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 10 as an individual and on behalf of all employees similarly situated

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **FOR THE COUNTY OF LOS ANGELES**

13 LUIS R BORJAS CANALES, as an
 14 individual and on behalf of all employees
 15 similarly situated,

16 Plaintiff,

17 v.

18 KW INTERNATIONAL, INC., a California
 19 Corporation; WORKFORCE PERSONNEL,
 20 INC., a California Corporation; and DOES 1
 21 through 50, inclusive,

22 Defendants.

Case No. 25STCV16320

**Amended as a matter of right, pursuant to
 Labor Code Section 2699.3(a)(2)(c)**

FIRST AMENDED COMPLAINT

1. Violation of Labor Code §§ 204, 245-248.5, 510, 1194, 1198 (Failure to Pay All Wages and Sick Pay);
2. Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods);
3. Violation of Labor Code § 226.7 (Failure to Provide Rest Periods);
4. Violation of Labor Code § 226, (Failure to Keep Accurate Itemized Wage Statements);
5. Violation of Labor Code §§ 201-203 (Failure to Pay Wages Upon Termination of Employment);
6. Violation of Labor Code § 2802 (Failure to Reimburse for Necessary Expenditures);
7. Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices); and
8. Violation of the Private Attorneys General Act, Labor Code sections 2698, et seq

DEMAND FOR JURY TRIAL

1 Plaintiff LUIS R BORJAS CANALES (hereinafter referred to as “Plaintiff”) on behalf of
2 himself and all others similarly situated, and as representative of the State of California and the
3 Labor and Workforce Development Agency (“LWDA”), based upon facts that either have
4 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
5 further investigation and discovery, complains and alleges as follows:

6 **INTRODUCTION**

7 1. This is a class action brought on behalf of Plaintiff and the class he seeks to
8 represent (“Class” or “Class Members”). Class Members consist of all non-exempt, hourly-paid
9 employees currently and/or formerly employed by KW INTERNATIONAL, INC. and
10 WORKFORCE PERSONNEL, INC. in the State of California during the Class Period. The term
11 “Class Period” is defined as four (4) years prior to the filing of this Complaint through the date
12 final judgment is entered. Plaintiff reserves the right to amend this Complaint to reflect a different
13 “Class Period” or “Class” as further discovery is conducted.

14 2. Plaintiff, individually and on behalf of the class he seeks to represent, seeks relief
15 against KW INTERNATIONAL, INC. and WORKFORCE PERSONNEL, INC. (“Defendants”)
16 for Defendants’ failure to pay all wages due in violation of Labor Code Sections 204, 510 and
17 1194; failure to provide meal periods or compensation in lieu thereof pursuant to Labor Code
18 Sections 226.7 and 512, the applicable Industrial Welfare Commission Wage Orders, and Code
19 of Regulations, Title 8, Section 11000 et seq.; failure to provide paid sick leave and written notice
20 of available paid sick leave pursuant to Labor Code Sections 245-248.5; failure to provide rest
21 periods or compensation in lieu thereof pursuant to Labor Code Sections 226.7 and 512, the
22 applicable Industrial Welfare Commission Wage Orders, and Code of Regulations, Title 8,
23 Section 11000 et seq.; failure to provide accurate itemized wage statements upon payment of
24 wages pursuant to Labor Code Sections 226, subdivision (a), 1174, and 1175; failure to reimburse
25 for necessary expenditures pursuant to Labor Code Section 2802; and failure to pay wages of
26 terminated or resigned employees pursuant to Labor Code Sections 201, 202, and 203.

1 3. Plaintiff seeks equitable remedies in the form of declaratory relief and injunctive
2 relief, and relief under Business and Professions Code Section 17200 et seq. for unfair business
3 practices.

4 4. At all relevant times herein, Defendants have consistently maintained and enforced
5 against Plaintiff and Class the following unlawful practices and policies:

- 6 (a) willfully refusing to pay Plaintiff and Class for all hours worked, including
7 minimum, regular and overtime;
- 8 (b) willfully refusing to provide paid sick leave and written notice of paid sick
9 leave;
- 10 (b) willfully refusing to permit Plaintiff and Class from taking meal periods or
11 compensation in lieu thereof;
- 12 (c) willfully refusing to permit Plaintiff and Class from taking rest periods or
13 compensation in lieu thereof;
- 14 (d) willfully refusing to maintain accurate records and to furnish to Plaintiff and
15 Class accurate itemized wage statements upon payment of wages;
- 16 (e) willfully refusing to compensate Plaintiff and certain members of the Class
17 wages due and owing at the time of Plaintiff and Class Members'
18 employment with Defendants ended; and
- 19 (f) willfully refusing to reimburse Plaintiff and Class for necessary
20 expenditures.

21 5. On information and belief, Defendants were on actual and constructive notice of
22 the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
23 Defendants' violations, as alleged above, during all relevant times herein were willful and
24 deliberate.

25 6. At all relevant times, Defendants were and are legally responsible for all of the
26 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
27 foregoing paragraphs as the employer of Plaintiff and Class. Further, Defendants are
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1 responsible for each of the unlawful acts or omissions complained of herein under the doctrine
2 of “respondeat superior”.

3 7. Plaintiff further brings this action as a representative of the State of California
4 and the Labor and Workforce Development Agency (“LWDA”) to recover civil penalties
5 pursuant to the Private Attorneys General Act (“PAGA”), Labor Code sections 2698, et seq.,
6 for violations of numerous Labor Code provisions, including, but not limited to, sections 201-
7 203, 204, 226, 226.7, 245-248.6, 510, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, 1199,
8 2802 as well as violations of the applicable Wage Order.

9
10 **JURISDICTION AND VENUE**

11 8. Venue is proper in this judicial district and in the County of Los Angeles,
12 California because Defendants maintained its location and/or transacted business in this county,
13 the obligations and liability arise in this county, and work was performed by members of the
14 proposed class made the subject of this action in this county.

15 9. The wages, statutory penalties, monetary damages and restitution sought by
16 Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established
17 according to proof at trial. This Court has jurisdiction over this action pursuant to the California
18 Constitution, article VI, Section 10. The statutes under which this action is brought do not specify
19 any other basis for jurisdiction.

20 10. The California Superior Court has jurisdiction in the matter because the individual
21 claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional threshold for
22 Federal Court and the five million dollars (\$5,000,000.00) aggregate jurisdictional threshold for
23 Federal Court and, upon information and belief, Plaintiff and Defendants are residents of,
24 domiciled in, or otherwise subject to jurisdiction in the State of California. Further, there is no
25 federal question at issue as the issues herein are based solely on California statutes and law
26 including the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, the Code of
27 Civil Procedure, the Rules of Court, and the Business and Professions Code.

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1 **THE PARTIES**

2 **A. Plaintiff**

3 11. Plaintiff, at all relevant times herein, was Defendants' employee and was entitled
4 to compensation for all hours worked, including regular time and overtime compensation, and
5 penalties from Defendants. Plaintiff was employed by Defendants as a non-exempt, hourly paid
6 employee during the Class Period. Specifically, Plaintiff worked as a forklift driver from
7 approximately September 2024 to March 25, 2025 primarily in Rancho Dominguez, Los Angeles
8 County. Each of the Class Members are identifiable, current and/or former similarly situated
9 persons who were employed in non-exempt hourly positions in California by Defendants during
10 the Class Period.

11 **B. Defendants**

12 12. Plaintiff is informed and believes, and based thereon alleges, that Defendant KW
13 International, Inc. owns and operates a company in California and is a California corporation. On
14 information and belief, Defendant KW International, Inc. was and/or is the employer of Plaintiff
15 and Class during the Class Period. Plaintiff also alleges that Defendant KW International, Inc. is
16 conducting business in good standing in California. Defendant KW International, Inc. was a
17 "client employer" within the meaning of Labor Code Section 2810.3. Plaintiff is further
18 informed, believes and thereon alleges that, at all relevant times, Defendant KW International,
19 Inc. regularly conducted and conducts business within the State of California and derives
20 substantial revenues from services performed in California. Plaintiff is informed, believes and
21 thereon alleges that, at all relevant times, Defendant KW International, Inc. was and is an
22 employer subject to California state wage and hour laws.

23 13. Plaintiff is informed, believes and thereon alleges that, at all relevant times
24 Defendant Workforce Personnel, Inc. owns and operates a staffing company in California.
25 Defendant Workforce Personnel, Inc. was and is a California corporation. Plaintiff is informed,
26 believes and thereon alleges that Defendant Workforce Personnel, Inc. supplied Defendant KW
27 International, Inc. with workers to perform labor within Defendant KW International, Inc.'s usual
28 course of business. Defendant Workforce Personnel, Inc. was a "labor contractor" within the

1 meaning of Labor Code Section 2810.3. Plaintiff is further informed, believes and thereon alleges
2 that, at all relevant times, Defendant Workforce Personnel, Inc. regularly conducted and conducts
3 business within the State of California and derives substantial revenues from services performed
4 in California. Plaintiff is informed, believes and thereon alleges that, at all relevant times,
5 Defendant Workforce Personnel, Inc. was and is an employer subject to California state wage and
6 hour laws. At all relevant times, Defendant Workforce Personnel, Inc. issued wage statements to
7 Plaintiff.

8 14. Plaintiff is ignorant of the true names, capacities, relationships and extent of
9 participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 50,
10 inclusive, but on information and belief alleges that these Defendants are legally responsible for
11 the payment of overtime compensation, rest and meal period compensation, and wages to Plaintiff
12 and Class by virtue of their unlawful practices, and therefore sues these Defendants by such
13 fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of
14 each DOE Defendants when ascertained.

15 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
16 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
17 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants
18 are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as
19 the employer and/or joint employer of Plaintiff and Class.

20 16. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
21 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
22 managing agent, and/or principal of the Defendants, and in performing the actions mentioned
23 below was acting, at least in part, within the course and scope of that authority as such agent,
24 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
25 permission and consent of the Defendants. Plaintiff also alleges the acts of each Defendants are
26 legally attributable to the other Defendants.

27 17. Plaintiff is informed and believes, and based thereon alleges, that each of the
28 Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder,

principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent, and knowledge, approval and/or ratification of the other Defendants.

18. The above Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, approved, authorized and/or ratified the unlawful acts described herein.

19. California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person may be liable for violations of the California Labor Code as to that person.

ADMINISTRATIVE PREREQUISITE

20. On June 4, 2025, prior to filing this complaint, Plaintiff gave written notice by electronically filing the notice with the Labor Workforce Development Agency (“LWDA”) (LWDA Case No. LWDA-CM-1102943-25), and by certified mail to Defendants of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violations as required by Labor Code Section 2699.3.

21. A true and correct copy of Plaintiff’s letter sent to the LWDA dated June 4, 2025, is attached hereto as “**Exhibit A**”. As of the filing of this complaint, LWDA has not responded to the written notice.

22. Under Labor Code Section 2699.3 subsection (a), a plaintiff may bring a cause of action under PAGA only after giving notice to the Labor Workforce Development Agency (“LWDA”) and the employer of the Labor Code Sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate, or after 65 days have passed without notice.

23. More than sixty-five (65) days have passed without notice from the LWDA. Accordingly, all administrative prerequisites for filing this action have been fulfilled.

GENERAL ALLEGATIONS

24. Plaintiff was employed as a forklift driver from approximately September 2024 to March 25, 2025.

25. Labor Code Section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of his or her overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

26. Labor Code Section 1197 provides the California requirement that employees must be paid at least the minimum wage fixed by the IWC, and any payment of less than the minimum wage is unlawful. Furthermore, "in any action under Labor Code §§ 98, 1193 .6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon ... " See California Labor Code § 1194.2.

27. Labor Code Sections 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

28. Labor Code Section 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as regular paydays. Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall

1 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
2 the wages are paid not more than seven calendar days following the close of the payroll period.
3 Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all
4 meal period premium wages owed, rest period premium wages owed, and wages owed for hours
5 worked. However, during Class period, Defendants systematically failed and refused to pay the
6 employees all wages due, and failed to pay those wages twice a month, in that employees were
7 not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods
8 not authorized and permitted by Defendants, and all wages for all hours worked.

9 29. Pursuant to Labor Code § 246 (a) an employee who, on or after July 1, 2015,
10 works in California for the same employer for 30 or more days within a year from the
11 commencement of employment is entitled to paid sick days. Labor Code § 246 (i) requires
12 employers to provide an employee with written notice that sets forth the amount of paid sick
13 leave available.

14 30. Further, Business and Professions Code Section 17203 provides that any person
15 who engages in unfair competition may be enjoined in any court of competent jurisdiction.
16 Business and Professions Code Section 17204 provides that any person who has suffered actual
17 injury and has lost money or property as a result of the unfair competition may bring an action in
18 a court of competent jurisdiction.

19 31. During all, or a portion of the Class Period, Plaintiff and each member of the Class
20 was employed by Defendants in the State of California.

21 32. Plaintiff and Class Members were non-exempt employees covered under one or
22 more IWC Wage Order(s), and Labor Code Section 510, and/or other applicable Wage Orders,
23 regulations and statutes, and each Class Member was not subject to an exemption for executive,
24 administrative or professional employees, which imposed obligations on the part of Defendants
25 to pay Plaintiff and Class Members lawful overtime compensation.

26 33. Plaintiff and Class were covered by one or more IWC Wage Order(s), and Labor
27 Code Section 226.7 and other applicable Wage Orders, regulations and statutes which imposed
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1 an obligation on the part of Defendants to pay Plaintiff and Class rest and meal period
2 compensation.

3 34. During the Class Period, Defendants maintained a policy and practice of failing
4 to pay Plaintiff and Class Members for all hours worked. Defendants regularly used a system
5 of time rounding in a manner that resulted, over a period of time, in failing to compensate
6 Plaintiff and Class Members properly for all the time they have actually worked, even though
7 the realities of Defendants' operations are such that it is possible, practical, and feasible to
8 count and pay for work time to the minute. Accordingly, Defendants frequently paid Plaintiff
9 and Class Members less than all their work time. Some of this unpaid work also should have
10 been paid at the overtime rate. During the Class Period, Defendants also maintained a policy
11 and practice of requiring Plaintiff and Class Members to perform work "off-the-clock".
12 Defendants required Plaintiff and Class Members to arrive early to stay in line with other
13 employees to clock in to work not later than the scheduled shift start time without
14 compensation. During the Class Period, Plaintiff and Class Members were also regularly
15 required to load, unload and pack orders or finish other assignments after clocking out and
16 after the end of their scheduled shifts and during their meal periods, off-the-clock, in order not
17 to create overtime. Based on information and belief, Plaintiff and Class Members have not
18 been compensated for that time. During the Class Period, Plaintiff and Class Members were
19 also required to respond to Defendants' managers' work-related calls and text messages after
20 the scheduled shift hours and during meal periods, off-the-clock, without compensation.
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22 35. During the Class Period, Defendants have an affirmative obligation to relieve
23 employees of all duty in order to take their first 30-minute, duty-free meal periods no later than
24 the start of sixth hour of work in a workday, and to allow employees to take their second 30-
25 minute, duty-free meal period no later than the start of the eleventh hour of work in the workday.
26 Further, employees are entitled to be paid one hour of additional wages for each workday they
27 were not provided with all required meal period(s). Here, Defendants wrongfully failed to provide
28 Plaintiff and Class Members with legally compliant meal periods. Defendants regularly required

1 Plaintiff and Class Members to work in excess of five consecutive hours a day without providing
2 a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work,
3 or without compensating Plaintiff and Class Members for meal periods that were not provided by
4 the end of the fifth hour of work or tenth hour of work. Plaintiff and Class Members were required
5 to ask permission to be relieved from work and take their meal periods, and would regularly miss
6 or take late first meal periods. Most importantly, Plaintiff and Class Members were regularly
7 required to interrupt their meal periods to load, unload, pack orders or finish other assignments,
8 when instructed by their supervisors. Plaintiff and Class Members were required to keep their
9 personal cell phones turned on during their meal periods to receive work-related text messages
10 and get back to work, when instructed. Accordingly, Defendants' policy and practice was to not
11 provide meal periods to Plaintiff and Class Members in compliance with California law. Based
12 on information and belief, despite Defendants' failure to provide lawful meal periods, Defendants
13 implemented a policy and/or practice of rounding the start and end times of Plaintiff's and Class
14 Members' meal periods and/or automatically deducting at least thirty minutes per shift for missed
15 and/or otherwise unlawful meal periods (including meal periods restricted to Defendants'
16 premises), despite having actual and/or constructive knowledge that Plaintiff and Class Members
17 did not receive lawful meal periods. Moreover, based on information and belief, Defendants failed
18 to keep accurate records of the true start and end times of Plaintiff's and Class Members' meal
19 periods. Based on information and belief, to the extent meal period were recorded, Defendants
20 illegally rounded the start and end times of purported meal periods resulting in Plaintiff and Class
21 Members not being paid for all time worked as well as late and/or shortened meal periods. See
22 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58. Accordingly, Defendants' policy and
23 practice was to not provide meal periods to Plaintiff and Class Members in compliance with
24 California law.

25 36. Additionally, Defendants were obligated to provide Plaintiff and Class Members
26 with a ten (10) minute rest break for every four (4) hours, or major fraction thereof, worked each
27 day. Defendants, however, wrongfully failed to authorize and permit Plaintiff and Class Members
28 to take timely and duty-free rest periods. Defendants regularly required Plaintiff and Class

Members to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and Class Members for rest periods that were not authorized or permitted. Moreover, Defendants did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and Class Members, nor did Defendants have adequate policies or practices regarding the timing of rest periods. Plaintiff and Class Members were required to interrupt their rest periods or miss them at all to load, unload, pack orders or finish other assignments, when instructed by their supervisors. Plaintiff and Class Members were required to keep their personal cell phones turned on during their rest periods to receive work-related text messages and to get back to work, when instructed. Accordingly, Defendants' policy and practice was for Plaintiff and Class Members to work through rest periods and to not authorize or permit them to take any rest periods.

37. Further, due to the pressure from Defendants and failure to maintain an adequate policy, and in violation of Labor Code and applicable IWC Wage Orders, Plaintiff was not authorized and permitted to take a second rest period, on shifts exceeding six hours of work, and/or third rest breaks, on shifts exceeding ten hours of work. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1030 (2012). "Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on."

38. Furthermore, Defendants failed and/or refused to pay Plaintiff and Class Members one (1) hour's pay at the employees' regular rate of pay as premium compensation for Defendants' failure to provide lawful thirty (30) minute, off-duty meal periods and failure to provide lawful ten (10) minute rest periods within the statutory time frames.

39. Defendants also failed to indemnify Plaintiff and Class Members all necessary expenditures incurred in direct discharge of their duties. Defendants wrongfully required Plaintiff and Class Members to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. Defendants wrongfully required Plaintiff and Class Members to pay expenses that they incurred in direct discharge of their duties for Defendants without

1 reimbursement. Plaintiff also failed to reimburse Plaintiff and Class Members reasonable portion
2 of their personal cell phone bills as Plaintiff and Class Members were required to use their
3 personal cell phones to call and receive work-related calls and text messages from their
4 supervisors during their scheduled shifts, meal and rest periods and after the scheduled shift hours.
5 Plaintiff was also required to purchase knives necessary to perform his work without
6 reimbursement. Plaintiff and Class incurred these substantial expenses as a direct result of
7 performing their job duties for Defendants, and Defendants have failed to indemnify Plaintiff and
8 Class for these employment-related expenses.

9 40. Defendants continue to employ non-exempt, hourly-paid employees within
10 California.

11 41. Plaintiff and Class Members primarily performed non-exempt work, often in
12 excess of the maximum regular rate hours set forth in the applicable IWC Wage Order(s),
13 regulations or statutes, and therefore entitled the Plaintiff and Class Members to overtime
14 compensation at the rate of one and a half times their regular rate of pay and, when applicable,
15 double time compensation as set forth by the applicable IWC Wage Order(s), regulations and/or
16 statutes.

17 42. During the Class Period, Defendants required Plaintiff and Class Members to work
18 regular hours, off the clock hours, and overtime hours without lawful compensation in violation
19 of the applicable IWC Wage Order(s), regulations and statutes, and Defendants: (1) willfully
20 failed and refused, and continue to fail and refuse to pay compensation for all hours worked,
21 including lawful regular time and overtime compensation, to Class Members; and (2) willfully
22 failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon
23 termination of employment to Plaintiff and affected Class Members.

24 43. Class Members who ended their employment with Defendants during the Class
25 Period but were not paid the above due compensation for all hours worked timely upon the
26 termination of their employment as required by Labor Code Sections 201, 202, and 203 are
27 entitled to penalties as provided by Labor Code Section 203.
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1 44. During the Class Period, Defendants failed to furnish Plaintiff and Class with
2 accurate, itemized wage statements showing all applicable hourly rates, and all gross and net
3 wages earned (including correct hours worked, correct wages earned for hours worked, correct
4 overtime hours worked, correct wages for meal periods that were not provided in accordance
5 with California law, correct wages for rest periods that were not authorized and permitted to
6 take in accordance with California law). As a result of these violations of California Labor
7 Code § 226(a), Plaintiff and Class suffered injury because, among other things:

- 8 (a) the violations led them to believe that they were not entitled to be paid
9 minimum wages, overtime wages, meal period premium wages, and rest
10 period premium wages to which they were entitled, even though they were
11 entitled;
12 (b) the violations led them to believe that they had been paid the minimum,
13 overtime, meal period premium, and rest period premium wages, even
14 though they had not been;
15 (c) the violations led them to believe they were not entitled to be paid overtime,
16 meal period premium, and rest period premium wages at the correct
17 California rate even though they were;
18 (d) the violations led them to believe they had been paid overtime, meal period
19 premium, and rest period premium wages at the correct California rate even
20 though they had not been;
21 (e) the violations hindered them from determining the amounts of overtime,
22 meal period premium, and rest period premium owed to them;
23 (f) in connection with their employment before and during this action, and in
24 connection with prosecuting this action, the violations caused them to have
25 to perform mathematical computations to determine the amounts of wages
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1 owed to them, computations they would not have to make if the wage
2 statements contained the required accurate information;

3 (g) by understating the wages truly due them, the violations caused them to lose
4 entitlement and/or accrual of the full amount of Social Security, disability,
5 unemployment, and other governmental benefits;

6 (h) the wage statements inaccurately understated the wages, hours, and wages
7 rates to which Plaintiff and Class were entitled, and Plaintiff and Class were
8 paid less than the wages and wage rates to which they were entitled.

9 Thus, Plaintiff and Class are owed the amounts provided for in California Labor Code §
10 226(e), including actual damages.

11 45. Defendants knew or should have known that Plaintiff and Class members were
12 entitled to receive accurate wage statements, which would include meal break premiums, and/or
13 rest break premiums, as required by Labor Code 226.

14 46. Defendants knew or should have known that Plaintiff and Class Members were
15 entitled to timely payment of all wages earned upon termination. Plaintiff and Class Members did
16 not receive payment of all wages, including but not limited to, meal and rest break premiums, in
17 violation of the Labor Code.

18 47. During Class Period, Defendants failed to provide proper paid sick leave to
19 Plaintiff and Class Members. Defendants improperly calculated the sick leave accrual and the
20 sick leave rate of pay owed to Plaintiff and Class Members by failing to base the accrued sick
21 leave hours on the correct number of hours worked (as a result of the rounding policies and
22 practices for meal periods and/or shift start and end times/other required off-the-clock work
23 including but not limited to work completed during unpaid meal periods). Based on information
24 and belief, Defendants further failed to provide notice of the correct sick leave amount balance
25 available to Plaintiff and Class Members on their wage statements or other written statements. In
26 violation of Labor Code § 247.5 Defendants failed to maintain accurate records documenting the
27 hours worked and paid sick days accrued and used by Plaintiff and Class Members, permitting
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1 the presumption that Plaintiff and Class Members were entitled to the maximum number of hours
2 accruable under this article. On information and belief, Plaintiff alleges that all of these practices
3 were experienced and continue to be experienced by Class Members. Plaintiff requests all
4 appropriate relief under the PAGA and these statutes, including but not limited to the restitution
5 of earned paid sick leave that could have been used, but was not due to Defendants' sole failure
6 to institute such a paid sick leave entitlement or paid sick leave bank as required by California
7 law. Accordingly, Plaintiff and Class Members are entitled to injunctive relief, attorney's fees,
8 declaratory relief, restitution, and penalties as permitted by law.

9 48. Together, Labor Code §§ 1198 and 1199 make unlawful any employment of any
10 employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or
11 neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including §§
12 1174, 1197, and 1198, or order or ruling of the commission. Therefore, Defendants' violations,
13 including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions,
14 minimum wages and overtime wages, business expenses and other violations described herein
15 result in separate violations of §§ 1198 and 1199, which subject Defendants to civil penalties
16 under Labor Code §§ 1197.1 and 2699.

17 **CLASS ALLEGATIONS**

18 49. Plaintiff brings this action on behalf of himself and all other similarly situated
19 persons as a class action pursuant to Code of Civil Procedure Section 382. The Class is composed
20 of and defined as follows:

- 21 (a) All persons who are employed or have been employed by Defendants in the
22 State of California, and who, within the four (4) years of the filing of this
23 Complaint to the present, have worked as non-exempt employees and were not
24 paid all wages owed, including but not limited to the legally requisite minimum
25 wage, regular time rate, overtime rate and/or double-time rate as well as were
26 not provided a paid sick leave and written notice of accrued paid sick leave as
27 specifically described herein;

- 1 (b) All persons who are employed or have been employed by Defendants in the
2 State of California, and who, within the four (4) years of the filing of this
3 Complaint to the present, have worked as non-exempt employees and have not
4 been provided a meal period for shifts in excess of five (5) hours within the
5 first five (5) hours such shifts, and were not provided one (1) hour's pay for
6 each day during which a lawful meal period was not provided;
- 7 (c) All persons who are employed or have been employed by Defendants in the
8 State of California, and who, within the four (4) years of the filing of this
9 Complaint to the present, have worked as non-exempt employees and have not
10 been provided a rest period for every four (4) hours, or major fraction thereof,
11 worked per day, and were not provided compensation of one (1) hour's pay for
12 each day on which such rest period(s) was not provided;
- 13 (d) All persons who are employed or have been employed by Defendants in the
14 State of California, and who, within the four (4) years of the filing of this
15 Complaint to the present, have worked as non-exempt employees and have not
16 been reimbursed expenditures in discharge of their duties;
- 17 (e) All persons who are employed or have been employed by Defendants in the
18 State of California, and who, within the three (3) years of the filing of this
19 Complaint to the present, have worked as non-exempt employees and have
20 been terminated or resigned, and have not been paid wages pursuant to Labor
21 Code Section 203 and are owed restitution and waiting time penalties for
22 unpaid wages;
- 23 (f) All persons who are employed or have been employed by Defendants in the
24 State of California, and who, within the one (1) year of the filing of this
25 Complaint to the present have worked as non-exempt employees and were not
26 provided an accurate payroll record or wage statement as required under Labor
27 Code Sections 226 and 1174;
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(g) All persons who are employed or have been employed by Defendants in the State of California, and who, within the four (4) years of the filing of this Complaint to the present, have worked as non-exempt employees and were subjected to unlawful and unfair business practices within the meaning of California's Unfair Competition Law and who suffered injury, including lost money, as a result of Defendants' unlawful and unfair business practices.

50. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or necessary to amend the definition of the Class. Plaintiff will formally define and designate a class definition at such time when Plaintiff seeks to certify the Class alleged in this Complaint.

51. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure Section 382 because there is a well-defined common interest of many persons and it is impractical to bring them all before the court.

52. The Court should permit this action to be maintained as a class action pursuant to Code of Civil Procedure Section 382 because:

- (a) The questions of law and fact common to Class predominate over any question affecting only individual class members;
- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the Class members;
- (c) Class is so numerous that it is impractical to bring all members of the Class before the Court;
- (d) Plaintiff and Class Members will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the common law and statutory violations and other improprieties and in obtaining adequate compensation for the damages and injuries which Defendants' actions have inflicted upon Class;

- 1 (f) There is a community of interest in ensuring that the combined assets and
2 available insurance of the Defendants are sufficient to adequately
3 compensate Class Members for the injuries sustained;
- 4 (g) Without class certification, the prosecution of separate actions by
5 individual members of the Class would create a risk of:
- 6 (1) Inconsistent or varying adjudications with respect to individual
7 members of the Class which would establish an incompatible
8 standard of conduct for Defendants; and/or
- 9 (2) Adjudications with respect to the individual members which
10 would, as a practical matter, be dispositive of the interests of other
11 members not parties to the adjudications, or would substantially
12 impair or impede their ability to protect their interests, including
13 but not limited to the potential for exhausting the funds available
14 from those parties who are, or may be, responsible Defendants; and
- 15 (h) Defendants have acted or refused to act on grounds generally applicable
16 to Class, thereby making final injunctive relief appropriate with respect to
17 Class as a whole.

18 53. There is a well-defined community of interest in the litigation and Class is
19 readily ascertainable:

- 20 (a) Numerosity: The members of Class (and each subclass, if any) are so
21 numerous that joinder of all members would be unfeasible and impractical.
22 The membership of the entire Class is unknown to Plaintiff at this time,
23 however, the Class is estimated to be greater than 100 individuals and the
24 identity of such membership is readily ascertainable by inspection of
25 Defendants' records.
- 26 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
27 interests of each Class Member with whom there is a shared, well-defined
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community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1. The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
2. The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
3. The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and
4. The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights

1 out of fear of direct or indirect retaliation. Former employees are also
2 fearful of bringing actions because they believe their former employers
3 might damage their future endeavors through negative references and/or
4 other means. Class actions provide the class members who are not named in
5 the complaint with a type of anonymity that allows for the vindication of
6 their rights at the same time as their privacy is protected.

7 54. Plaintiff contemplates the eventual issuance of notice to the proposed members of
8 the Class that would set forth the subject and nature of the instant action. Defendants' own
9 business records may be utilized for assistance in the preparation and issuance of the
10 contemplated notices. To the extent that any further notices may be required, Plaintiff would
11 contemplate the use of additional techniques and forms commonly used in class actions, such as
12 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by
13 other methods suitable to Class and deemed necessary and/or appropriate by the Court.

14 **FIRST CAUSE OF ACTION**

15 **Failure to Pay All Wages for All Hours Worked and Provide Paid Sick Leave and Written**
16 **Notice of Accrued Sick Leave**

17 **(Against Defendants, DOES 1 through 50, and each of them)**

18 55. Plaintiff and Class Members re-allege and incorporate by reference all preceding
19 paragraphs of this complaint as though fully set forth herein.

20 56. Labor Code Section 510, subdivision (a) states in pertinent part: "Any work in
21 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek...
22 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
23 any employee."

24 57. Labor Code Section 1194, subdivision (a) states: "Notwithstanding any agreement
25 to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
26 overtime compensation applicable to the employee is entitled to recover in a civil action the
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1 unpaid balance of the full amount of this minimum wage or overtime compensation, including
2 interest thereon, reasonable attorney's fees, and costs of suit.”

3 58. Further, pursuant to Labor Code Section 1197, payment of less than the minimum
4 wage fixed by the Labor Commission is unlawful.

5 59. Pursuant to Labor Code Section 1198, it is unlawful to employ persons for longer
6 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
7 IWC Wage Order(s).

8 60. Pursuant to the IWC Wage Order(s), Defendants are required to pay Plaintiff and
9 Class Members for all hours worked, meaning the time during which an employee is subject to
10 the control of an employer, including all the time the employee is suffered or permitted to work,
11 whether or not required to do so.

12 61. Plaintiff and Class Members were required to work overtime in excess of eight (8)
13 hours per workday and in excess of forty (40) hours per workweek, but were not paid at the proper
14 overtime rate of pay.

15 62. Labor Code Section 204 requires employers to pay employees all earned wages
16 two times per month on days designated in advance by the employer as regular paydays.
17 Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days,
18 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
19 month during which the labor was performed, and labor performed between the 16th and the last
20 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
21 following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall
22 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
23 the wages are paid not more than seven calendar days following the close of the payroll period.
24 Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all
25 meal period premium wages owed, rest period premium wages owed, and wages owed for hours
26 worked. However, during Class period, Defendants systematically failed and refused to pay the
27 employees all wages due, and failed to pay those wages twice a month, in that employees were
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not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked.

63. Pursuant to Labor Code § 246 (a) an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days. Labor Code § 246 (i) requires employers to provide an employee with written notice that sets forth the amount of paid sick leave available.

64. Defendants' pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code Section 218, to recovery by Plaintiff and the members of the Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the appropriate rate.

65. Pursuant to Labor Code Section 1194.2(a) (which provides that in any action under Labor Code § 1194, an employee shall be entitled to recover liquidated damages), the members of Class seek recovery of liquidated damages on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

66. That calculation of individual damages for Class Members may at some point be required does not foreclose the possibility of taking common evidence on questions regarding their entitlement to overtime compensation. *Collins v. Rocha* (1972) 7 Cal.3d 232; *Hypolite v. Carleson* (1975) 52 Cal.App.3d 566; *Employment Development Dept. v. Superior Court* (1981) 30 Cal.3d 256).

67. Pursuant to Labor Code Sections 218.6 and 1194(a) and Civil Code Section 3287, Class Members seek recovery of pre-judgment interest on all amounts recovered herein.

68. Pursuant to Labor Code Sections 218.5 and/or 1194, Class Members request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

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1 and Class Members have suffered, and will continue to suffer, damages in an amount which is
2 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
3 ascertained according to proof at trial.

4 76. Plaintiff, individually and on behalf of Class Members, requests recovery of meal
5 period compensation pursuant to Labor Code Section 226.7 for the four (4) years prior to filing
6 this complaint, as well as the assessment of any statutory penalties against Defendants in a sum
7 as provided by the Labor Code and/or other statutes.

8 **THIRD CAUSE OF ACTION**

9 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**

10 **(Against Defendants, DOES 1 through 50, and each of them)**

11 77. Plaintiff and Class Members re-allege and incorporate by reference all preceding
12 paragraphs of this complaint as though fully set forth herein.

13 78. The IWC Wage Orders and Labor Code Section 226.7 provides that employers
14 must authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest
15 time per four (4) work hours or major fraction thereof.

16 79. Labor Code Section 226.7, subdivision (b) provides that if an employer fails to
17 provide an employee rest period in accordance with this Section, the employer shall pay the
18 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
19 that the rest period is not provided.

20 80. During the Class Period, Defendants did not provide Plaintiff and Class Members
21 with a ten-minute rest period for every four (4) work hours or major fraction thereof. Therefore,
22 Plaintiff and Class Members were not provided lawful rest periods.

23 81. Defendants failed and/or refused to implement a policy by which Plaintiff and
24 Class Members could receive rest periods and/or work free rest periods. By and through its
25 actions, Defendants intentionally and improperly denied rest periods to Plaintiff and Class
26 Members in violation of Labor Code Sections 226.7 and 512.

27 82. At all times relevant hereto, Plaintiff and Class have worked more than four (4)
28 hours in a workday.

1 83. By virtue of the Defendants' unlawful failure to provide rest periods to Plaintiff
2 and Class Members, Plaintiff and Class Members have suffered, and will continue to suffer,
3 damages, in amounts which are presently unknown, but which exceed the jurisdictional limits of
4 this Court and which will be ascertained according to proof at trial.

5 84. Plaintiff, individually and on behalf of employees similarly situated, requests
6 recovery of rest period compensation pursuant to Labor Code Section 226.7 for the four (4) years
7 prior to filing this Complaint, as well as the assessment of any statutory penalties against
8 Defendants, and each of them, in a sum as provided by the Labor Code and/or any other statute.

9 **FOURTH CAUSE OF ACTION**

10 **Failure to Provide Accurate Itemized Wage Statements**

11 **(Against Defendants, DOES 1 through 50, and each of them)**

12 85. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs
13 of this complaint as though fully set forth herein.

14 86. Labor Code Section 1174, subdivision (d) requires an employer to keep at a central
15 location in California, or at the plant or establishment at which the employee is employed, payroll
16 records showing the hours worked daily by, and the wages paid to, each employee.

17 87. Defendants, however, failed to maintain accurate records of hours worked and all
18 meal periods taken or missed by Plaintiff and Class Members. During the Class Period,
19 Defendants failed to maintain accurate time records and falsified Plaintiff's and Class Members'
20 time records. Plaintiff and Class Members were never required to record their time and/or sign or
21 verify the timesheets. Plaintiff believes Plaintiff's and Class Members supervisors would
22 complete the timesheets with hours worked by Plaintiff and Class Members as opposed to Plaintiff
23 and Class Members clocking in and out electronically or recording their actual time on a
24 handwritten timesheet. Plaintiff and Class Members would never see the timesheets completed
25 by their supervisors or verify the hours worked by them. Defendants refused to permit Plaintiff
26 and Class Members to personally record their actual time, and while recording Plaintiff's and
27 Class Members time falsified the time records.

1 88. Defendants' failure to provide and maintain records required by the Labor Code
2 IWC Wage Orders deprived Plaintiff and Class Members the ability to know, understand and
3 question the accuracy and frequency of meal periods, and the accuracy of their hours worked
4 stated in Defendants' records. Therefore, Plaintiff and Class Members had no way to dispute the
5 resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to
6 Defendants. As a direct result, Plaintiff and Class Members have suffered and continue to suffer,
7 substantial losses related to the use and enjoyment of such wages, lost interest on such wages and
8 expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under
9 state law, all to their respective damage in amounts according to proof at trial. As a result of
10 Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders,
11 Plaintiff and Class Members have also suffered an injury in that they were prevented from
12 knowing, understanding, and disputing the wage payments paid to them.

13 89. Labor Code Section 226, subdivision (a) requires an employer to provide
14 employees—either as a detachable part of the check, draft, or voucher paying the employee's
15 wages, or separately when wages are paid by personal check or cash—an accurate itemized wage
16 statement in writing showing

17 (1) gross wages earned, (2) total hours worked by the employee . . . , (4) all
18 deductions . . . , (5) net wages, (6) the inclusive dates of the period for which
19 the employee is paid, (7) the name of the employee and only the last four
20 digits of his or her social security number or an employee identification
21 number other than a social security number, (8) the name and address of the
22 legal entity that is the employer . . . , and (9) all applicable hourly rates in
23 effect during the pay period and corresponding number of hours worked at
24 each hourly rate by the employee

25 90. Moreover, the IWC Wage Orders require that every employer shall keep accurate
26 information with respect to each employee, including time records showing when each employee
27 begins and ends each work period, the total daily hours worked by each employee and the total
28 hours worked in each payroll period, and applicable rates of pay.

1 91. Plaintiff is informed and believes that Defendants willfully and intentionally
2 failed to make and/or keep records which accurately reflect the hours worked by Plaintiff and
3 Class. Specifically, Plaintiff believes that Defendants' records do not accurately reflect when
4 Plaintiff and Class worked during their meal and rest periods and/or took untimely meal periods
5 or worked for hours not paid. Defendants also failed to include a correct minimum wage hourly
6 rate which is a blatant violation of the Labor Code and failed to record Plaintiff's and Class
7 Members' meal periods.

8 92. Labor Code Section 226, subdivision (e) provides that if an employer knowingly
9 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,
10 the total hours worked by the employee and the applicable hourly overtime rates, causing the
11 employee injury, then the employee is entitled to recover the greater of all actual damages or
12 fifty dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each
13 subsequent violation, up to four thousand dollars (\$4,000.00). Plaintiff is informed and believes
14 that Defendants willfully failed to make or keep accurate records for Plaintiff and Class.

15 93. Plaintiff is informed and believes that Defendants' failure to keep accurate payroll
16 records, as described above, violated Labor Code Section 1174, subdivision (d) and Section 226,
17 subdivision (a), and the applicable IWC Wage Order(s). Pursuant to Labor Code Section 2699,
18 subdivision (f)(2), Plaintiff and Class are entitled to penalties of \$100.00 and for the initial
19 violation and \$200.00 for each subsequent violation for every pay period during which these
20 records and information were not kept by Defendants.

21 94. Plaintiff is informed and believes that Defendants' failure to keep and maintain
22 accurate records and information, as described above, was willful, and Plaintiff and Class are
23 entitled to statutory penalties pursuant to Labor Code Section 1174.5.

24 **FIFTH CAUSE OF ACTION**

25 **Failure to Pay Wages upon Termination of Employment**

26 **(Against Defendants, DOES 1 through 50, and each of them)**

27 95. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs
28 of this complaint as though fully set forth herein.

1 96. Plaintiff's employment with Defendants ended on or about April 9, 2022.
2 However, Plaintiff received his last paychecks via direct deposit on April 22, 2022 and May 6,
3 2022. Plaintiff and certain Class who ended their employment with Defendants during the Class
4 Period, were entitled to be promptly paid for all hours worked, including lawful regular time
5 compensation, overtime compensation, double-time compensation, and other premiums, as
6 required by Labor Code Sections 201 through 203. Plaintiff is also entitled to meal period and
7 rest period premium pay in accordance with Labor Code Sections 226 and 226.7.

8 97. Plaintiff and Class were not compensated for their unlawful and/or missed meal
9 periods and/or rest periods, and were not paid proper regular time compensation, overtime
10 compensation or double-time compensation in accordance with law as a result of Defendants'
11 illegal rounding practice.

12 98. To date, Plaintiff and Class Members who ended their employment with
13 Defendants during the Class Period have not been compensated for all hours worked.

14 99. Plaintiff and the affected Class Members seek the payment of penalties pursuant
15 to Labor Code Section 203, according to proof.

16 100. Plaintiff is also entitled to attorneys' fees and costs, pursuant to Labor Code
17 Section 1194, and prejudgment interest.

18 **SIXTH CAUSE OF ACTION**

19 **Failure to Reimburse for Necessary Business Expenditures**

20 **(Against Defendants, DOES 1 through 50, and each of them)**

21 101. Plaintiff and Class re-allege and incorporate by reference all the above paragraphs
22 of this complaint as if fully alleged herein.

23 102. California Labor Code §2802, states "An employer shall indemnify his or her
24 employee for all necessary expenditures or losses incurred by the employee in direct consequence
25 of the discharge of his or her duties."

26 103. Plaintiff and Class were not reimbursed by Defendants for necessary expenditures
27 as a direct consequence of the discharge of their duties. Plaintiff and Class incurred expenses as a
28

1 direct result of performing their job duties for Defendants, and Defendants have failed to
2 indemnify Plaintiff and Class for these employment-related expenses.

3 104. Defendants knowingly, willingly and intentionally attempted to offset the cost of
4 doing business on the Plaintiff and Class.

5 105. Defendants had a corporate practice and policy of requiring Plaintiff and Class to
6 shoulder the burden of Defendants' cost of doing business by failing to reimburse Plaintiff and
7 Class for necessary expenditures.

8 106. Accordingly, Plaintiff and Class are entitled to an award of “necessary
9 expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s
10 fees and interest.

11 **SEVENTH CAUSE OF ACTION**

12 **Unfair Business Practices**

13 **(Against Defendants, DOES 1 through 50, and each of them)**

14 107. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs
15 of this complaint as though fully set forth herein.

16 108. Business and Professions Code Section 17200 et seq. (also referred to herein as
17 the “Unfair Business Practices Act” or “Unfair Competition Law”) prohibits unfair competition
18 in the form of any unlawful, unfair or fraudulent business act or practice.

19 109. Business and Professions Code Section 17204 allows “a person who has suffered
20 injury in fact and has lost money or property as a result of the unfair competition” to prosecute a
21 civil action for violation of the Unfair Competition Law (“UCL”).

22 110. Labor Code Section 90.5, subdivision (a) states that it is the public policy of
23 California to vigorously enforce minimum labor standards in order to ensure employees are not
24 required to work under substandard and unlawful conditions, and to protect employers who
25 comply with the law from those who attempt to gain competitive advantage at the expense of their
26 workers by failing to comply with minimum labor standards.

27 111. Beginning at an exact date unknown to Plaintiff, but at least since the date four (4)
28 years prior to the filing of this lawsuit, Defendants has committed acts of unfair competition as

1 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent
2 business practices and acts described in this Complaint including but not limited to violations of
3 Labor Code Sections 201-203, 204, 226, 226.7, 245-248.6, 510, 512, 558, 558.1, 1174, 1194,
4 1197, 1197.1, 1198, 1199, 2802, 2699(f)(2) as well as other statutes.

5 112. The violations of these laws and regulations, as well as of the fundamental
6 California public policies protecting workers, serve as unlawful predicate acts and practices for
7 purposes of Business and Professions Code Section 17200 et seq.

8 113. The acts and practices described above constitute unfair, unlawful and fraudulent
9 business practices, and unfair competition, within the meaning of Business and Professions Code
10 Section 17200 et seq. Among other things, the acts and practices have forced Plaintiff and other
11 similarly situated employees to labor for many consecutive hours without receiving the meal and
12 rest periods and overtime compensation to which they are entitled by law, while enabling
13 Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

14 114. As a result of Defendants' acts, Plaintiff and Class Members have suffered injury
15 in fact in being denied their statutorily entitled meal and rest periods and full compensation for
16 hours worked.

17 115. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
18 and Class have suffered lost wages in an amount to be proven at trial.

19 116. Business and Professions Code Section 17203 provides that a court may make
20 such orders or judgments as may be necessary to prevent the use or employment by any person
21 of any practice which constitutes unfair competition. Injunctive relief is necessary and
22 appropriate to prevent Defendants from repeating its unlawful, unfair and fraudulent business acts
23 and business practices alleged above.

24 117. Business and Professions Code Section 17203 provides that the Court may restore
25 to any person in interest any money or property that may have been acquired by means of such
26 unfair competition. Plaintiff and Class are entitled to restitution pursuant to Business and
27 Professions Code Section 17203 for all wages and payments unlawfully withheld from
28 employees, including the fair value of the meal and rest periods taken away from them during the

four-year period prior to the filing of this Complaint, as well as for all expenses or losses incurred by Plaintiff and Class in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

118. Business and Professions Code Section 17202 provides, “Notwithstanding Section 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition.” Plaintiff and Class are entitled to enforce all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code Section 17202.

119. Plaintiff’s success in this action will enforce important rights affecting public interest, and in that regard, Plaintiff sues on behalf of the general public, as well as herself and other similarly situated employees. Plaintiff and Class seek and are entitled to restitution, civil penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

120. Plaintiff herein takes upon herself enforcement of these laws and lawful claims. There is a financial burden involved in pursuing this action. The action is seeking to vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by forcing her to pay attorneys’ fees from the recovery in this action. Attorneys’ fees are appropriate pursuant to Code of Civil Procedure Section 1021.5 and otherwise.

EIGHTH CAUSE OF ACTION

Violation of California Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.*

(Against Defendants, DOES 1 through 50, and each of them)

121. Plaintiff re-alleges and incorporates by reference all preceding paragraphs in this complaint, as if fully alleged herein.

122. Plaintiff seeks recovery of penalties under the Labor Code Private Attorney General Act of 2004 (“PAGA.”) (Labor Code sections 2698 *et seq.*)

123. PAGA permits an “aggrieved employee” to recover penalties on behalf of himself/herself and other employees subject to violations of the Labor Code, including violations of sections 201-203, 204, 226, 226.7, 245-248.6, 510, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, 1199, 2802 as well as the applicable Wage Order.

- 1 5. For general unpaid wages as may be appropriate;
- 2 6. For pre-judgment interest on any unpaid compensation commencing from the
- 3 date such amounts were due;
- 4 7. For liquidated damages;
- 5 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
- 6 California Labor Code § 1194(a); and,
- 7 9. For such other and further relief as the Court may deem equitable and
- 8 appropriate.

9 As to the Second Cause of Action

- 10 10. That the Court declare, adjudge and decree that Defendants violated California
- 11 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;
- 12 11. For unpaid meal period premium wages as may be appropriate;
- 13 12. For pre-judgment interest on any unpaid compensation commencing from the
- 14 date such amounts were due;
- 15 13. For reasonable attorneys' fees under California Code of Civil Procedure §
- 16 1021.5, and for costs of suit incurred herein; and
- 17 14. For such other and further relief as the Court may deem equitable and
- 18 appropriate.

19 As to the Third Cause of Action

- 20 15. That the Court declare, adjudge and decree that Defendants violated California
- 21 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;
- 22 16. For unpaid rest period premium wages as may be appropriate;
- 23 17. For pre-judgment interest on any unpaid compensation commencing from the
- 24 date such amounts were due;
- 25 18. For reasonable attorneys' fees under California Code of Civil Procedure §
- 26 1021.5, and for costs of suit incurred herein; and
- 27
- 28

1 19. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 As to the Fourth Cause of Action

4 20. That the Court declare, adjudge and decree that Defendants violated the record
5 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders,
6 and willfully failed to provide accurate itemized wage statements thereto;

7 21. For penalties and actual damages pursuant to California Labor Code § 226(e);

8 22. For injunctive relief to ensure compliance with this Section, pursuant to
9 California Labor Code § 226(h);

10 23. For reasonable attorneys' fees and for costs of suit incurred herein; and

11 24. For such other and further relief as the Court may deem equitable and
12 appropriate.

13 As to the Fifth Cause of Action

14 25. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code §§ 201, 202, 203 by willfully failing to pay all compensation owed at the time
16 of termination of the employment;

17 26. For statutory wage penalties pursuant to California Labor Code § 203 for former
18 employees who have left Defendants' employ;

19 27. For pre-judgment interest on any unpaid wages from the date such amounts were
20 due;

21 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

22 29. For such other and further relief as the Court may deem equitable and
23 appropriate.
24

25 As to the Sixth Cause of Action

26 30. That the Court declare, adjudge and decree that Defendants violated Labor Code
27 § 2802 and the IWC Wage Orders;
28

1 31. For general unpaid wages and reimbursement of business expenses as may be
2 appropriate;

3 32. For pre-judgment interest on any unpaid compensation commencing from the
4 date such amounts were due;

5 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

6 34. For such other and further relief as the Court may deem equitable and
7 appropriate.

8 As to the Seventh Cause of Action

9 35. That the Court declare, adjudge and decree that Defendants violated California
10 Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked
11 (including minimum and overtime wages), failing to provide meal periods, failing to
12 maintain accurate records of meal periods, failing to authorize and permit rest periods, and
13 failing to maintain accurate records of all hours worked and meal periods, failing to furnish
14 accurate wage statements, and failing to indemnify necessary business expenses;

15 36. For restitution of unpaid wages to Plaintiff and all Class Members and
16 prejudgment interest from the day such amounts were due and payable;

17 37. For the appointment of a receiver to receive, manage and distribute any and all
18 funds disgorged from Defendants and determined to have been wrongfully acquired by
19 Defendants as a result of violations of California Business & Professions Code §§ 17200 *et*
20 *seq.*;

21 38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
22 California Code of Civil Procedure § 1021.5;

23 39. For injunctive relief to ensure compliance with this Section, pursuant to
24 California Business & Professions Code §§ 17200, *et seq.*; and,

25 40. For such other and further relief as the Court may deem equitable and
26 appropriate.
27
28

1 As to the Eighth Cause of Action

2 41. That the Court declare, adjudge and decree that Defendants violated the
3 California Labor Code by failing to pay wages for all hours worked and paid sick leave, failing
4 to provide meal periods, failing to maintain accurate records of meal periods, failing to
5 authorize and permit rest periods, failing to maintain accurate records of all hours worked and
6 meal periods, failing to indemnify necessary business expenses, failing to pay final wages at
7 termination, and failing to furnish accurate wage statements;

8 42. For all civil penalties pursuant to California Labor Code § 2699, et seq., and all
9 other applicable Labor Code provisions;

10 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Labor Code § 2699;

12 44. For such other and further relief as the Court may deem equitable and
13 appropriate.
14

15 As to all Causes of Action

16 44. For any additional relief that the Court deems just and proper.

17
18 Dated: August 11, 2025

TUNYAN LAW, APC

19 
20 _____

21 Lilit Tunyan
22 Artur Tunyan
23 Attorneys for Plaintiff LUIS R BORJAS CANALES
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1
2 **DEMAND FOR JURY TRIAL**
3
4

5 Plaintiff LUIS R BORJAS CANALES hereby demands a jury trial on all issues so
6 triable.
7
8

9 Dated: August 11, 2025

TUNYAN LAW, PAC

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11 

12 _____
13 Lilit Tunyan
14 Artur Tunyan
15 Attorneys for Plaintiff LUIS R BORJAS CANALES
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Exhibit “A”



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ltunyan@tunyanlaw.com

June 4, 2025

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL
Return Receipt Requested

William Jin
Agent for Service of Process for
KW International, Inc.
1650 Glenn Curtiss Street
Carson, CA 90746

VIA CERTIFIED MAIL
Return Receipt Requested

Northwest Registered Agent, Inc.
Agent for Service of Process for
Workforce Personnel, Inc.
2108 N Street, Suite N
Sacramento, CA 95816

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Canales v. KW International Inc, et al.*

To Whom It May Concern:

Please be advised that my office has been retained by Luis R Borjas Canales (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employers KW International, Inc. and Workforce Personnel, Inc. (“Defendants”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which Plaintiff alleges Defendants engaged in with respect to Plaintiff and all of Defendants’ aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendants in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendants suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendants

Defendants own and operate an industry, business, and establishment within the State of California. As such, Defendants are subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendants as a forklift driver from approximately September 2024 to March 25, 2025 primarily in Los Angeles County. Defendants classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendants, Plaintiff typically worked 5 days per week, and over 8 hours each workday.

Throughout Plaintiff's employment, Defendants committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

Individual Liability Under Labor Code § 558.1

Labor Code § 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code §§ 203, 226, 226.7, 1194, and 2802. Defendants, at all relevant times, were employers or persons acting on behalf of employer(s) who violated Plaintiff's and the Aggrieved Employees' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "a natural person who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California Law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

Plaintiff intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. Plaintiff will ask the Court to relate

the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. Plaintiff asks and demands that Defendants put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, Plaintiff also offers to Defendants to place those individuals on notice if Defendants voluntarily provides their contact information.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §1194, subdivision (a) provides that notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit. Further, pursuant to Labor Code §1197, payment of less than the minimum wage fixed by the Labor Commission is unlawful.

Labor Code § 1197 provides the California requirement that employees must be paid at least the minimum wage fixed by the IWC, and any payment of less than the minimum wage is unlawful. Furthermore, "in any action under Labor Code §§ 98, 1193 .6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon ... " See California Labor Code § 1194.2.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory time period, Defendants regularly used a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for

work time to the minute. Accordingly, Defendants frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate.

Throughout the statutory period, Defendants also maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work “off-the-clock”. Defendants required Plaintiff and the Aggrieved Employees to arrive early to stay in line with other employees to clock in to work not later than the scheduled shift start time without compensation. Throughout the statutory time period, Plaintiff and the Aggrieved Employees were also regularly required to load, unload and pack orders or finish other assignments after clocking out and after the end of their scheduled shifts and during their meal periods, off-the-clock, in order not to create overtime. Based on information and belief, Plaintiff and the Aggrieved Employees have not been compensated for that time.

Throughout the statutory period, Plaintiff and the Aggrieved Employees were also required to respond to Defendants’ managers’ work-related calls and text messages after the scheduled shift hours and during meal periods, off-the-clock, without compensation.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime. This conduct also results in violations of Labor Code §§ 218.5, 510, 558.1, 1198-1199, and all applicable IWC Wage Orders, section 12(A). These violations subject Defendants to civil penalties under Labor Code §§ 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code Section and Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Plaintiff and the Aggrieved Employees were required to ask permission to be relieved from work and take their

meal periods, and would regularly miss or take late first meal periods. Most importantly, Plaintiff and the Aggrieved Employees were regularly required to interrupt their meal periods to load, unload, pack orders or finish other assignments, when instructed by their supervisors. Plaintiff and the Aggrieved Employees were required to keep their personal cell phones turned on during their meal periods to receive work-related text messages and get back to work, when instructed. Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Based on information and belief, despite Defendants' failure to provide lawful meal periods, Defendants implemented a policy and/or practice of rounding the start and end times of Plaintiff's and the Aggrieved Employees' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to Defendants' premises), despite having actual and/or constructive knowledge that Plaintiff and the Aggrieved Employees did not receive lawful meal periods.

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

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages. The aforementioned conduct also results in violations of Labor Code §§ 226.7, 512, and 1198- 1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject Defendants to civil penalties under Labor Code §§ 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated. Defendants' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendants, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Moreover, Defendants did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the timing of rest periods. Plaintiff and the Aggrieved Employees were required to interrupt their rest periods or miss them at all to load, unload, pack orders or finish other assignments, when instructed by their supervisors. Plaintiff and the Aggrieved Employees were required to keep their personal cell phones turned on during their rest periods to receive work-related text messages and to get back to work, when instructed. Accordingly, Defendants' policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages. The aforementioned conduct also results in violations of Labor Code §§ 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject Defendants to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, § 20. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated

Failure to Maintain Accurate Records of Hours Worked

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Throughout the statutory period, Defendants failed to maintain accurate time records. Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods. Defendants' failure to keep accurate and complete payroll records for Plaintiff and non-exempt aggrieved employees violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Defendants to civil penalties under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each non-exempt aggrieved employee, results in a separate civil penalty.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. Plaintiff also failed to reimburse Plaintiff and the Aggrieved Employees reasonable portion of their personal cell phone bills as Plaintiff and the Aggrieved Employees were required to use their personal cell phones to call and receive work-related calls and text messages from their supervisors during their scheduled shifts, meal and rest periods and after the scheduled shift hours. Plaintiff was also required to purchase knives necessary to perform his work without reimbursement.

Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendants, and Defendants have failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants failed and continue to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (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 the last four digits of his or her social security number or an employee identification number other than a social security number, (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. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” Lab. Code § 226(e)(1).

Defendants intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly list gross wages earned, the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendants violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Provide Paid Sick Leave and Written Notice of Available Paid Sick Leave (Violations of Labor Code §§ 245-248.5)

Pursuant to Labor Code § 246 (a) an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days.

Labor Code § 246 (i) requires employers to provide an employee with written notice that sets forth the amount of paid sick leave available.

Throughout the relevant time period, Defendants failed to provide proper paid sick leave to Plaintiff and the Aggrieved Employees. Defendants improperly calculated the sick leave accrual and the sick leave rate of pay owed to Plaintiff and the Aggrieved Employees by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding

policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods).

Based on information and belief, Defendants further failed to provide notice of the correct sick leave amount balance available to Plaintiff and the Aggrieved Employees on their wage statements or other written statements.

In violation of Labor Code § 247.5 Defendants failed to maintain accurate records documenting the hours worked and paid sick days accrued and used by Plaintiff and the Aggrieved Employees, permitting the presumption that Plaintiff and the Aggrieved Employees were entitled to the maximum number of hours accruable under this article.

On information and belief, Plaintiff alleges that all of these practices were experienced and continue to be experienced by the Aggrieved Employees. Plaintiff requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Defendants' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. Plaintiff requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code §§ 233 and 234, which incorporates the paid sick leave requirements. Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to provide any information on accrued sick leave.

Standard Conditions of Labor Violations

Together, Labor Code §§ 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including §§ 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, Defendants' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses and other violations described herein result in separate violations of §§ 1198 and 1199, which subject Defendants to civil penalties under Labor Code §§ 1197.1 and 2699.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees including but not limited to Labor Code §§ 201-203, 204, 226, 226.7, 245-248.5, 510, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, 1199, 2802 and all applicable Wage Orders.

Defendants have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties Plaintiff and The Aggrieved Employees seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 218.5, 225.5, 226, 226.3, 226.6, 233, 234, 558, 558.1, 1174.5, 1197.1, 1198, 1199, 2802, and 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendants or any additional facts, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
TUNYAN LAW, APC

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: ltunyan@tunyanlaw.com
Subject: Thank you for submission of your PAGA Case.
Date: Wednesday, June 4, 2025 11:11:41 AM

6/4/2025

LWDA Case No. LWDA-CM-1102943-25
Law Firm : Tunyan Law, APC
Plaintiff Name : Luis R Borjas Canales
Employer: KW International, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

Please note that a PAGA Notice is not a complaint within the meaning of Division 5 (Labor Code §§6300 et seq.). To file a complaint about workplace safety and health hazards with Cal/OSHA, please visit:
<https://www.dir.ca.gov/dosh/complaint.htm>

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



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GLENDALE, CA 91206-9998
www.usps.com

06/04/2025

01:10 PM

TRACKING NUMBERS
9589 0710 5270 0112 6468 96
9589 0710 5270 0112 6468 89

TRACK STATUS OF ITEMS WITH THIS CODE
(UP TO 25 ITEMS)



TRACK STATUS BY TEXT MESSAGE
Send tracking number to 28777 (2USPS)
Standard message and data rates may apply

TRACK STATUS ONLINE
Visit <https://www.usps.com/tracking>
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Product	Qty	Unit Price	Price
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First-Class Mail® Letter	1		\$1.29
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Sacramento, CA 95816
Weight: 0 lb 2.40 oz
Estimated Delivery Date
Sat 06/07/2025

Certified Mail® \$4.85

Tracking #: 9589 0710 5270 0112 6468 96

Return Receipt \$4.10

Tracking #: 9590 9402 8114 2349 9457 10

Total \$10.24

First-Class Mail® Letter	1		\$1.29
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Carson, CA 90746
Weight: 0 lb 2.40 oz
Estimated Delivery Date
Fri 06/06/2025

Certified Mail® \$4.85

Tracking #: 9589 0710 5270 0112 6468 89

Return Receipt \$4.10

Tracking #: 9590 9402 8114 2349 9457 03

Total \$10.24

Grand Total: \$20.48

Credit Card Remit \$20.48

Card Name: AMEX
Account #: XXXXXXXXXXXX1001
Approval #: 891954
Transaction #: 733
AID: A000000025010801 Contactless
AL: AMERICAN EXPRESS
PIN: Not Required

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Postage \$1.29

Total Postage and Fees \$10.24

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PS Form 3800, January 2010

William Jin
Agent for Service of Process for
KW International, Inc.
1650 Glenn Curtiss Street
Carson, CA 90746

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☐ Return Receipt (hardcopy) \$0.00
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☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
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Postage \$1.29

Total Postage and Fees \$10.24

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Street and Apt. No.

City, State, ZIP+4®

PS Form 3800, January 2010

NORTHWEST REGISTERED AGENT, Inc.
AGENT FOR SERVICE OF PROCESS
WORKFORCE PERSONNEL, Inc.
2108 N STREET, SUITE N
SACRAMENTO, CA 95816

USPS TRACKING #



First-Class Mail
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USPS
Permit No. G-10

9590 9402 8114 2349 9457 03

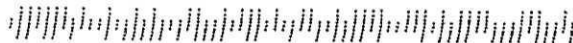
United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box •



TUNYAN LAW, APC

535 N. Brand Blvd. STE 285
Glendale, CA 91203



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1. Article Addressed to:

William Jin
Agent for Service of Process for
KW International, Inc.
1650 Glenn Curtiss Street
Carson, CA 90746



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2. Article Number (Transfer from service label)

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PS Form 3811, July 2020 PSN 7530-02-000-9053

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A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery

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- ☐ Registered Mail Restricted Delivery
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- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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9 JUN 2025 PM 4 L

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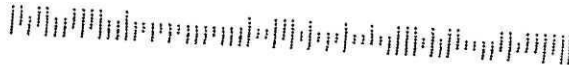
• Sender: Please print your name, address, and ZIP+4® in this box•



TUNYAN LAW, APC

535 N. Brand Blvd. STE 285
Glendale, CA 91203

155360



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1. Article Addressed to:

NORTHWEST REGISTERED AGENT, Inc.
AGENT FOR SERVICE OF PROCESS
WORKFORCE PERSONNEL, Inc.
2108 N STREET, SUITE N
SACRAMENTO, CA 95816



9590 9402 8114 2349 9457 10

2. Article Number (Transfer from service label)

9589 0710 5270 0112 6468 96

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☒ Addressee

B. Received by (Printed Name)

Kayne Stoe

C. Date of Delivery

6/9/25

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
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- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
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PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

) ss

3 COUNTY OF LOS ANGELES)

4 I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not
5 a party to the within action; my business address is 535 N. Brand Blvd., Suite 285, Glendale, CA
6 91203.

7 On the date indicated below, I served the document described as: **FIRST AMENDED**
8 **COMPLAINT** on the interested parties in this action by sending a true copy thereof to interested
9 parties as follows and as stated on the attached service list:

John T. Egley

jegley@calljensen.com

Madeleine K. Lee

mlee@calljensen.com

Alexander M. Harrison

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Ellen Connely Cohen

ecohen@calljensen.com

CALL & JENSEN

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Attorneys for Defendant KW INTERNATIONAL, INC.

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LAW OFFICES OF GORDON C. STRANGE

15333 Culver Drive #340-223

Irvine, CA 92604

Tel: 949-874-7555

Attorneys for Defendant WORKFORCE PERSONNEL, INC.

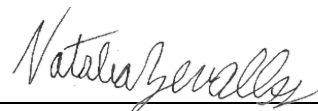
21 ☒ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to
22 accept electronic service, I caused the documents to be sent to the persons at the electronic
23 service addresses listed above via third-party cloud service **CASEANYWHERE**. I did not
24 receive an error message.

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

Executed on August 11, 2025 at Glendale, California.

27 Natalia Zevallos

28 Name



Signature