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on behalf of the State of California and all Aggrieved Employees
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 BRYAN GUTIERREZ, on behalf of the State
of California and all Aggrieved Employees,

13 Plaintiff,

14 v.

15
16 ACUSHNET COMPANY, a Delaware
Corporation; MARQUEE STAFFING, a
17 California Corporation; and DOES 1-100,
inclusive,

18 Defendants.
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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By S. Bakke ,Deputy Clerk

Case No.: 25CU046736C

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

1 Plaintiff, BRYAN GUTIERREZ, (“PLAINTIFF”), on behalf of the State of California and
2 all Aggrieved Employees (as defined below), hereby files this Complaint against Defendants
3 ACUSHNET COMPANY, a Delaware Corporation; MARQUEE STAFFING, a California
4 Corporation; and DOES 1-100, inclusive, (collectively referred to herein as “DEFENDANTS”).
5 PLAINTIFF is informed and believes and thereon alleges as follows:

6 **INTRODUCTION**

7 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
8 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
9 Private Attorney General Act, Labor Code section 2698 *et seq.* (“PAGA”), to recover civil penalties
10 for DEFENDANTS’ violations of the California Labor Code as alleged below.

11 **JURISDICTION AND VENUE**

12 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
13 California statutes, including but not limited to the PAGA, and decisional law and regulations.

14 3. Venue is proper in this judicial district and the County of San Diego pursuant to
15 California Code of Civil Procedure section 395.5 because DEFENDANTS assigned PLAINTIFF to
16 work in this judicial district, DEFENDANTS transact business within this judicial district, and
17 conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
18 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
19 proper in any county where the defendants committed Labor Code violations against some of its
20 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
21 because the cause, or some part of the cause, arose in the County of San Diego.

22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California.

25 5. PLAINTIFF worked for DEFENDANTS as a non-exempt employee during the
26 liability period. PLAINTIFF was assigned by Marquee Staffing to work at Acushnet’s facilities in
27 Vista, California, from approximately February 2025 through approximately April 2025.

28 6. Defendant, ACUSHNET COMPANY (“Acushnet”), is a Delaware Corporation that,

1 at all relevant times, was authorized to do business within the State of California and is doing
2 business in the State of California.

3 7. Acushnet operates as a global manufacturer of golfing equipment, clothing, and
4 accessories. Acushnet operates under including but not limited to the following brand names:
5 “Acushnet,” “Titleist,” “FootJoy,” “Vokey Design,” “Scotty Cameron,” “Pinnacle,” and/or “KJUS.”

6 8. Defendant, MARQUEE STAFFING (“Marquee Staffing”), is a California
7 Corporation that, at all relevant times, was authorized to do business within the State of California
8 and is doing business in the State of California.

9 9. Marquee Staffing is a staffing company.

10 10. DEFENDANTS own, operate, manage and/or staff its employees to work at
11 including but not limited to, the warehouse distribution centers, manufacturing centers, facilities
12 and/or other location(s) in California, including but not limited to, in Vista and Carlsbad, California.
13 DEFENDANTS, through its various locations, serve the including but not limited to, manufacturing
14 and/or warehousing industry.¹

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

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

27
28 ¹ See <https://www.acushnetholdingscorp.com/our-brands/default.aspx> and <https://www.marqueestaffing.com/>. Last visited on September 4, 2025.

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

5 **JOINT LIABILITY**

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

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

1 and Aggrieved Employees to work for them.

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

15 16. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
16 to this Complaint, DEFENDANTS, and each of them, were the joint employers of PLAINTIFF and
17 Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and cause of action,
18 in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved
19 Employees' wages, hours and working conditions, and/or suffered or permitted them to work so as
20 to be considered the joint employers of PLAINTIFF and Aggrieved Employees.

21 17. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
22 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
23 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
24 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
25 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
26 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
27 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
28 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's

1 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
2 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
3 writing the details of their compensation, and the manner in which they were to take meal and rest
4 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
5 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
6 collectively would evaluate their wage rates.

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

12 19. Moreover, based on information and belief, Marquee Staffing hired PLAINTIFF and
13 entered into a written employment agreement with PLAINTIFF. During PLAINTIFF's employment,
14 Marquee Staffing maintained control over many aspects of PLAINTIFF's employment, including,
15 among other things, having the authority to discipline PLAINTIFF, change PLAINTIFF's job
16 assignment, change PLAINTIFF's work hours, change PLAINTIFF's rates of pay, and to terminate
17 PLAINTIFF's employment.

18 20. Based on information and belief, when PLAINTIFF was first hired, Marquee
19 Staffing provided PLAINTIFF with orientation and training materials. Marquee Staffing issued
20 PLAINTIFF written policies concerning meal periods, rest breaks, timekeeping, hours worked, and
21 payment of PLAINTIFF's wages, with which PLAINTIFF was required to comply. Based on
22 information and belief, among other things, these policies provided that PLAINTIFF's weekly time
23 records be submitted to Marquee Staffing, and Marquee Staffing was supposed to process
24 PLAINTIFF's time records and pay PLAINTIFF for all hours worked. Marquee Staffing exercised
25 ultimate control over the payment of PLAINTIFF's wages, as Marquee Staffing issued PLAINTIFF
26 his paychecks. Finally, Marquee Staffing directed PLAINTIFF to comply with Acushnet's policies
27 and directions. PLAINTIFF is informed and believes that Marquee Staffing exercised the same
28 control over, applied the same policies and practices, and engaged in the same acts and omissions

1 with regard to the other Aggrieved Employees.

2 21. Acushnet similarly suffered or permitted PLAINTIFF to work for them or engaged
3 PLAINTIFF to work for them. PLAINTIFF is informed and believes that Acushnet entered into a
4 written agreement with Marquee Staffing, pursuant to which Acushnet paid Marquee Staffing to
5 provide it with workers, including PLAINTIFF, to conduct Acushnet's business operations –
6 namely, to work in Acushnet's warehouse distribution centers, warehouses and/or other facilities
7 and/or other location(s). Acushnet suffered or permitted PLAINTIFF to work at Acushnet for the
8 entirety of PLAINTIFF's employment.

9 22. Acushnet further exercised control over PLAINTIFF's wages, hours and working
10 conditions. Acushnet also: (1) set PLAINTIFF's work hours and provided his work schedule; (2)
11 provided PLAINTIFF with policies regarding meal periods and rest breaks, with which PLAINTIFF
12 was required to comply; (3) directly supervised PLAINTIFF's work through its employees; (4)
13 assigned PLAINTIFF's job duties and trained PLAINTIFF on said job duties; (5) exercised authority
14 to reprimand and counsel PLAINTIFF regarding any issues, including work performance; (6)
15 exercised authority to end PLAINTIFF's work assignment at any time, the effective termination of
16 employment; (7) required PLAINTIFF to record hours worked using Acushnet's timekeeping
17 system; (8) determined whether and when PLAINTIFF would receive meal periods and rest breaks;
18 (9) subjected PLAINTIFF to unlawfully scheduled meal periods and rest breaks; and, (10) was
19 responsible for maintaining PLAINTIFF's timekeeping records. On information and belief,
20 Acushnet issued further written policies and practices and guidelines governing PLAINTIFF's
21 working conditions with which PLAINTIFF was required to comply.

22 23. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
23 control over, applied the same policies and practices, and engaged in the same acts and omissions
24 with regard to all other Aggrieved Employees.

25 24. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS must
26 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
27 PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
28 services from which DEFENDANTS benefited, and furthermore that the aforementioned entities

1 had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at
2 all relevant times herein, so as to be considered the joint employers of PLAINTIFF.

3 25. By reason of their status as joint employers of PLAINTIFF and Aggrieved
4 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
5 Code and applicable Wage Orders as to all Aggrieved Employees.

6 26. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
7 control over, applied the same policies and practices, and engaged in the same acts and omissions
8 with regard to the other Aggrieved Employees.

9 27. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must
10 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
11 PAGA, as the aforementioned entities engaged, suffered or permitted PLAINTIFF to perform
12 services from which they benefited, and furthermore that the aforementioned entities had the right
13 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
14 times herein, so as to be considered the joint employers of PLAINTIFF.

15 28. By reason of their status as joint employers of PLAINTIFF and Aggrieved
16 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
17 Code and applicable Wage Orders as to all Aggrieved Employees.

18
19 **LIABILITY UNDER CALIFORNIA LABOR CODE SECTION 2810.3**

20 29. California Labor Code section 2810.3(b)(1) provides in pertinent part that “a client
21 employer shall share with the labor contractor” all civil liability for the payment of wages to the
22 workers supplied by the labor contractor.

23 30. Marquee Staffing is a “labor contractor” in that it supplies Acushnet with workers to
24 perform labor within Acushnet’s usual course of business. Lab. Code § 2810.3(a)(3).

25 31. Acushnet is a “client employer” in that it is a business entity that “obtains or is
26 provided workers to perform labor within its usual course of business” from labor contractor
27 Marquee Staffing. Lab. Code § 2810.3(a)(1)(A). Moreover, Acushnet has a workforce of more than
28 twenty-five workers and is supplied with at least five (5) workers from a labor contractor at any

1 given time. Lab. Code § 2810.3(a)(1)(B).

2 32. Under Section 2810.3, DEFENDANTS thus share all civil liability for the payment
3 of wages to all workers supplied to Acushnet by Marquee Staffing.

4 33. PLAINTIFF complied with all administrative requirements by providing notice by
5 certified mail of the claims alleged herein to Acushnet. Lab. Code § 2810.3(d).

6 34. Any reference herein to any alleged act or omission by any DEFENDANT shall be
7 deemed also to mean the same alleged act or omission by every other DEFENDANT, acting jointly
8 and severally.

9 **PAGA ALLEGATIONS**

10 35. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
11 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
12 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
13 following:

- 14 i. All non-exempt workers who were directly employed by Defendant MARQUEE
15 STAFFING - regardless of where those non-exempt workers were assigned or a
16 staffed to work – in California at any time from one year plus 65 days from the
17 filing of the initial Complaint through the present (“PAGA Period”).
- 18 ii. All non-exempt workers who were assigned/staffed to work at any one or more
19 of Defendant, ACUSHNET COMPANY’s locations in California, by Defendant
20 MARQUEE STAFFING and/or any other staffing/temporary service agencies,
21 at any time during the PAGA Period.
- 22 iii. All non-exempt workers who were directly employed by Defendant,
23 ACUSHNET COMPANY at any location in California at any time during the
24 PAGA Period.

25 36. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
26 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
27 limitations period and personally suffered each of the Labor Code violations set forth herein.
28 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved

1 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

2 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

3 37. PLAINTIFF, on June 12, 2025, through counsel, gave written notice by online filing
4 with the California Labor and Workforce Development Agency ("LWDA") informing it that
5 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
6 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via
7 certified mail.

8 38. The PAGA Notice outlined PLAINTIFF's claims for violations of the California
9 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
10 Employees.

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

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

19 **FACTUAL ALLEGATIONS**

20 41. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
21 worked for DEFENDANTS in the State of California. At all times referenced herein,
22 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
23 permitted them to work.

24 42. PLAINTIFF worked for DEFENDANTS as a non-exempt employee during the
25 liability period.

26 43. PLAINTIFF was assigned by Marquee Staffing to work at Acushnet's facilities in
27 Vista, California, from approximately February 2025 through approximately April 2025.

28 44. PLAINTIFF worked in shipping and receiving and loaded and unloaded trucks,

1 among other assigned job duties.

2 45. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
3 DEFENDANTS as hours worked.

4 46. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
5 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
6 minimum and overtime wages.

7 47. DEFENDANTS failed to compensate PLAINTIFF and other Aggrieved Employees
8 for all hours worked by virtue of DEFENDANTS' automatic deduction and time rounding policies
9 for shift start and shift end times and/or meal period start and end times, and failure to relieve
10 employees of all duties/employer control during unpaid meal periods or otherwise unlawful
11 practices for missed or improper meal periods as explained above.

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

18 49. Based on information and belief, Aggrieved Employees were not paid for all hours
19 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
20 worked instead of actual time worked, time shaving/time rounding policies and practices and/or
21 mandated off-the clock work policies and/or practices.

22 50. For example, based on information and belief, DEFENDANTS shaved time off of
23 Aggrieved Employees' total recorded hours worked and/or suffered, permitted, or required
24 Aggrieved Employees to record only their scheduled hours worked rather than actual time worked
25 and/or otherwise forego recording all work time, resulting in the consistent underpayment of
26 minimum wages and overtime wages owed to Aggrieved Employees. For example,
27 DEFENDANTS' wage statements for PLAINTIFF for including but not limited to the following
28 pay periods demonstrate PLAINTIFF was paid to the nearest half and/or whole hour, resulting in

1 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
2 wages owed: pay period beginning on April 14, 2025 and ending on April 20, 2025 showing
3 precisely 40.00 regular hours and precisely 2.50 overtime hours.

4 51. Based on information and belief, due to including but not limited to,
5 DEFENDANTS' rounding/time shaving policies and practices, PLAINTIFF and other Aggrieved
6 Employees were at times permitted, suffered and/or required to complete work tasks prior to
7 clocking in for the start of their shifts, after clocking out for the end of their shifts, during unpaid
8 meal periods, and/or otherwise outside of scheduled shift times.

9 52. Based on information and belief, at times, DEFENDANTS implemented a time-
10 rounding/shaving system that as applied systematically deprived PLAINTIFF and other Aggrieved
11 Employees of compensable time because the time-rounding system implemented by
12 DEFENDANTS would almost always, if not always, result in understating actual compensable work
13 time.

14 53. DEFENDANTS' failure to pay for all time worked as described above resulted in
15 the underpayment of minimum wages owed to PLAINTIFF and Aggrieved Employees as well as
16 unpaid overtime wages for those Aggrieved Employees who worked more than eight (8) hours in a
17 day and/or more than forty (40) hours in a week.

18 54. DEFENDANTS' failure to pay for all time worked by virtue of their off-the-clock
19 work practices and policies/time shaving practices, resulted in the underpayment of minimum wages
20 owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages for those
21 Aggrieved Employees who worked more than eight (8) hours in a day and/or more than forty (40)
22 hours in a week.

23 55. Based on information and belief, DEFENDANTS had actual and/or constructive
24 knowledge that their off-the-clock work policies and practices resulted in the underpayment of
25 minimum wages owed to PLAINTIFF and other Aggrieved Employees, in violation of California's
26 minimum wage laws.

27 56. Based on information and belief, DEFENDANTS violated California's overtime
28 laws by, among other things, failing to correctly calculate, or record, the total number of hours

1 worked by PLAINTIFF and other Aggrieved Employees and not paying proper overtime rates for
2 overtime worked by virtue of same.

3 57. Namely, DEFENDANTS' time-shaving policies and practices / other off-the-clock
4 work policies and practices described above resulted in the failure to account for all hours worked
5 and thus the denial of minimum wages as well as overtime wages owed to PLAINTIFF and
6 Aggrieved Employees who worked more than eight (8) hours in a day or more than forty (40) hours
7 in a week.

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

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

15 60. Based on information and belief, DEFENDANTS failed to incorporate all non-
16 discretionary remuneration, including but not limited to, non-discretionary piece-rate compensation,
17 shift differential pay, bonus/incentive pay, multiple base rates of pay and/or other non-discretionary
18 pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the
19 miscalculation and underpayment of overtime wages owed.

20 61. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
21 worked shifts of more than five (5) hours, entitling them to at least one meal period. PLAINTIFF
22 and other Aggrieved Employees consistently worked shifts of more than ten (10) hours, entitling
23 them to a second meal period.

24 62. PLAINTIFF and other Aggrieved Employees would not receive all owed legally
25 compliant thirty (30) minute meal breaks. Aggrieved Employees were consistently unable to take
26 timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal
27 periods, interrupted meal periods, and/or work through part or all their meal periods due to the nature
28 and constraints of their job duties and/or commentary from supervisors pressuring them to take non-

1 compliant meal breaks or skip meal breaks completely.

2 63. For example, PLAINTIFF was not permitted to take any version of a second meal
3 period when working shifts longer than ten (10) hours.

4 64. Based on information and belief, at times, DEFENDANTS implemented policies
5 and/or practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS'
6 control during owed meal periods.

7 65. Based on information and belief, DEFENDANTS had actual and/or constructive
8 knowledge that their policies and practices resulted in the denial of uninterrupted meal periods
9 which were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees,
10 in violation of California's meal period laws.

11 66. As explained herein, per DEFENDANTS' uniform policy and practice, Aggrieved
12 Employees who worked shifts of more than ten hours did not receive second meal breaks.

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

19 68. PLAINTIFF is further informed and believes and thereon alleges that
20 DEFENDANTS had actual and/or constructive knowledge that their unlawful meal period policies
21 and practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other Aggrieved
22 Employees, in violation of California's meal period laws.

23 69. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
24 additional hour of wages at their respective regular rates of compensation for each workday a lawful
25 meal period was not provided.

26 70. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
27 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
28 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the

1 middle of the work period, as required by law.

2 71. PLAINTIFF and other Aggrieved Employees were not adequately informed,
3 authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California
4 law.

5 72. PLAINTIFF and other Aggrieved Employees were unable to take compliant rest
6 periods, at times being forced to work during their rest periods, take interrupted or shortened rest
7 periods and/or were unable to take a net ten minute rest period in a suitable rest area.

8 73. For example, PLAINTIFF was restricted to the worksite during purportedly off-duty
9 rest periods, and as such, was not relieved of all duties and DEFENDANTS' control during
10 purportedly off-duty rest periods, in violation of California rest period law.

11 74. As described above, DEFENDANTS implemented policies and/or practices that
12 failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and DEFENDANTS'
13 control during rest periods.

14 75. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
15 additional hour of wages at their respective regular rates of pay for each workday a proper rest period
16 was not provided.

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

25 77. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
26 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
27 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
28 and Aggrieved Employees (by virtue of the off-the-clock work policies and practices described

1 above) which results in a violation of Labor Code section 226(a).

2 78. As described herein, based on information and belief, DEFENDANTS also failed to
3 incorporate all forms of non-discretionary compensation earned during the pay period into the
4 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
5 of overtime worked by PLAINTIFF and other Aggrieved Employees.

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

9 80. **Unreimbursed Business Expenses.** DEFENDANTS required PLAINTIFF and
10 other Aggrieved Employees to incur business expenses as a direct consequence of the performance
11 of their job duties without providing reimbursement, in violation of Labor Code section 2802.

12 81. DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by
13 requiring them to pay for business expenses, including but not limited to, uniforms, work clothing,
14 work shoes, protective/safety gear.

15 82. For example, DEFENDANTS required PLAINTIFF to supply uniforms, work
16 clothing/shoes and/or protective/safety gear DEFENDANTS required PLAINTIFF wear for work,
17 including, steel-toed boots, however, DEFENDANTS did not provide PLAINTIFF with any
18 reimbursement for these business expenses.

19 83. DEFENDANTS regularly failed to reimburse and indemnify Aggrieved Employees
20 for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF and Aggrieved
21 Employees were entitled to be reimbursed for all reasonable expenses associated with carrying out
22 DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

23 84. **Failure to Timely Pay All Wages Upon Separation of Employment.**
24 DEFENDANTS failed to timely pay Aggrieved Employees all wages that were due and owing upon
25 termination or resignation. Based on information and belief, DEFENDANTS untimely provide final
26 wages to Aggrieved Employees without regard to the timing requirements of Labor Code sections
27 201-202.

1 85. Upon separation of employment, Aggrieved Employees' final paychecks were not
2 timely provided, were not timely provided with all owed paid time off and/or did not include all
3 wages owed, including but not limited to, all owed minimum wages, overtime wages, premium
4 wages, and/or paid time off wages at the properly accrued rates.

5 86. For example, DEFENDANTS failed to furnish PLAINTIFF with any final paycheck
6 at the time DEFENDANTS terminated PLAINTIFF's employment, instead requiring PLAINTIFF
7 to wait until the next regularly scheduled pay period in order to receive PLAINTIFF's final
8 paycheck, and PLAINTIFF's late final paycheck is devoid of all wages owed including but not
9 limited to, all owed minimum wages, overtime wages, and premium wages.

10 87. Based on information and belief, DEFENDANTS have a policy and practice of
11 failing to issue final pay checks upon separation of employment and instead requiring Aggrieved
12 Employees to wait until the next regularly scheduled pay period for their final pay checks, in
13 violation of the timing requirements delineated under Labor Code section 201 and/or 202.

14 88. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
15 engaged in these same herein described unlawful practices, which led to violations of the California
16 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
17 unlawful practices to other Aggrieved Employees that it applied to PLAINTIFF.

18 **FIRST CAUSE OF ACTION**
19 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
20 **2698, ET SEQ.**

21 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
22 **Defendants)**

23 89. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

24 **Meal Period Violations**

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

 91. Employers must also provide employees with a second duty-free, uninterrupted thirty

1 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
2 be provided before the end of the 10th hour of work. *Ibid.*

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

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

18 94. As explained above, PLAINTIFF and other Aggrieved Employees were unable to
19 take timely, off duty, thirty-minute, uninterrupted meal periods, at times being forced to take late
20 meal periods, interrupted meal periods, and/or work through part or all of their meal periods due to
21 understaffing, the nature and constraints of their job duties, and/or commentary from supervisors
22 pressuring them to take non-compliant meal periods or skip meal periods completely.

23 95. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
24 actual and/or constructive knowledge that its unlawful meal period policies and practices resulted
25 in the denial of compliant meal periods in violation of California's meal period laws.

26 96. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
27 periods in violation of California law and/or failed to pay the proper meal period premium for failure
28 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift

1 differential pay and/or other non-discretionary compensation into the regular rate or compensation
2 for purposes of calculating the owed meal period premium.

3 97. These unlawful meal period policies and practices result in violations of Labor Code
4 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
5 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
6 Wage Orders, § 20.

7 **Rest Period Violations**

8 98. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
9 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
10 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
11 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
12 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
13 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
14 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
15 1029). The rest period requirement obligates employers to permit and authorize employees to take
16 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
17 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
18 257. If the employer fails to provide any required rest period, the employer must pay the employee
19 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
20 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
21 applicable IWC Wage Order, §12(B).

22 99. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
23 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
24 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
25 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
26 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
27 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
28 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in

1 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
2 “onus is on the employer to clearly communicate the authorization and permission [to take rest
3 periods] to its employees.”).

4 100. Based on information and belief, PLAINTIFF and the Aggrieved Employees did not
5 always receive legally compliant, timely 10-minute rest periods for every four (4) hours worked or
6 major fraction thereof.

7 101. Based on information and belief, at times, DEFENDANTS failed to relieve
8 PLAINTIFF and other Aggrieved Employees of all duties and employer control during rest periods.

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

11 103. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
12 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
13 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
14 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
15 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
16 the regular rate of compensation for purposes of determining the owed rest period premium.

17 104. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
18 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
19 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

20 **Minimum and Overtime Wage Violations**

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

28 106. California law also provides that employees in California must be paid overtime,

1 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
2 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
3 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
4 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
5 consecutive day of work in a work week. *Ibid.*

6 107. As explained above, DEFENDANTS violated California's minimum and overtime
7 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
8 by virtue of, among other things, DEFENDANTS' off-the-clock work policies and practices
9 (described above), which resulted in unpaid minimum and overtime wages.

10 108. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
11 Aggrieved Employees for all hours worked.

12 109. Based on information and belief, DEFENDANTS had actual or constructive
13 knowledge that its failure to relieve employees of all duties and employer control during unpaid
14 meal periods and other off-the-clock work resulted in the underpayment of minimum and overtime
15 wages owed to PLAINTIFF and other Aggrieved Employees.

16 110. Based on information and belief, DEFENDANTS failed and continue to fail to pay
17 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
18 in a week.

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

26 112. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
27 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
28 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC

1 Wage Orders, section 20.

2 **Business Expense Violations**

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

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

15 115. Further, “any contract or agreement, express or implied, made by any employee to
16 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
17 any employee or his personal representative of any right or remedy to which he is entitled to under
18 the laws of this State.” *See* Cal. Lab. Code section 2804.

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

21 117. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
22 full reimbursement for all reasonable expenses associated with carrying out their duties required
23 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
24 expenses in violation of Labor Code section 2802.

25 118. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
26 Employees have suffered injury in that they were not completely reimbursed as mandated by
27 California law.

28 119. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with

1 full reimbursement for all reasonable expenses associated with carrying out their duties required
2 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
3 expenses in violation of Labor Code section 2802 and the applicable Wage Order.

4 120. This constitutes a PAGA violation based on violations of California Labor Code §
5 2802 and the applicable Wage Order.

6 **Wage Statement Violations**

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

16 122. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
17 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
18 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
19 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
20 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
21 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
22 effect during the pay period and the corresponding number of hours worked at each hourly rate by
23 the employee, in violation of Labor Code section 226(a)(9).

24 123. Moreover, due to violations detailed above, including but not limited to,
25 DEFENDANTS' failure to pay regular and overtime wages for all hours worked and failure to
26 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
27 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized
28 wage statements that listed the gross and net wages earned and the correct applicable rates of pay

1 for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all
2 forms of non-discretionary compensation earned during the pay period into the regular rate of pay
3 for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime
4 rate(s) for each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

5 124. As explained above, wage statements issued by DEFENDANTS failed to list the
6 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of off-the-clock work
7 policies and practices described above), which results in a violation of Labor Code section 226(a).

8 125. Failure to list all hours worked on a wage statement, gives rise to an inference of
9 injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th
10 1308, 1337).

11 126. Based on information and belief, wage statements issued by DEFENDANTS failed
12 to list all applicable hourly rates in effect during the pay period and the corresponding number of
13 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
14 Code section 226(a)(9).

15 127. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
16 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
17 Employees over whether they received all wages owed to them.

18 128. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
19 they could not easily determine whether they received all wages owed to them and whether they
20 were paid for all hours worked.

21 129. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
22 Aggrieved Employees with accurate, itemized wage statements.

23 130. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and Aggrieved
24 Employees have suffered injury. The absence of accurate information on their wage statements has
25 prevented earlier challenges to DEFENDANTS’ unlawful pay practices, will require discovery and
26 mathematical computations to determine the amount of wages owed, and will cause difficulty and
27 expense in attempting to reconstruct time and pay records. DEFENDANTS’ conduct led to the
28 submission of inaccurate information about wages and amounts deducted from wages to state and

1 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
2 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
3 and pay records than if DEFENDANT had complied with its legal obligations.

4 131. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
5 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
6 during which the statute provisions were violated. ²

7 **Untimely Payment of Final Wages**

8 132. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
9 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
10 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
11 employee not having a written contract for a definite period quits his or her employment, his or her
12 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
13 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
14 to his or her wages at the time of quitting.”

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

21 134. Based on information and belief, DEFENDANTS failed and continue to fail to timely
22 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
23 violation of Labor Code section 201-202. Final paychecks are not timely provided and/or did not
24 include all wages owed as they are devoid of, including but not limited to, all owed minimum wages,
25 overtime wages, and premium wages.

26 135. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
27 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or

28 ² Labor Code § 226.3 (establishing that the civil penalty is ~~25~~ per employee per violation”).

1 256.

2 136. Under the provisions of PAGA and the above mentioned Labor Code sections,
3 including but not limited to Labor Code sections 201-203, 210, 226, 226.7, 510, 512, 558, 558.1,
4 1194, 1197, 1197.1, 1198, 1199, and 2802, and all applicable Wage Orders as well as all
5 interpretations of these laws by California Courts and administrative bodies, as well as any other
6 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 7 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
8 relevant California Labor Code provisions listed herein only if permitted by the
9 PAGA statute, pursuant to Labor Code section 2699(a); and
10 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
11 violations without a civil penalty recoverable under the PAGA, all in the default
12 amounts provided by Labor Code section 2699(f).

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

15 **PRAYER FOR RELIEF**

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

- 18 1. For civil penalties under Labor Code Section 2699;
19 2. For an order temporarily, preliminarily and permanently enjoining and
20 restraining DEFENDANTS from engaging in similar unlawful conduct as set
21 forth herein;
22 3. For reasonable attorney's fees and costs of suit; and

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1 4. For such other and further relief that the Court deems just and proper.
2

3 Dated: September 4, 2025

CROSNER LEGAL, PC

4
5 By: _____

6 Jamie K. Serb, Esq.
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