) not factoring in the bonuses and/or commissions in the regular rate of pay, (2) not providing Plaintiff and members of the Class with duty-free rest and/or meal periods, and (3) failing to pay them for all hours worked, including at the appropriate regular, overtime, and/or double-time rates and meal and rest break premiums. At all relevant times, Defendants, and each of them, also have violated the rights of Plaintiff and members of the Class under *Labor Code* 226(a) by knowingly and intentionally failing to provide them with written wage statements to accurately reflect: (1) the gross wages earned, (2) the total hours worked by the employee, (3) the

1 name and address of the legal entity that is the employer, and (4) all applicable hourly rates in effect
2 during the pay period and the corresponding number of hours worked at each hourly rate by the
3 employee.

4 79. By failing to keep adequate records as required by sections 226 and 1174(d) of the
5 *Labor Code*, Defendants have injured Plaintiff and members of the Class and made it difficult to
6 calculate the compensation due to Plaintiff and members of the Class.

7 80. As a result of the unlawful acts of Defendants, Plaintiff and members of the Class
8 seek wages in amounts to be determined at trial, plus interest and penalties, attorney's fees and costs
9 pursuant to *Labor Code* sections 203, 204, 218, 226, 1174(d), 2699, subdivision (g)(1), and
10 applicable IWC Wage Orders.

11 81. Defendants are further liable for civil penalties and reasonable attorneys' fees and
12 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

13 **FIFTH CAUSE OF ACTION**

14 **WAITING TIME PENALTIES (Lab. Code § 203)**

15 (Against all Defendants and DOES 1-50, inclusive)

16 82. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
17 this Class Action Complaint as if fully alleged herein.

18 83. During the relevant time period, Plaintiff and other former employees were employed
19 by and thereafter terminated by or resigned from their positions with Defendants. Defendants,
20 however, willfully failed to pay Plaintiff and other former employees all wages owed to them (i.e.,
21 minimum wages, overtime wages, premium payments for not receiving meal and/or rest periods, as
22 well as wages for all hours worked off-the-clock, and wages for other claims described in the
23 Complaint), and failed to pay Plaintiff and other former employees within the time limits set forth in
24 California *Labor Code* sections 201 and 202. Defendants willfully failed to pay all wages due as the
25 failure to pay was not inadvertent or accidental. To date, Plaintiff and the Class have not received
26 such compensation, therefore entitling them to penalties under California Labor Code section 203.

27 84. More than thirty (30) days have passed since Plaintiff and many affected members of
28 the Class have left Defendants' employ, and on information and belief, have not received payment
pursuant to California Labor Code sections 201, 202, and 203.

1 85. As a consequence of Defendants' willful conduct in not paying all earned wages,
2 Plaintiff and the former employees within the Class are entitled to thirty (30) days wages as a
3 premium wage or penalty under California Labor Code section 203.

4 86. Wherefore, Plaintiff and the Class he seeks to represent are entitled to California
5 Labor Code section 203 penalties in an amount to be determined at trial.

6 87. Defendants are further liable for reasonable attorneys' fees and costs of suit pursuant
7 to California Labor Code section 218.5.

8 88. Defendants are further liable for civil penalties and reasonable attorneys' fees and
9 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

10 **SIXTH CAUSE OF ACTION**

11 **FAILURE TO PAY MINIMUM WAGES (Lab. Code §§ 1194, 1197, 1197.1, 1198)**

12 (Against all Defendants and DOES 1-50, inclusive)

13 89. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
14 this Class Action Complaint as if fully alleged herein.

15 90. At all times relevant herein, Defendants were required to compensate Plaintiff and
16 other salary-exempt Class members for all hours worked at no less than the applicable minimum
17 wage rate.

18 91. Defendants failed to pay Plaintiff and other salary-exempt Class members at least the
19 minimum wage "for all hours worked." Specifically, Plaintiff and other salary-exempt Class
20 members were not paid for all hours worked because Defendants misclassified them as "exempt"
21 employees and when they were performing the duties of project coordinator/project specialist they
22 were required to work before and after their "scheduled" hours of work and/or through meal and/or
23 rest breaks, but were not compensated for this time.

24 92. California Labor Code section 1197, entitled "Pay of Less Than Minimum Wage"
25 states:

26 "The minimum wage for employees fixed by the commission is the
27 minimum wage to be paid to employees, and the payment of a less
28 wage than the minimum so fixed is unlawful."

 93. The applicable minimum wages fixed by the commission is found in section 4 of the

1 IWC Wage Orders which presently states that:

2 “Every employer shall pay to each employee wages not less than the
3 following: (1) Any employer who employs 26 or more employees shall
4 pay to each employee wages not less than the following: (a) Thirteen
5 dollars (\$13.00) per hour for all hours worked, effective January 1,
6 2020; (b) Fourteen dollars (\$14.00) per hour for all hours worked,
7 effective January 1, 2021; and (c) Fifteen dollars (\$15.00) per hour for
8 all hours worked, effective January 1, 2022...”

9
10 94. The minimum wage provisions of California Labor Code are enforceable by private
civil action pursuant to California Labor Code section 1194, subdivision (a), which states:

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

17 95. As described in California Labor Code sections 1185 and 1194.2, any action for
18 wages incorporates the applicable Wage Order of the California IWC.

19 96. California Labor Code section 1194.2 also provides for the following remedies:

20 “In any action under Section ... 1194 ... to recover wages because of
21 the payment of a wage less than the minimum wages fixed by an order
22 of the commission, an employee shall be entitled to recover liquidated
23 damages in an amount equal to the wages unlawfully unpaid and
24 interest thereon.”

25 97. Plaintiff and other salary-exempt Class members did not meet the requirements of any
26 recognized exemption to the protections provided by applicable provisions of the California Labor
27 Code or IWC Wage Order. To qualify as exempt within the “administrative, executive, or
28 professional” exemption in the applicable IWC Wage Order, Plaintiff and other salary employees

1 were required to receive a minimum “monthly salary equivalent to no less than two times the state
2 minimum wages for full-time employment.” See IWC Wage Order 4-2001, subd. (1)(A)(1)(f); Cal.
3 Lab. Code §515, subd. (c). At all relevant times, Plaintiff and other salary employees were
4 compensated with a fixed annual salary that fell well below the *minimum* exemption salary
5 requirement (i.e. less than \$45,760 from January 1, 2018 to January 1, 2019, less than \$49,920 from
6 January 1, 2019 to January 1, 2020, less than \$54,080 from January 1, 2020 to January 1, 2021, less
7 than \$58,240 from January 1, 2021 to January 1, 2022, and less than \$62,400 from January 1, 2022
8 to January 1, 2023). For example, Plaintiff’s annual base salary was \$52,000 from May 31, 2021 to
9 April of 2022. Defendants knew, or reasonably should have known that the Plaintiff and other salary
10 employees were not being paid at least the minimum wage for all hours worked in violation of
11 California wage and hour laws.

12 98. Based on Defendants’ failure to pay the minimum exemption salary, Defendants
13 misclassified Plaintiff and other salary-exempt Class members as exempt employees and failed to
14 compensate them in compliance with California wage and hour laws.

15 99. Defendants had the ability to pay minimum wages to Plaintiff and other salary-
16 exempt Class members for all hours worked and have willfully refused to pay such wages with the
17 intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass,
18 oppress, hinder, delay, or defraud Plaintiff and other salary-exempt Class members. Plaintiff and
19 other salary-exempt Class members have suffered and continue to suffer substantial losses related to
20 the use and enjoyment of such compensation and lost interest on such wages.

21 100. Therefore, Plaintiff and other salary-exempt Class members are entitled to recover the
22 unpaid minimum wages, liquidated damages in an amount equal to the minimum wages unlawfully
23 unpaid, interest thereon, and reasonable attorneys’ fees and costs of suit pursuant to California Labor
24 Code section 1194, subdivision (a).

25 101. Defendants are further liable for civil penalties and reasonable attorneys’ fees and
26 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.
27
28

SEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES (Lab. Code §§ 2800, 2802)

(Against all Defendants and DOES 1-50, inclusive)

102. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of this Class Action Complaint as if fully alleged herein.

103. California Labor Code section 2802 requires Defendants to indemnify their employees for all expenses that the employees necessarily expend as a direct result of discharge of their employment duties or at the direction of the employer.

104. Pursuant to California Labor Code sections 2800 and 2802, Defendants are required to reimburse Plaintiff and other members of the Class for expenses incurred by them in the performance of their job duties, including expenses incurred for personal cell phones and usage of personal cell phones.

105. Plaintiff and other members of the Class were, and still are, required to pay expenses incurred in the discharge of their duties for Defendants, including providing and maintaining their personal cell phones. These expenses are, and were, necessarily incurred by Plaintiff and other members of the Class in the discharge of their duties and in carrying out Defendants' principal business – selling and providing infrastructure, telecommunications, and energy-related services. Defendants required Plaintiff and other members of the Class to provide their own personal cell phones and voice and data plans to communicate with Defendants' employees, for example, for meetings via Microsoft teams, and also to communicate with vendors. During the applicable liability period, Defendants had a policy and practice of not reimbursing Plaintiff and other members of the Class for the above-mentioned expenses incurred in carrying out their business.

106. Plaintiff and other members of the Class have not received any reimbursement for the costs incurred in purchasing personal cell phones and cell phone related expenses required by Defendants.

107. As a proximate result of Defendants' conduct, Plaintiff and other members of the Class have suffered monetary loss and been deprived of their property in the form of unreimbursed expenses. Plaintiff and other members of the Class have not received reimbursement or additional wages for the maintenance of their personal cell phones.

1 108. Plaintiff and other members of the Class pray for the full amount of the expenses they
2 incurred in the course of their job duties, attorneys' fees, costs, penalties, and interest pursuant to
3 California Labor Code sections 2802, subdivision (c).

4 109. Defendants are further liable for civil penalties and reasonable attorneys' fees and
5 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

6 **EIGHTH CAUSE OF ACTION**

7 **FAILURE TO FURNISH EMPLOYMENT RECORDS (Lab. Code §§ 226, 432, 1198.5)**

8 (Against all Defendants and DOES 1-50, inclusive)

9 110. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
10 this Class Action Complaint as if fully alleged herein.

11 111. At all times relevant herein, California Labor Code section 226 provided as follows:

12 (b) An employer ... shall afford current and former employees the
13 right to inspect or copy records pertaining to their employment, upon
14 reasonable request to the employer....

15 (c) An employer who receives a written or oral request to inspect or
16 copy records pursuant to subdivision (b) pertaining to a current or
17 former employee shall comply with the request as soon as practicable,
18 but no later than 21 calendar days from the date of the request....

19 112. Section 7 of the applicable IWC Wage Order provided as follows:

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

22 (3) ...Time records showing when the employee begins and ends
23 each work period. Meal periods, split shift intervals and total
24 daily hours worked shall also be recorded....

25 (5) Total hours worked during the payroll period and applicable
26 rates of pay...

27 (C) . . . An employee's records shall be available for inspection by
28 the employee upon reasonable request.

113. At all times relevant herein, California Labor Code section 432 provided as follows:

1 “If an employee or applicant signs any instrument relating to the
2 obtaining or holding of employment, he shall be given a copy of the
3 instrument upon request.”

4 114. At all times relevant herein, California Labor Code section 1198.5 provided as
5 follows:

6 “Every current and former employee, or his or her representative, has
7 the right to inspect and receive a copy of the personnel records that the
8 employer maintains relating to the employee’s performance or to any
9 grievance concerning the employee.”

10 115. On July 18, 2022, Plaintiff requested, via E-mail, that Defendants produce his
11 employment records, including but not limited to, his personnel file, time records, and payroll
12 records pursuant to California Labor Code sections 226, 432, and 1198.5.

13 116. Again, on August 22, 2022 and September 16, 2022, Plaintiff requested via E-mail,
14 that Defendants produce Plaintiff’s complete employment records because Defendants ignored his
15 requests and did not produce anything to him pursuant to California Labor Code sections 226, 432,
16 and 1198.5.

17 117. Plaintiff is informed and believes that other members of the Class made reasonable
18 requests to Defendants to be allowed to inspect and copy employment records, including but not
19 limited to, personnel and payroll records that Defendants were obligated to keep pursuant to
20 California Labor Code sections 226, 432, and 1198.5 and the applicable IWC Wage Order.

21 118. Defendants failed to timely produce Plaintiff’s employment records, including but not
22 limited to, personnel and payroll records, or provide them for inspection. Defendants did not
23 provide Plaintiff and/or other members of the Class with an opportunity to inspect and copy those
24 time and payroll records within twenty-one (21) calendar days of the date of the request and thus
25 violated California Labor Code section 226, subdivision (c). Defendants did not provide Plaintiff
26 and/or other members of the Class with an opportunity to inspect and copy those personnel records
27 within thirty (30) calendar days of the date of the request and thus violated California Labor Code
28 section 1198.5.

119. Due to Defendants intentional failure to comply with California Labor Code section

1 1198.5, Defendants are subject to fines of not less than one hundred dollars (\$100).

2 120. Due to Defendants intentional failure to comply with California Labor Code section
3 432, and pursuant to California Labor Code section 432.7, Plaintiff and/or other members of the
4 Class shall be entitled to treble actual damages, or five hundred dollars (\$500), whichever is greater,
5 plus costs, and reasonable attorney's fees.

6 121. Due to Defendants intentional failure to comply with California Labor Code section
7 226, Plaintiff and/or other members of the Class shall be entitled to a seven hundred fifty-dollar
8 (\$750) penalty, injunctive relief, and an award of costs and reasonable attorneys' fees.

9 122. Defendants are further liable for civil penalties and reasonable attorneys' fees and
10 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.

11 **NINETH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE NOTICE OF EMPLOYMENT INFORMATION (Lab. Code §**
13 **2810.5)**

14 (Against all Defendants and DOES 1-50, inclusive)

15 123. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
16 this Class Action Complaint as if fully alleged herein.

17 124. At all times relevant herein, California Labor Code section 2810.5(a) mandated that
18 employers provide each employee at the time of hiring, written notice of employment-related
19 information.

20 125. Defendants willfully failed, and continue to fail, to provide written notice of
21 employment-related information at the time of hiring to Plaintiff and other members of the Class.
22 For example, Defendants did not provide Plaintiff with written notice of employment-related
23 information at the time of his respective hiring on or about January of 2020.

24 126. Therefore, Plaintiff is entitled to recover civil penalties under California Labor Code
25 section 558.

26 127. Defendants are further liable for civil penalties and reasonable attorneys' fees and
27 costs of suit pursuant to California Labor Code section 558, and 2698, et seq.
28

TENTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S INVESTIGATIVE CONSUMER REPORTING

AGENCIES ACT ("ICRAA") (Civ. Code § 1786)

(Against all Defendants and DOES 1-50, inclusive)

128. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of this Class Action Complaint as if fully alleged herein.

129. Defendants and DOES 1 through 50, each, are a "person" as defined by California Civil Code section 1786.2, subdivision (n) of the Investigative Consumer Reporting Agencies Act ("ICRAA").

130. Plaintiff and the Class members are "consumers" within the meaning of California Civil Code section 1786.2, subdivision (b) of the ICRAA, because they are "individuals."

131. California Civil Code section 1786.2 subdivision (c) of the ICRAA defines an "investigative consumer report" as: a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through any means.

132. Thus, Defendants' background checks qualify as an investigative consumer report under the ICRAA.

133. California Civil Code section 1786.16, subdivision (a)(2) of the ICRAA provides, in relevant part:

If, at any time, an investigative consumer report is sought for employment purposes... the person seeking the investigative consumer report may procure the report, or cause the report to be made, only if all of the following apply:

...

(B) The person procuring or causing the report to be made provides a clear and conspicuous disclosure in writing to the consumer at any time before the report is procured or caused to be made in a document

1 that consists solely of the disclosure, that:

2 (i) An investigative consumer report may be obtained.

3 ...

4 (C) The consumer has authorized in writing the procurement of the
5 report.
6

7 134. California Civil Code section 1786.16, subdivision (b)(1) of the ICRAA further
8 provides, in relevant part:

9 Any person described in subdivision (d) of Section 1786.12 who
10 requests an investigative consumer report, in accordance with
11 subdivision (a) regarding that consumer, shall do the following:

12 (1) Provide the consumer a means by which the consumer may
13 indicate on a written form, by means of a box to check, that the
14 consumer wishes to receive a copy of any report that is prepared. If
15 the consumer wishes to receive a copy of the report, the recipient of
16 the report shall send a copy of the report to the consumer within three
17 business days of the date that the report is provided to the recipient,
18 who may contract with any other entity to send a copy to the
19 consumer.

20 135. Plaintiff is informed and believes and based thereon alleges that the plain language of
21 the statute indicates that the inclusion of extraneous information in a disclosure form violates the
22 disclosure and authorization requirements of the ICRAA, because such a form would not consist
23 “solely” of the disclosure and that the notice provided would not be “clear and conspicuous.”
24 Additionally, section 1786.16 requires that the consumer authorize in writing the procurement of the
25 report.

26 136. Plaintiff is informed and believes that during the relevant time periods alleged herein,
27 Defendants have, at times, failed to make a “clear and conspicuous” disclosure (i.e. state law
28 disclosures) in writing to Plaintiff and Class Members at any time before the report is or was

1 procured or caused to be made in a document that consists solely of the disclosure, that: identified
2 the name, address, and telephone number of the investigative consumer reporting agency conducting
3 the investigation; notified Plaintiff and Class Members in writing of the nature and scope of the
4 investigation requested, including a summary of the provisions of Civ. Code § 1786.22; and notified
5 Plaintiff and Class Members of the internet web site of the investigative consumer reporting agency,
6 or, if the agency had no internet web site address, the telephone number of the agency where
7 Plaintiff and Class Members may find information about the investigative reporting agency's privacy
8 practices, including whether Plaintiff and Class Member's personal information will be sent outside
9 of the United States or its territories and information that complies with subdivision (d) of Section
10 1786.22, among other things.

11 137. Defendants also violated California Civil Code section 1786.16, subdivision (b)(1),
12 by failing to provide a copy of the consumer report within three business days of receipt of the report
13 to Plaintiff and other Class members that requested a copy of the consumer report by checking a box
14 on Defendants' background check disclosure and/or authorization form.

15 138. Upon information and belief, Plaintiff alleges that Defendants have a policy and
16 practice of failing to provide a copy of the report to Plaintiff and other Class members that requested
17 to receive a copy. Pursuant to that policy and practice, Defendants violated California Civil Code
18 section 1786.16(b)(1) of the ICRAA, as described above.

19 139. Plaintiff is informed and believes that as a result of the above, Defendants have, at
20 times, willfully violated the strict disclosure and authorization requirements under the California
21 Investigative Consumer Reporting Agencies Act, California Civil Code section 1786, et seq.

22 140. As a result of Defendants' unlawful procurement of background reports by way of its
23 inadequate disclosures and authorizations, as set forth above, Plaintiff and Class Members have been
24 deprived of their consumer rights and prevented from making informed decisions about whether to
25 permit Defendants to obtain their personal information.

26 141. Plaintiff is informed and believes that as a result of the above, Defendants have, at
27 times, willfully violated the strict disclosure and authorization requirements under the ICRAA.

28 142. Plaintiff is informed and believes Defendants' conduct in violation of Section 1786, et
seq. of the ICRAA was and is willful and/or grossly negligent. Defendants acted in deliberate or

1 reckless disregard of their obligations and the rights of applicants and employees, including Plaintiff
2 and Class Members.

3 143. Plaintiff, on behalf of himself and all other Class members, seeks some available
4 remedies pursuant to California Civil Code section 1786.50, including statutory damages, punitive
5 damages, and/or attorney fees and costs.

6 **ELEVENTH CAUSE OF ACTION**

7 **VIOLATION OF CALIFORNIA'S CONSUMER CREDIT REPORTING AGENCIES ACT**

8 **(Civ. Code, § 1785.1 et seq.)**

9 (Against all Defendants and DOES 1-50, inclusive)

10 144. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
11 this Class Action Complaint as if fully alleged herein.

12 145. At all relevant times, Plaintiff and Class Members were employees and/or former
13 employees and/or applicants of Defendants covered by the Consumer Credit Reporting Agencies
14 Act, California Civil Code section 1785.1, et seq. ("CCRAA").

15 146. At all relevant times, Plaintiff was a "person" as defined by California Civil Code
16 1785.3(j) of the CCRAA.

17 147. Section 1785.3(c) of the ICRAA defines "consumer credit report" as "[a]ny written,
18 oral, or other communication or any information by a consumer credit reporting agency bearing on a
19 consumer's credit worthiness, credit standing, or credit capacity, which is used or is expected to be
20 used, or collected in whole or in part, for the purpose of serving as a factor in establishing the
21 consumer's eligibility for: ... (2) employment purposes ...".

22 148. Plaintiff is informed and believes that the employment background checks procured
23 by Defendants on behalf of Plaintiff and Class Members qualify as consumer credit reports under the
24 CCRAA.

25 149. Section 1785.20.5(a) of the CCRAA provides, in relevant part, that "[p]rior to
26 requesting a consumer credit report for employment purposes, the user of the report shall provide
27 written notice to the person involved. The notice shall inform the person that a report will be used,
28 and shall identify the specific basis under subdivision (a) of Section 1024.5 of the California Labor
Code for use of the report. The notice shall also inform the person of the source of the report ...".

1 150. Plaintiff is informed and believes and based thereon alleges that for the relevant time
2 periods described herein, Defendants have, at times, obtained and used information in consumer
3 reports to conduct background checks on prospective and existing employees without providing
4 proper notice informing Plaintiff and Class Members of the source of the reports and without
5 supplying the name and address of the consumer credit reporting agency making the report, as
6 required by California Civil Code section 1785.20.5(b), among other things.

7 151. Plaintiff is informed and believes that as a result of the above, Defendants have, at
8 times, willfully violated the strict disclosure and authorization requirements under the CCRAA.

9 152. Plaintiff is informed and believes Defendants' conduct in violation of Section 1785.1,
10 et seq. of the CCRAA was and is willful and/or grossly negligent. Defendants acted in deliberate or
11 reckless disregard of their obligations and the rights of applicants and employees, including Plaintiff
12 and Class Members.

13 153. Plaintiff, on behalf of Plaintiff and Class Members, without limitation, seek some of
14 the available remedies pursuant to, without limitation, California Civil Code section 1785.31.

15 **TWELFTH CAUSE OF ACTION**

16 **UNFAIR BUSINESS PRACTICES (Bus. & Prof. Code, § 17200 et seq.)**

17 (Against all Defendants and DOES 1-50, inclusive)

18 154. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
19 this Class Action Complaint as if fully alleged herein.

20 155. California Business & Professions Code Section 17200 defines unfair competition to
21 include “any unlawful, unfair or fraudulent business act or practice...”

22 156. California Business & Professions Code Section 17203 provides that “[t]he court may
23 make such orders or judgments ... as may be necessary to prevent the use or employment by any
24 person of any practice which constitutes unfair competition, as defined in this chapter, or as may be
25 necessary to restore to any person in interest any money or property, real or personal, which may
26 have been acquired by means of unfair competition.”

27 157. Defendants have engaged in acts of unfair competition as defined in Bus. & Profs
28 Code §§17200, et seq., by engaging in the acts and practices alleged herein.

 158. California *Labor Code* section 90.5(a) states that it is the public policy of California

1 to vigorously enforce minimum labor standards to ensure employees are not required to work under
2 substandard and unlawful conditions, and to protect employers who comply with the law from those
3 who attempt to gain competitive advantage at the expense of their workers by failing to comply with
4 minimum labor standards.

5 159. Plaintiff is informed and believes and, on that basis, alleges, that the unlawful, unfair
6 and/or fraudulent practices alleged herein are based upon a policy or practice that is continuing in
7 nature. Specifically, Defendants, and each of them, have engaged, continue to engage, and will
8 continue to engage in a pattern and practice of:

- 9 a. Defendants' failure to provide meal periods or premium payments in lieu
10 thereof;
- 11 b. Defendants' failure to provide rest periods or premium payments in lieu
12 thereof;
- 13 c. Defendants' failure to pay Plaintiff and the Class for all hours worked,
14 including at the appropriate minimum, regular, overtime, and/or double-time
15 rates;
- 16 d. Defendants' failure to keep and provide accurate wage statements;
- 17 e. Defendants' failure to reimburse employees for necessary incurred business
18 expenses; and
- 19 f. Defendants' failure to provide all wages upon separation of employment to
20 Plaintiff and other former employees.

21 160. As a direct and proximate result of these unlawful and unfair practices, Plaintiff and
22 members of the Class have suffered injury in fact and lost income in that Defendants have become
23 unjustly enriched by the savings in salaries, benefits, and other employment prerequisites that
24 Plaintiff and members of the Class would otherwise have earned but for the aforesaid unfair business
25 practices. Defendants should be made to disgorge and make restitution of and restore all ill-gotten
26 gains attributable to these acts and practices to Plaintiff and members of the Class.

27 161. Under the *Business & Professions Code* Section 17203, Plaintiff and members of the
28 Class are entitled to obtain restitution of these funds for Defendants' unfair business practices as
enumerated herein.

1 162. Pursuant to *Business & Professions* Code Section 17203, injunctive relief is necessary
2 to prevent Defendants from continuing to engage in the unfair business practices as alleged herein.
3 Plaintiff is informed and believes that Defendants, and persons acting in concert with them, have
4 committed and will continue to commit the above unlawful acts unless restrained or enjoined by this
5 Court. Unless the relief prayed for below is granted, a multiplicity of actions will result. Plaintiff
6 and members of the Class have no plain, speedy, or adequate remedy at law, in that pecuniary
7 compensation would not afford adequate and complete relief. The above-described acts will cause
8 great and irreparable damage to the Plaintiff and members of the Class unless Defendants are
9 restrained from committing further illegal acts.

10 163. Plaintiff is entitled to an award of attorneys' fees and costs as set forth herein and
11 below. Plaintiff and the Class he seeks to represent request relief as described herein and below.

12 **THIRTEENTH CAUSE OF ACTION**

13 **CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT (Lab. Code §§**
14 **2698 et seq.)**

15 (Against all Defendants and DOES 1-50, inclusive)

16 164. Plaintiff alleges and incorporates by reference each of the foregoing paragraphs of
17 this Class Action Complaint as if fully alleged herein.

18 165. Plaintiff submits this FAC to include allegations pursuant to California Labor Code
19 section 2698 et seq., the Private Attorneys General Act of 2004. As described above, Plaintiff
20 Andrew Helfet has complied with all of the administrative requirements.

21 166. Plaintiff Andrew Helfet is an aggrieved employee as defined in California Labor
22 Code section 2699, subdivision (a). Plaintiff Andrew Helfet brings this case on behalf of himself
23 and other current and former aggrieved employees affected by the labor law violations alleged in this
24 FAC.

25 167. California Labor Code section 2699, subdivision (f), provides, in pertinent part:

26 For all provisions of this code except those for which a civil penalty is
27 specifically provided, there is established a civil penalty for a violation
28 of these provisions, as follows: . . . (2) If, at the time of the alleged
 violation, the person employs one or more employees, the civil penalty

1 is one hundred dollars (\$100) for each aggrieved employee per pay
2 period for the initial violation and two hundred dollars (\$200) for each
3 aggrieved employee per pay period for each subsequent violation.
4

5 168. Plaintiff Andrew Helfet also seeks civil penalties as provided under applicable
6 California Labor Code sections for violations of the California Labor Code alleged herein pursuant
7 to California Labor Code section 2699, subdivision (a). To the extent that any violation alleged
8 herein does not carry a penalty, Plaintiff Andrew Helfet seeks civil penalties pursuant to California
9 Labor Code section 2699, subdivision (f), for himself and other current or former employees for
10 violations of those sections. Plaintiff Andrew Helfet is also entitled to an award of attorneys' fees
11 and costs as set forth below.

12 169. Plaintiff's PAGA claim does not require class certification because these claims are
13 held by Plaintiff Andrew Helfet and on the behalf primarily of the State of California in this action.
14 Indeed, seventy-five percent (75%) of the net penalties obtained through PAGA accrue to the State
15 of California. Both the language of PAGA and the express intent of the Legislature indicate that an
16 aggrieved employee may bring an action on behalf of other employees without complying with the
17 requirements of a class action. California Labor Code section 2699 specifically states that an
18 aggrieved employee may bring an action on behalf of other employees, "[n]otwithstanding any other
19 provision of law..." The wording of the PAGA, which authorizes an aggrieved employee to bring
20 an action "on behalf of himself or herself and other current or former employees... [,]" is similar to
21 the former wording of Business and Professions Code section 17204, which authorized a person to
22 bring an action "acting for the interests of itself, its members or the general public." The Legislature
23 has made clear that an action under the PAGA is in the nature of an enforcement action, with the
24 aggrieved employee acting as a Private Attorney General to collect penalties from employers who
25 violate labor laws. Such an action is fundamentally a law enforcement action designed to protect the
26 public and penalize defendants for past illegal conduct. Restitution is not the primary object of a
27 PAGA action. An action under the PAGA is not for the purpose of recovering damages, but only for
28 the recovery of a civil penalty. Further, PAGA recoveries do not preclude an employee from

1 pursuing any other claim he/she may have available under the law, including those for any unpaid
2 wages.

3 170. As such, Plaintiff Andrew Helfet individually holds a substantive right to bring
4 PAGA claims by standing in the shoe of, and on behalf of, the State of California to enforce
5 California labor laws.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on his own behalf and on behalf of the Class members, prays for judgment against Defendants as follows:

1. For an order by the Court that the class action be certified pursuant to California Code of Civil Procedure Section 382;
2. For an order counsel for Plaintiff be appointed class counsel;
3. Damages for all wages earned and owed, including minimum and overtime wages under Labor Code section 510, 558.1, 1194, 1197, and 1199;
4. Liquidated damages pursuant to Labor Code section 558.1 and 1194.2;
5. Damages for unpaid premium wages from for any and all meal and/or rest break violation pursuant to Labor Code section 512, 558.1, 226.7, and/or the applicable IWC Wage Orders;
6. Waiting time penalties under Labor Code sections 203 and 558.1;
7. Restitution of wages and benefits due which were acquired by means of an unfair business practice, according to proof at trial;
8. For Attorney's fees;
9. Statutory penalties;
10. For penalties pursuant to California Labor Code section 558;
11. For penalties pursuant to California Labor Code section 2698 et seq.;
12. For prejudgment and post-judgment interest according to any applicable provision of law, according to proof;
13. For declaratory judgement;
14. Costs of suit;
15. For Injunctive Relief, Disgorgement of profits, and Restitution; and
16. Such other and further relief as the court deems proper.

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1 Dated: July 14, 2025

N O S R A T I L A W
A PROFESSIONAL LAW CORPORATION

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3
4
5 By: /s/ Omid Nosrati
6 OMID NOSRATI, ESQ.
Attorneys for Plaintiff,
ANDREW HELFET

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff and the Class hereby demand a jury trial as provided by §631 of the California Code
9 of Civil Procedure.

10 Dated: July 14, 2025

11 N O S R A T I L A W
A PROFESSIONAL LAW CORPORATION

12
13 By: /s/ Omid Nosrati
14 OMID NOSRATI, ESQ.
Attorneys for Plaintiff,
ANDREW HELFET

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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 18 and not a party to the within action. My business address is 1801 Century Park East, Suite 840, Los Angeles, California 90067.

On **July 14, 2025**, I served the foregoing document described as **SECOND AMENDED CLASS ACTION COMPLAINT** on the interested party in this action by:

—By placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

Natalie R Alameddine, Esq.
Nicole Wentworth, Esq.
BLANKROME
2029 Century Park East 6th Floor
Los Angeles, CA 90067
Email: natalie.alameddine@blankrome.com
nicole.wentworth@blankrome.com

X By Case Anywhere. Pursuant to Code of Civil Procedure § 187 and California Rules of Court, Rules 2.253(a) and 3.751, and the stipulation of the parties, I caused the documents to be sent via electronic transmission to Case Anywhere at the following email address: Case Anywhere Support [support@caseanywhere.com]. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on **July 14, 2025**, at Los Angeles, California.

Omid Nosrati

Omid Nosrati