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7 Attorneys for Plaintiff ROSALBA ARVIZU
8 on behalf of the State of California,
9 and others similarly situated and aggrieved

Assigned for all purposes:
Judge Lon F. Hurwitz
Dept. CX103

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE**

12 ROSALBA ARVIZU, on behalf of the
State of California, and others similarly
13 situated and aggrieved,

14 Plaintiff,

15 v.

16
17 ST. JOHN KNITS, INC., a California
Corporation; ST. JOHN KNITS
18 INTERNATIONAL, INCORPORATED, a
Delaware Corporation; and DOES 1-100,
19 inclusive,

20 Defendants.
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Case No.: 30-2023-01309133-CU-OE-CXC

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

1 Plaintiff, ROSALBA ARVIZU (“PLAINTIFF”), an individual on behalf of the State of
2 California, and all other Aggrieved Employees (as defined below), hereby files this Complaint
3 against Defendants ST. JOHN KNITS, INC., a California Corporation; ST. JOHN KNITS
4 INTERNATIONAL, INCORPORATED, a Delaware Corporation; and DOES 1-100, inclusive,
5 (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and
6 thereon alleges as follows:

7 **INTRODUCTION**

8 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
9 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
10 Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties (75%
11 payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
12 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

13 **JURISDICTION AND VENUE**

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

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

22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California. PLAINTIFF was employed by DEFENDANTS
25 in the State of California as a non-exempt employee from in or around March 1997 through on or
26 around January 14, 2022, when PLAINTIFF went on leave.

27 5. PLAINTIFF regularly worked for DEFENDANTS as a steam presser, steam press
28 operator and/or similar title(s). PLAINTIFF regularly worked for DEFENDANTS out of

1 DEFENDANTS' facility located in Irvine, California in Orange County.

2 6. Defendant ST. JOHN KNITS, INC., is a California Corporation that, at all relevant
3 times, was authorized to do business within the State of California and is doing business in the State
4 of California.

5 7. Defendant ST. JOHN KNITS INTERNATIONAL, INCORPORATED is a
6 Delaware Corporation, that at all relevant times, was authorized to do business within the State of
7 California and is doing business in the State of California.

8 8. DEFENDANTS own, operate, or otherwise manage a clothing design,
9 manufacturing and retail business. DEFENDANTS specialize in luxury/high-end clothing, among
10 other items, with its collections sold in high-end specialty retailers internationally and nationally
11 and through the brand's ecommerce site stjohnknits.com.¹ DEFENDANTS operate several plants,
12 facilities, and/or locations in California, including but not limited to, the manufacturing
13 facility/location in Irvine, California at which PLAINTIFF was regularly assigned to work during
14 the relevant period.

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

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

28 ¹ See <https://www.stjohnknits.com/our-story> (Last visited on December 17, 2022.)

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

4 **JOINT LIABILITY**

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

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

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

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

20 15. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
21 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
22 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
23 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
24 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
25 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
26 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
27 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
28 and other Aggrieved Employees' employment with or without cause. Upon information and belief,

1 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
2 writing the details of their compensation, and the manner in which they were to take meal and rest
3 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
4 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
5 collectively would evaluate their wage rates.

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

11 17. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
12 control over, applied the same policies and practices, and engaged in the same acts and omissions
13 with regard to the other Aggrieved Employees.

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

20 19. By reason of their status as joint employers of PLAINTIFF and Aggrieved
21 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
22 Code and applicable Wage Orders as to all Aggrieved Employees.

23 **PAGA ALLEGATIONS**

24 20. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
25 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
26 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

27 All current and former non-exempt employees that worked either
28 directly or via a staffing agency for DEFENDANTS at any location

1 in California at any time from one year plus 65 days from the filing
2 of the initial Complaint through the present (“PAGA Period”).

3 21. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
4 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
5 limitations period and suffered one or more of the Labor Code violations set forth herein.
6 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
7 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
8 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
9 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
10 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
11 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
12 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
13 *Id.* at 760-761.

14 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

15 22. On December 20, 2022, PLAINTIFF, through counsel, gave written notice by online
16 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
17 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
18 in this Complaint (“PAGA Notice”). Attached hereto as **Exhibit 1** is a true and correct copy of the
19 PAGA Notice also sent to DEFENDANTS via certified mail.

20 23. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
21 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
22 Employees.

23 24. The LWDA and/or Division of Occupational Safety and Health did not provide
24 notice of its intention to investigate DEFENDANTS’ violations after expiration of the 65-day
25 waiting time period, or at any time. To the extent any of the alleged violations were curable,
26 DEFENDANTS failed to cure within the time allotted by PAGA. Accordingly, PLAINTIFF has
27 exhausted the administrative remedies as required by Labor Code section 2699.3. Consequently,
28 PLAINTIFF’s right to file the instant lawsuit against DEFENDANTS has duly accrued.

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

FACTUAL ALLEGATIONS

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

27. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee. PLAINTIFF was employed by DEFENDANTS in the State of California as a non-exempt employee from in or around March 1997 through on or around January 14, 2022, when PLAINTIFF went on leave. PLAINTIFF regularly worked for DEFENDANTS as a steam presser, steam press operator and/or similar title(s). PLAINTIFF regularly worked for DEFENDANTS out of DEFENDANTS' facility located in Irvine, California. PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) days per week.

28. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time counted by DEFENDANTS as hours worked.

29. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods, as explained below.

30. Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during

1 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
2 PLAINTIFF and Aggrieved Employees of all wages owed.

3 31. Based on information and belief, Aggrieved Employees were not paid for all hours
4 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
5 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
6 the clock work policies and/or practices.

7 32. Based on information and belief, at times, Aggrieved Employees were required to
8 stand in line behind other employees to access DEFENDANTS' electronic employee time-keeping
9 system and/or were required to undergo security screenings and/or had to spend time reinitiating
10 DEFENDANTS' electronic time-keeping system before they could clock in for the start of their
11 shifts. For example, after arriving at work but prior to clocking in for the start of her shift,
12 PLAINTIFF typically had to wait in line behind numerous other employees to access
13 DEFENDANTS' time-keeping machine/mechanism. At times, DEFENDANTS had only one
14 timeclock mechanism for the entire worksite, resulting in additional wait time and off-the-clock
15 work. Moreover, after clocking out for the end of their shifts, PLAINTIFF and other Aggrieved
16 Employees required to form a line to undergo security checks, which typically resulted in at least
17 five (5) to seven (7) minutes of additional off-the-clock work per shift. This pre-shift and/or post-
18 shift off-the-clock work, including but not limited to, time spent waiting for other employees to
19 clock in for their shifts, undergoing security screenings/security checks and/or reinitiating the time-
20 keeping mechanism, was not compensated, resulting in the underpayment of minimum and overtime
21 wages owed to Aggrieved Employees.

22 33. Based on information and belief, DEFENDANTS did not compensate Aggrieved
23 Employees for time spent donning and doffing personal protective equipment and/or uniforms/work
24 clothing (e.g., protective eyewear, gloves, and/or face masks) during meal periods, before the start
25 of a scheduled shift, and/or after completing a scheduled shift, resulting in off-the-clock work and
26 the underpayment of wages owed to Aggrieved Employees.

27 34. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
28 required to complete other off-the-clock work tasks before clocking in for the start of their shifts,

1 after clocking out for the end of their shifts and/or during uncompensated meal periods, resulting in
2 the underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
3 Employees.

4 35. Based on information and belief, at times, DEFENDANTS' electronic time-keeping
5 system malfunctioned such that Aggrieved Employees were required to either reinitiate and/or
6 otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock in at
7 all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work
8 and the underpayment of wages owed to Aggrieved Employees. Based on information and belief,
9 Aggrieved Employees experienced the same issues when clocking out for shifts and/or back in for
10 meal periods. This time spent under DEFENDANTS' control was not recorded and not
11 compensated and resulted in unpaid minimum wages owed to Aggrieved Employees.

12 36. Based on information and belief, Aggrieved Employees were also pressured to
13 complete at least some of their work tasks off-the-clock in order to meet DEFENDANTS' goals and
14 expectations. For example, on information and belief, Aggrieved Employees were also required to
15 complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or
16 messages they received and were required to respond to, including but not limited to,
17 communications from supervisors regarding scheduling and/or other work tasks, resulting in the
18 underpayment of wages owed to Aggrieved Employees.

19 37. Based on information and belief, DEFENDANTS failed to pay Aggrieved
20 Employees for time they were required to spend completing orientation, policy questionnaires,
21 and/or time spent completing the onboarding process including but not limited to reviewing various
22 documents and policies provided by DEFEDANTS. Based on information and belief, this work time
23 was completed off-the-clock and was not compensated.

24 38. Based in information and belief, DEFENDANTS implemented a time-rounding
25 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
26 compensable time because the time-rounding system implemented by DEFENDANTS would
27 almost always, if not always, result in understating actual compensable work time. For example,
28 based on information and belief, wage statements issued to PLAINTIFF evidence rounding to at

1 least the nearest quarter hour. For example, DEFENDANTS' pay records for PLAINTIFF for pay
2 date 11/5/21 show precisely 80.00 regular hours worked; DEFENDANTS' pay records for
3 PLAINTIFF for pay date 11/19/21 show precisely 79.75 regular hours worked; DEFENDANTS'
4 pay records for PLAINTIFF for 12/3/21 show precisely 32.00 regular hours worked;
5 DEFENDANTS' pay records for pay date 12/17/21 shows precisely 61.50 regular hours worked;
6 and DEFENDANTS' pay records for PLAINTIFF for pay date 12/30/21 shows precisely 70.00
7 regular hours worked. Based on information and belief, DEFENDANTS also rounded other
8 Aggrieved Employees hours worked to the nearest quarter, half, and/or whole hour, resulting in the
9 underpayment of wages owed to Aggrieved Employees.

10 39. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
11 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
12 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
13 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
14 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
15 forty (40) hours in a week.

16 40. Based on information and belief, DEFENDANTS had actual and/or constructive
17 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
18 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
19 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
20 of California's minimum and overtime wage laws.

21 41. Based on information and belief, DEFENDANTS failed and continue to fail to pay
22 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
23 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
24 a work week, in violation of California's overtime laws.

25 42. Based on information and belief, DEFENDANTS failed to incorporate all non-
26 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
27 pay, (e.g., non-discretionary safety bonuses/incentive pay), multiple base rates of pay and/or other
28 non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),

1 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
2 Aggrieved Employees.

3 43. Based on further information and belief, DEFENDANTS failed to properly blend
4 multiple rates of regular pay in calculating the owed overtime rate(s), resulting in the miscalculation
5 and underpayment of overtime wages owed to Aggrieved Employees.

6 44. Alternative Workweek Schedule Violations (Labor Code Section 511 and All
7 Applicable Wage Orders, Section 3): Per California Labor Code section 511, an employer may
8 adopt a regularly scheduled alternative workweek consisting of shifts over eight (8) hours per day
9 but no more than ten (10) hours per day, within a 40-hour workweek, without payment of overtime
10 being required for those hours. Cal. Lab. Code § 511(a). If an employee with an alternative
11 workweek works more than the scheduled work hours in any day, the employee is entitled to be paid
12 1.5 times his regular pay rate for the excess hours worked up to twelve (12) hours, and for any time
13 worked in excess of 40 hours that week. Cal. Lab. Code § 511(b). If the employee works more than
14 twelve (12) hours in a day, the employee is entitled to be paid twice his regular rate of pay for time
15 worked in excess of the twelve (12) hours. *Id.* An employee is also entitled to compensation at
16 twice his regular rate of pay for any time worked beyond eight (8) hours on a day that is not a
17 scheduled workday. *Id.*

18 45. Moreover, Section 3(B)(2) of all applicable IWC Wage Orders provides that “[i]f an
19 employer, whose employees have adopted an alternative workweek agreement permitted by this
20 order requires an employee to work fewer hours than those that are regularly scheduled by the
21 agreement, the employer shall pay the employee overtime compensation at a rate of one and one-
22 half times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours, and
23 double the employee’s regular rate of pay for all hours worked in excess of 12 hours for the day the
24 employee is required to work the reduced hours.”

25 46. Based on information and belief, Aggrieved Employees worked subject to an
26 alternative work week schedule in which Aggrieved Employees were scheduled to work ten (10)
27 hours per shift, four (4) shifts per week. According to the California Department of Industrial
28 Relations Alternative Workweek Elections Database, DEFENDANTS conducted various elections

1 to adopt a 4/10 alternative workweek schedule (“AWS”), which were subsequently approved.
2 Pursuant thereto, DEFENDANTS were required to pay Aggrieved Employees at their base rate(s)
3 for the first ten (10) hours in a shift and required to pay 1.5 times the base rate(s) for time worked
4 over 40 hours in a week. However, based on information and belief, on various diverse dates,
5 Aggrieved Employees were sent home between one (1) to two (2) hours before completing their
6 ten-hour shifts. On such shortened shifts, Aggrieved Employees were entitled to overtime pay at 1.5
7 times their regular rate(s) of pay after the first eight (8) hours of work. Instead, DEFENDANTS paid
8 Aggrieved Employees their respective base rate(s) for all scheduled hours worked on the shortened
9 shift(s) in violation of the alternative workweek schedule, and in violation of California Labor Code
10 sections 510, 511, the applicable Wage Order, and Labor Code section 1198.

11 47. Based on further information and belief, DEFENDANTS required Aggrieved
12 Employees to work more than eight (8) hours on days that were not scheduled workdays without
13 compensating Aggrieved Employees at twice their regular rate(s) of pay for the time worked beyond
14 eight (8) hours on those days, in violation of California overtime laws, including but not limited to,
15 California Labor Code sections 510 and 511, the applicable Wage Order, and Labor Code section
16 1198.

17 48. Based on further information and belief, DEFENDANTS failed to comply with all
18 mandated procedures for proper adoption and implementation of an alternative workweek schedule
19 and/or failed to compensate Aggrieved Employees according to the terms of the alternative
20 workweek schedule and/or in compliance with California Labor Code sections 510, 511, all
21 applicable IWC Wage Orders, and Labor Code section 1198.

22 49. This conduct results in violations of Labor Code sections 218.5, 510, 511, 558, 558.1,
23 1198-1199, and all applicable IWC Wage Orders, §12(A).

24 50. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
25 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
26 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
27 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
28 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often

1 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
2 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
3 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
4 completely. For example, oftentimes, PLAINTIFF's meal periods were consistently interrupted
5 and/or cut short due to being instructed to return to work in order to prepare clothing material, assist
6 models and designers and/or complete other work tasks.

7 51. Based on information and belief, other Aggrieved Employees were consistently
8 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
9 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
10 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
11 expectations.

12 52. Based on information and belief, DEFENDANTS implemented policies and/or
13 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
14 during unpaid meal periods.

15 53. Based on information and belief, DEFENDANTS required Class Members to
16 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
17 into account when scheduling meal periods for Class Members. Based on information and belief,
18 meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

19 54. Based on information and belief, despite DEFENDANTS' failure to provide lawful
20 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
21 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
22 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
23 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
24 Employees did not receive lawful meal periods.

25 55. Moreover, based on information and belief, Aggrieved Employees who worked shifts
26 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.
27 For example, when PLAINTIFF worked shifts lasting longer than ten (10) hours, she did not receive
28 any version of a second meal break.

1 56. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
2 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
3 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
4 did DEFENDANTS have any sort of compliant policy in practice.

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

11 58. Based on information and belief, DEFENDANTS had actual and/or constructive
12 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
13 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
14 violation of California's meal period laws.

15 59. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
16 additional hour of wages at their respective regular rates of compensation for each workday a lawful
17 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
18 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
19 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
20 bonuses, incentive pay (e.g., non-discretionary safety bonus/incentive pay), shift differential pay
21 and/or other non-discretionary compensation into the regular rate or compensation for purposes of
22 calculating the owed meal period premium.

23 60. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
24 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
25 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
26 middle of the work period, as required by law.

27 61. PLAINTIFF and other Aggrieved Employees were not adequately informed,
28 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California

1 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
2 the taking or timing of duty-free rest periods.

3 62. Based on information and belief, DEFENDANTS did not have a have a compliant
4 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
5 practice. For example, PLAINTIFF's rest periods were typically worked through, interrupted,
6 and/or cut short due to the nature and constraints of her job duties, including but not limited to, the
7 need to prepare clothing material, assist models and designers and/or complete other work tasks.
8 Moreover, on information and belief, DEFENDANTS failed to authorize and permit rest periods
9 that were a "net" ten minutes in a suitable rest area and instead, to the extent rest periods were
10 provided at all, limited Aggrieved Employees to only ten-minute rest periods, requiring them to be
11 back at their workstations within ten minutes of leaving, in violation of California rest period law.
12 DEFENDANTS' failure to communicate that the rest period is a net ten minutes deprived Aggrieved
13 Employees of their rights to a full rest period, as such as policy only relieves Aggrieved Employees
14 from their workstation for ten minutes to travel to and from a rest area and be back at the workstation
15 by the end of that ten minutes.

16 63. Based on information and belief, any purported rest periods were interrupted, cut
17 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
18 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
19 completely and/or take non-compliant rest periods.

20 64. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
21 lasting longer than ten hours. For example, when PLAINTIFF worked shifts lasting longer than ten
22 (10) hours, she was not provided with any version of a third rest period.

23 65. Based on information and belief, DEFENDANTS implemented policies and/or
24 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
25 DEFENDANTS' control during rest periods. For example, on information and belief, Aggrieved
26 Employees were required to remain tethered to their worksites and/or work communication devices
27 during purportedly off-duty rest periods.

28 66. Based on information and belief, Aggrieved Employees were pressured to complete

1 their work duties according to a designated schedule such that rest periods were only taken once
2 tasks were completed, and/or as time permitted.

3 67. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
4 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
5 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
6 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
7 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
8 shift differential pay, and/or other non-discretionary compensation into the regular rate of
9 compensation for purposes of calculating the owed rest period premium.

10 68. **Violation of California Day of Rest Law.** Under California law, every employee in
11 California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" its
12 employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor
13 Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

14 69. Based on information and belief, DEFENDANTS have and continue to have a
15 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
16 consecutively in a workweek, in violation of including but not limited to, Labor Code Section
17 551. For example, at times, PLAINTIFF worked multiple weeks consecutively without a day
18 off. Based on information and belief, other Aggrieved Employees were also suffered, permitted, or
19 required to work at least seven (7) days consecutively in a workweek, in violation of California law,
20 including but not limited to Labor Code Section 551.

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

1 71. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
2 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
3 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
4 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
5 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
6 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
7 other off-the-clock work policies and practices described above) which results in a violation of
8 Labor Code section 226(a). For example, based on information and belief, DEFENDANTS' wage
9 statements issued to PLAINTIFF and other Aggrieved Employees show that DEFENDANTS
10 rounded the total hours worked to at least the nearest quarter hour, thereby failing to list the accurate
11 hours that PLAINTIFF and other Aggrieved Employees worked on DEFENDANTS' issued wage
12 statements.

13 72. Based on information and belief, wage statements issued by DEFENDANTS failed
14 to list all applicable hourly rates in effect during the pay period and the corresponding number of
15 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
16 Code section 226(a)(9) due to DEFENDANTS' failure to list an overtime rate category at all and/or
17 failure to list a category containing the proper overtime rate.

18 73. Moreover, based on information and belief, DEFENDANTS issued wage statements
19 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
20 other things, failing to list the correct name and/or address of the legal entity that is the employer,
21 in violation of Labor Code section 226(a)(8).

22 74. Based on information and belief, wage statements issued by DEFENDANTS failed
23 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

24 75. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
25 not include all of the statutorily required information, including but not limited to, the correct name
26 and/or address of the legal entity that is the employer.

27 76. Based on further information and belief, DEFENDANTS issued wage statements to
28 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential

1 wages were paid in violation of Labor Code section 226.

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

5 78. **Failure to Produce Employment Records.** Based on information and belief,
6 DEFENDANTS have a uniform policy and practice of failing to produce or make available a current
7 or former employee's time, pay, and/or personnel records when requested pursuant to Labor Code
8 sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF sent a
9 written request for payroll and personnel records to DEFENDANTS. Yet, DEFENDANTS failed to
10 timely produce complete records within the time periods delineated by California labor law. Based
11 on information and belief, DEFENDANTS failed and continue to fail to timely produce complete
12 time, pay, and personnel records when requested by other Aggrieved Employees.

13 79. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
14 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
15 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
16 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
17 required by law, including but not limited to the following records: total daily hours worked,
18 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
19 began and ended each work period, time records of meal periods, and accurate itemized wage
20 statements.

21 80. DEFENDANTS have failed and continue to fail to keep accurate and complete
22 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
23 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
24 employer control during unpaid meal periods, failure to record the true start and end times of meal
25 periods, shift start times and shift end times, and other off-the-clock work policies and practices
26 described herein.

27 81. **Unreimbursed Business Expenses.** Based on information and belief,
28 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses

1 as a direct consequence of the performance of their job duties without providing reimbursement, in
2 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
3 Aggrieved Employees were improperly required to provide and maintain work tools that are
4 supposed to be the responsibility of the employer.

5 82. Based on information and belief, DEFENDANTS shifted the costs of doing business
6 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
7 to hand tools, uniforms/protective equipment/safety gear and/or the use of Aggrieved Employees'
8 personal mobile phone and data usage for work related purposes including but not limited to
9 receiving and responding to work related messages and/or phone calls. Based on information and
10 belief, Aggrieved Employees were not reimbursed for the cost of using their personal phone for
11 work-related purposes and/or the cost of purchasing and/or maintaining work
12 uniforms/clothing/protective equipment/safety gear. For example, on information and belief,
13 Aggrieved Employees received calls/messages to their personal cell phones/mobile devices from
14 supervisors and/or other Aggrieved Employees regarding scheduling and/or other work tasks but
15 were not provided any and/or full reimbursement from DEFENDANTS for this personal cell phone
16 use.

17 83. Based on information and belief, DEFENDANTS required Aggrieved Employees to
18 pay for the purchase and/or maintenance of uniforms/work clothing, work shoes, protective
19 equipment and/or safety gear without providing any and/or full reimbursement for the costs they
20 incurred in connection therewith.

21 84. Based on information and belief, Aggrieved Employees were at times required to
22 purchase and/or maintain their own tools, including but not limited to, hand tools, they required to
23 complete their job duties, however, DEFENDANTS failed to reimburse Aggrieved Employees for
24 the costs they incurred in connection therewith. For example, PLAINTIFF was required to purchase
25 her own scissors, measuring tape, pencils and/or other hand tools necessary to perform her job
26 duties. PLAINTIFF was not reimbursed for the cost of purchasing tools necessary to complete her
27 job duties. Based on information and belief, DEFENDANTS have a policy and/or practice of failing
28 to reimburse Aggrieved Employees for the cost of purchasing work tools.

1 85. Based on information and belief, DEFENDANTS regularly failed to reimburse and
2 indemnify Class Members for business expenses. Pursuant to California Labor Code section 2802,
3 PLAINTIFF and Class Members were entitled to be reimbursed for all reasonable expenses
4 associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by
5 DEFENDANTS.

6 86. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
7 for all reasonable expenses associated with carrying out their duties required that Aggrieved
8 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
9 2802.

10 87. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
11 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
12 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
13 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
14 accrued sick leave hours on the correct number of hours worked (as a result of the
15 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
16 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
17 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
18 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
19 compensation into the sick leave pay rate calculation.

20 88. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
21 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
22 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
23 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
24 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
25 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
26 used sick leave and the balance of paid sick leave.

27 89. Based on information and belief, throughout the relevant time period,
28 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and

1 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
2 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
3 prior to their respective separations, for as on several occasions thereafter, he or she would have
4 been entitled to use the banked sick leave and earn appropriate compensation.

5 90. Upon information and belief, DEFENDANTS failed and continue to fail to comply
6 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
7 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
8 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
9 wages.

10 91. As such, DEFENDANTS have violated California's paid sick leave laws and
11 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
12 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
13 unlawful practices and policies violate Labor Code sections 245-248.5.

14 92. **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides
15 that all employers with 26 or more employees are required to provide up to 80 hours for covered
16 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care
17 for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS
18 violated Labor Code § 248.2 by not providing Aggrieved Employees with required 2021 COVID-
19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to
20 provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

21 93. **Seating Violations.** Per section 14(A-B) of all applicable IWC Wage Orders,
22 employees shall be provided with suitable seats when the nature of the work reasonably permits the
23 use of seats and when they are not actively engaged in the work duties that would not permit them
24 to be seated.

25 94. All applicable IWC Wage Orders, Section 14(A-B) provides:

26 (A) All working employees shall be provided with suitable seats when the nature of the
27 work reasonably permits the use of seats.
28

1 (B) When employees are not engaged in the active duties of their employment and the
2 nature of the work requires standing, an adequate number of suitable seats shall be placed in
3 reasonable proximity to the work area and employees shall be permitted to use such seats when it
4 does not interfere with the performance of their duties.

5 95. Suitable seating is one of the worker protections covered by California's Wage
6 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
7 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
8 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

9 96. Based on information and belief, DEFENDANTS failed to provide Aggrieved
10 Employees with suitable seating, and when such employees were not engaged in duties which
11 required them to stand, no seating was placed in reasonable proximity to their workstations.

12 97. Moreover, based on information and belief, the nature of the work reasonably
13 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
14 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
15 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
16 of seats would not interfere with the performance of their duties.

17 98. **Failure to Pay Vested Vacation/Paid Time Off:** Based on information and belief,
18 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
19 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
20 failing to pay all vested, accrued paid time off to Aggrieved Employees upon separation of
21 employment, in violation of California law, including but not limited to, Labor Code section 227.3.

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

27 100. Upon separation of employment, Aggrieved Employees' final paychecks were not
28 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.

1 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
2 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
3 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
4 accrued rates.

5 101. Moreover, DEFENDANTS failed to timely provide all owed wages immediately
6 upon discharge of employment. For example, at times, PLAINTIFF experienced breaks in her
7 employment caused by DEFENDANTS whereby PLAINTIFF would not be called in for work for
8 longer than a single pay period due to including but not limited to DEFENDANTS' lack of work or
9 lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS
10 failed to timely pay all owed wages at the end of such periods of employment, in violation of
11 including but not limited to Labor Code section 201-202.

12 102. **Unlawful Inquiries into Salary History.** Based on information and belief,
13 DEFENDANTS have a policy and/or practice of unlawfully asking Aggrieved Employees to reveal
14 their salary history when applying for employment with DEFENDANTS. For example, when
15 PLAINTIFF applied for employment with DEFENDANTS, PLAINTIFF was required to fill out an
16 application that requested, among other things, the following information: Name and address of
17 former employer, length of former employment relationship, and the "starting" and "final" "hourly
18 rate/salary" - and/or in effect the same/similar information - of the former employment relationship.
19 Based on information and belief, DEFENDANTS required other Aggrieved Employees to disclose
20 the same or similar information, in violation of Labor Code section 432.3.

21 103. Moreover, by requiring Aggrieved Employees to disclose prior salary information in
22 a written application for employment, DEFENDANTS violated Labor Code section 432.5 by
23 requiring Aggrieved Employees to agree in writing to disclose their salary history as a condition of
24 obtaining employment with DEFENDANTS, in violation of California law.

25 104. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

26 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

27 105. Based on information and belief, DEFENDANTS required Aggrieved Employees to
28 agree in writing to unlawful conditions of employment including but not limited to unlawful

1 criminal and/or financial checks as a condition of obtaining and/or continuing employment in
2 violation of Labor Code section 432.5.

3 106. Based on information and belief, DEFENDANTS ordered unlawful financial credit
4 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
5 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
6 employment, in violation of California and Federal law, which results in a further violation of Labor
7 Code section 432.5.

8 107. Based on information and belief, DEFENDANTS also required Aggrieved
9 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as
10 a condition of obtaining and/or holding employment in violation of the Investigative Consumer
11 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit
12 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*). Based on information and belief,
13 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and
14 FCRA when conducting background screenings for applicants, including but not limited to
15 Aggrieved Employees that were subject to a background check as a condition of employment during
16 the application phase.

17 108. Based on information and belief, DEFENDANTS required Aggrieved Employees to
18 agree in writing to a background check which failed to abide by the requirements set forth in CA
19 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
20 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
21 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for
22 the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA,
23 failing to provide a way by which the individual could request a copy of the report, failing to disclose
24 the name, address, and telephone number of the third party preparing the report, and failing to
25 properly obtain authorization or consent to such a background check, and thus was an unlawful
26 background check.

27 109. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
28 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code

1 section 432.5.

2 110. Based on further information and belief, DEFENDANTS also required Aggrieved
3 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
4 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
5 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
6 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

7 111. Based on further information and belief, DEFENDANTS knew that requiring
8 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
9 condition of obtaining and/or holding employment was unlawful.

10 112. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
11 condition of employment, DEFENDANTS violated Labor Code section 432.5.

12 Unlawful Inquires into Criminal History

13 113. Labor Code section 432.7 prohibits an employer from asking applicants about past
14 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
15 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
16 convictions on its employment application, in violation of California law.

17 114. Upon information and belief, DEFENDANTS, in violation of California law,
18 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
19 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
20 employment and/or otherwise impermissibly inquired into criminal history on its employment
21 application in violation of California law, and in violation of Labor code section 432.5.

22 Unlawful PAGA Waiver

23 115. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
24 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
25 to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

26 116. An action pursuant to PAGA “...is a representative action on behalf of the state”
27 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
28 purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and

1 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
2 (“We conclude that where, as here, an employment agreement compels the waiver of representative
3 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

4 117. Moreover, the California Supreme Court has ruled that a court cannot compel
5 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an
6 individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is
7 no individual component to a PAGA action because ‘every PAGA action ... is a representative
8 action on behalf of the state.’”)

9 118. Upon information and belief, DEFENDANTS required PLAINTIFF and other
10 Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation
11 of California law. For example, based on information and belief, DEFENDANTS required
12 Aggrieved Employees to sign as a condition of employment agreements that include language that
13 waives their right to bring a representative action. As explained above, representative actions include
14 PAGA actions. By requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA
15 waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of
16 employment which is a violation of labor code section 432.5.

17 119. **Failure to Provide a Safe and Healthful Workplace.** During the PAGA Period,
18 DEFENDANTS have had a policy and practice of failing, within one business day after
19 DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to
20 COVID-19, to notify PLAINTIFF and other Aggrieved Employees who were on the premises at the
21 same worksite as the qualifying individual within the infectious period, and the employers of
22 subcontracted employees who were on the premises at the same worksite as the qualifying individual
23 within the infectious period and the exclusive representative, if any, of the cleaning and disinfection
24 plan that the employer is implementing per the guidelines of the COVID 10 prevention program per
25 the Cal-OSHA COVID-19 Emergency Temporary Standards, among other things in violation of
26 Labor Code sections 6409.6 and/or 6432. As explained below, DEFENDANTS failed to provide a
27 safe and healthful workplace in violation of California law.

28 120. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS

1 engaged in these same herein described unlawful practices, which led to violations of the California
2 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
3 unlawful practices to all of its employees that it applied to PLAINTIFF.

4 **FIRST CAUSE OF ACTION**
5 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
6 **2698, *ET SEQ.***

7 **(On behalf of Aggrieved Employees and the State of California against all Defendants)**

8 121. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

9 **Failure to Keep Accurate Records**

10 122. California Labor Code § 1174 requires employers to keep “accurate and complete”
11 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
12 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
13 times during which all owed meal periods were provided each day.

14 123. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
15 and complete records as required by law, including but not limited to the following records: total
16 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
17 Aggrieved Employees began and ended each work period, time records of meal periods, and
18 accurate itemized wage statements.

19 124. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
20 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
21 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
22 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
23 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
24 period during which the referenced statutes and Wage Order provisions were violated.²

25 **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

26 ² Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor
27 Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the
28 employee was underpaid”); All applicable wage orders, § 20 (establishing that “[i]n addition to any other civil
penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid”) (emphasis added).

1 125. Time and Pay Records: Labor Code section 226 and all applicable IWC Wage
2 Orders, section 7 require that employers keep the following information on file for each employee
3 for a minimum of three years: The employee's dates of employment; the employee's hourly rates
4 and the corresponding number of hours worked by the employee at each hourly rate, when the
5 employee begins and ends each work period (including meal periods) and split intervals; total hours
6 worked by the employee; all deductions; gross wages earned; and net wages earned.

7 126. Section (b) of Labor Code section 226 further requires employers to "afford current
8 and former employees the right to inspect or receive a copy of records pertaining to their
9 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
10 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
11 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
12 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
13 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
14 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
15 the employer. Lab. Code section 226(f).

16 127. Personnel Records. In addition to their right to time and pay records, employees, and
17 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
18 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
19 section 432 further specifies that employers must furnish copies of all employment records bearing
20 the employee's signature. Labor Code section 1198.5 also requires that the file be made available
21 for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days
22 from the date the employer receives a written request." An employer's failure to comply within this
23 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar
24 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

25 128. Based on information and belief, DEFENDANTS fail to timely produce or make
26 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant
27 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations subject
28 DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

1 **Meal Period Violations**

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

7 130. Employers must also provide employees with a second duty-free, uninterrupted thirty
8 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
9 be provided before the end of the 10th hour of work. *Ibid.*

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

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

25 133. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
26 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
27 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
28 their meal periods due to understaffing, the nature and constraints of their job duties, and/or

commentary from supervisors pressuring them to take non-compliant meal periods or skip meal periods completely.

134. Based on information and belief, DEFENDANTS had and continue to have a policy of rounding the start and end times of employees' meal periods and/or automatically deducting thirty minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Aggrieved Employees did not receive compliant meal periods.

135. Moreover, based on information and belief, Aggrieved Employees did not receive a timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

136. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that its time-rounding and auto-deduction policies and practices, other unlawful policies and practices resulted in the denial of compliant meal periods in violation of California's meal period laws.

137. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal periods in violation of California law and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

138. These unlawful meal period policies and practices result in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable Wage Orders, § 20. These practices result in further violations such as violations of Labor Code § 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

Rest Period Violations

139. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period "insofar as practicable." In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for

1 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
2 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
3 1029). The rest period requirement obligates employers to permit and authorize employees to take
4 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
5 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
6 257. If the employer fails to provide any required rest period, the employer must pay the employee
7 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
8 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
9 applicable IWC Wage Order, §12(B).

10 140. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
11 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
12 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
13 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
14 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
15 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
16 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
17 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
18 “onus is on the employer to clearly communicate the authorization and permission [to take rest
19 periods] to its employees.”).

20 141. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
21 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
22 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
23 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
24 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
25 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

26 142. Based on information and belief, DEFENDANTS implemented policies and/or
27 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
28 employer control during rest periods. Based on further information and belief, Aggrieved

1 Employees were pressured to complete their work duties according to a designated schedule such
2 that rest periods were only taken once tasks were completed, and/or as time permitted.

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

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

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

14 **Violation of California Day of Rest Law**

15 146. Under California law, every employee in California is "entitled" to "one day's rest
16 [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in
17 seven." *See* Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of
18 the foregoing sections is a misdemeanor.

19 147. Based on information and belief, DEFENDANTS have and continue to have a
20 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
21 consecutively in a workweek, in violation of including but not limited to, Labor Code Section
22 551. For example, at times, PLAINTIFF worked multiple weeks consecutively without a day
23 off. Based on information and belief, other Aggrieved Employees were also suffered, permitted, or
24 required to work at least seven (7) days consecutively in a workweek, in violation of California law,
25 including but not limited to Labor Code Section 551.

26 **Minimum and Overtime Wage Violations**

27 148. California law provides that employees in California must be paid for all hours
28 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less

1 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
2 The minimum wage standard applies to each hour employees worked for which they were not paid.
3 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
4 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
5 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

6 149. California law also provides that employees in California must be paid overtime,
7 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
8 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
9 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
10 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
11 consecutive day of work in a work week. *Ibid.*

12 150. As explained above, DEFENDANTS violated California's minimum and overtime
13 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
14 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
15 start and end times and meal period start and end times), payment according to scheduled hours
16 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
17 meal periods, and/or other otherwise off-the-clock work (described above), which resulted in the
18 failure to account for all hours worked and thus the denial of minimum and overtime wages.
19 Moreover, as explained above, DEFENDANTS failed to pay all overtime wages by failing to
20 properly institute an Alternative Workweek Schedule, and/or otherwise failing to pay all owed
21 overtime wages on days when Aggrieved Employees were required to work shortened shifts while
22 subject to an Alternative Workweek Schedule.

23 151. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
24 Aggrieved Employees for all hours worked.

25 152. Based on information and belief, DEFENDANTS had actual or constructive
26 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
27 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
28 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the

1 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
2 Employees.

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

7 154. Based on information and belief, DEFENDANTS further violated California's
8 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
9 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
10 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
11 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
12 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
13 other Aggrieved Employees.

14 155. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
15 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
16 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
17 Wage Orders, section 20.

18 **Statutory Wage Violations**

19 156. California Labor Code section 223 makes it unlawful for an employer to secretly pay
20 wages lower than required by statute while purporting to pay legal wages. As described above,
21 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
22 earned minimum and overtime compensation for all hours worked which resulted in the payment of
23 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
24 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
25 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
26 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
27 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
28 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to

1 Labor Code § 2699(f)-(g).

2 **Refusal to Make Payment**

3 157. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
4 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
5 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
6 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
7 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
8 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
9 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
10 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

11 **Standard Conditions of Labor Violations**

12 158. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
13 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
14 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
15 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
16 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
17 seating, and minimum/overtime wages result in separate violations of sections 1198 and 1199, which
18 subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

19 **Business Expense Violations**

20 159. California law requires employers to indemnify their employees for all necessary
21 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
22 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
23 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
24 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
25 incurred by the employee enforcing the rights granted by this section."

26 _____
27 ³ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 160. Among other things, under California law, when employees must use their personal
2 cellphones for work-related purposes, the employer must reimburse them for a reasonable
3 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
4 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
5 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
6 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
7 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
8 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

9 161. Further, "any contract or agreement, express or implied, made by any employee to
10 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
11 any employee or his personal representative of any right or remedy to which he is entitled to under
12 the laws of this State." *See* Cal. Lab. Code section 2804.

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

15 163. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
16 full reimbursement for all reasonable expenses associated with carrying out their duties required
17 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
18 expenses in violation of Labor Code section 2802.

19 164. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
20 Employees have suffered injury in that they were not completely reimbursed as mandated by
21 California law.

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

26 166. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
27 Employees have suffered injury in that they were not completely reimbursed as mandated by
28 California law.

1 167. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
2 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
3 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
4 Code § 2802 and the applicable Wage Order.

5 **Wage Statement Violations**

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

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

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

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

5 171. As explained above, wage statements issued by DEFENDANTS failed to list the
6 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
7 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
8 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
9 (described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
10 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
11 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

12 172. Based on information and belief, wage statements issued by DEFENDANTS failed
13 to list all applicable hourly rates in effect during the pay period and the corresponding number of
14 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
15 Code section 226(a)(9), due to DEFENDANTS’ failure to list an overtime rate category at all and/or
16 failure to list a category containing the proper overtime rate.

17 173. Separately, and independent from the above allegations, based on information and
18 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
19 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
20 entity that is the employer.

21 174. Based on information and belief, wage statements issued by DEFENDANTS failed
22 to list the inclusive dates of the pay period for which the Class Member is being paid.

23 175. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
24 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
25 Employees over whether they received all wages owed to them.

26 176. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
27 they could not easily determine whether they received all wages owed to them and whether they
28 were paid for all hours worked.

1 177. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
2 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
3 injury as they could not contact their employer regarding any question(s) they had about wages paid.

4 178. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
5 Aggrieved Employees with accurate, itemized wage statements.

6 179. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
7 Employees have suffered injury. The absence of accurate information on their wage statements has
8 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
9 mathematical computations to determine the amount of wages owed, and will cause difficulty and
10 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
11 submission of inaccurate information about wages and amounts deducted from wages to state and
12 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
13 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
14 and pay records than if DEFENDANT had complied with its legal obligations.

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

18 **Seating Violations**

19 181. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be
20 provided with suitable seats when the nature of the work reasonably permits the use of seats and
21 when they are not actively engaged in the work duties that would not permit them to be seated.

22 182. All applicable IWC Wage Orders, Section 14(A-B) provides:

23 (A) All working employees shall be provided with suitable seats when the nature of the
24 work reasonably permits the use of seats.

25 (B) When employees are not engaged in the active duties of their employment and the
26 nature of the work requires standing, an adequate number of suitable seats shall be placed in
27

28 ⁴ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 reasonable proximity to the work area and employees shall be permitted to use such seats when it
2 does not interfere with the performance of their duties.

3 183. Suitable seating is one of the worker protections covered by California's Wage
4 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
5 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
6 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

7 184. Based on information and belief, DEFENDANTS failed to provide Aggrieved
8 Employees with suitable seating, and when such employees were not engaged in duties which
9 required them to stand, no seating was placed in reasonable proximity to their workstations.

10 185. Moreover, based on information and belief, the nature of the work reasonably
11 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
12 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
13 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
14 of seats would not interfere with the performance of their duties.

15 186. The Aggrieved Employees worked in various positions. The nature of Aggrieved
16 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
17 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
18 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
19 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
20 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
21 separate civil penalty.

22 **Sick Leave Violations**

23 187. DEFENDANTS violated California's paid sick leave laws including, Labor Code
24 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
25 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
26 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
27 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
28 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary

1 compensation into the sick leave pay rate calculation.

2 188. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
3 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
4 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
5 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
6 Aggrieved Employees’ intelligent exercise of their paid sick leave.

7 189. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
8 their paid sick leave at least prior to their respective separations, for as on several occasions
9 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
10 compensation.

11 190. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
12 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
13 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
14 were entitled to the maximum number of hours accruable.

15 191. Upon information and belief, DEFENDANTS failed and continue to fail to comply
16 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
17 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
18 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
19 wages.

20 192. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

21 193. On information and belief, PLAINTIFF alleges that all of these practices were
22 experienced and continue to be experienced by other Aggrieved Employees.

23 194. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
24 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
25 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

26 **Failure To Provide Supplemental Paid Sick Leave**

27 195. Labor Code § 248.2 provides that all employers with 26 or more employees are
28 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental

1 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
2 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved
3 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
4 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
5 Labor Code section 248.6.

6 **Failure to Pay Vested Vacation/Paid Time Off**

7 196. California Labor Code section 227.3 provides that when an employer policy provides
8 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
9 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
10 employee's final rate in accordance with such contract of employment or employer policy respecting
11 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
12 off upon termination.

13 197. Based on information and belief, DEFENDANTS had and continue to have a
14 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
15 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
16 to Aggrieved Employees upon separation of employment, in violation of California law, including
17 but not limited to, Labor Code section 227.3.

18 **Untimely Payment of Final Wages**

19 198. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
20 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
21 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
22 employee not having a written contract for a definite period quits his or her employment, his or her
23 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
24 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
25 to his or her wages at the time of quitting."

26 199. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
27 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
28 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.

1 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
2 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
3 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

4 200. Based in information and belief, DEFENDANTS failed and continue to fail to timely
5 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
6 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
7 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
8 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
9 sick leave and/or paid time off wages at the properly accrued rates.

10 201. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
11 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
12 256.

13 **Unlawful Inquiries into Salary History**

14 202. Labor code section 432.3 provides in part “(b) An employer shall not, orally or in
15 writing, personally or through an agent, seek salary history information, including compensation
16 and benefits, about an applicant for employment.” Based on information and belief, DEFENDANTS
17 have a policy and/or practice of unlawfully asking Aggrieved Employees to reveal their salary
18 history when applying for employment with DEFENDANTS. For example, when PLAINTIFF
19 applied for employment with DEFENDANTS, PLAINTIFF was required to fill out an application
20 that requested, among other things, the following information: Name and address of former
21 employer, length of former employment relationship, and the “starting” and “final” “hourly
22 rate/salary” - and/or in effect the same/similar information - of the former employment relationship.
23 Based on information and belief, DEFENDANTS required other Aggrieved Employees to disclose
24 the same or similar information, in violation of Labor Code section 432.3.

25 203. Moreover, by requiring Aggrieved Employees to disclose prior salary information in
26 a written application for employment, DEFENDANTS violated Labor Code section 432.5 by
27 requiring Aggrieved Employees to agree in writing to disclose their salary history as a condition of
28 obtaining employment with DEFENDANTS, in violation of California law.

1 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

2 204. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
3 require any employee or applicant for employment to agree, in writing, to any term or condition
4 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
5 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
6 conditions of employment including but not limited to unlawful criminal and/or financial checks as
7 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

8 205. The California Labor Code places certain procedural and substantive limits on an
9 employers’ ability to conduct employee background checks and on how employers can use the
10 information they obtain through those background checks. Labor Code section 1024.5 states that
11 employers, except for financial institutions, may order a credit check only if the individual works
12 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
13 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
14 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
16 background check, including but not limited to identifying an appropriate reason for the background
17 check, a separate consent form with required disclosures and certain formatting requirements,
18 additional forms such as a summary of rights, a way by which to request a copy of the report, as
19 well as proper notice of adverse actions taken, among other statutory requirements.

20 206. Based on information and belief, DEFENDANTS ordered unlawful financial credit
21 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to
22 provide ongoing written consent to the unlawful credit checks as a condition of employment, in
23 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

24 207. Based on information and belief, DEFENDANTS required Aggrieved Employees to
25 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
26 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

27 208. Based on further information and belief, DEFENDANTS required Aggrieved
28 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct

1 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
2 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
3 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

4 209. Based on further information and belief, DEFENDANTS knew that requiring
5 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
6 condition of obtaining and/or holding employment was unlawful.

7 210. By requiring that Aggrieved Employees sign off on the illegal background and/or
8 financial checks, DEFENDANTS violated Labor Code section 432.5.

9 Unlawful Inquires into Criminal History

10 211. Labor Code section 432.7 prohibits an employer from asking applicants about past
11 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
12 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
13 convictions on its employment application, in violation of California law.

14 212. Upon information and belief, DEFENDANTS, in violation of California law,
15 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
16 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
17 employment and/or otherwise impermissibly inquired into criminal history on its employment
18 application in violation of California law.

19 213. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
20 Code section 432.7. By asking about convictions at the application phase or prior to extending an
21 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
22 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
23 disclose arrests and/or convictions as a condition of employment.

24 Unlawful PAGA Waiver

25 214. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
26 PLAINTIFF and other Aggrieved Employees to agree in writing to other unlawful agreements,
27 including but not limited to, an unlawful waiver of PAGA and/or representative actions as a
28 condition of employment.

1 215. An action pursuant to PAGA “...is a representative action on behalf of the state”
2 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
3 purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and
4 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
5 (“We conclude that where, as here, an employment agreement compels the waiver of representative
6 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

7 216. Moreover, the California Supreme Court has ruled that a court cannot compel
8 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an
9 individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is
10 no individual component to a PAGA action because ‘every PAGA action ... is a representative
11 action on behalf of the state.’”)

12 217. Upon information and belief, DEFENDANTS required Aggrieved Employees to
13 agree in writing to waive their right to a trial of PAGA claims in violation of California law. By
14 requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS
15 required written agreement to an unlawful provision as a condition of employment which is a
16 violation of labor code section 432.5.

17 **Failure to Provide a Safe and Healthful Workplace.**

18 218. Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the
19 California Occupational Safety and Health Act (“Cal OSHA”), employers must maintain a safe and
20 healthful place of employment. Specifically, Labor Code section 6400, requires the following:

21 219. (a) Every employer shall furnish employment and a place of employment that is safe
22 and healthful for the employees therein...

23 220. Labor Code section 6401 provides as follows:

24 221. Every employer shall furnish and use safety devices and safeguards, and shall adopt
25 and use practices, means, methods, operations, and processes which are reasonably adequate to
26 render such employment and place of employment safe and healthful. Every employer shall do every
27 other thing reasonably necessary to protect the life, safety, and health of employees.

28 222. Labor Code section 6402 prohibits the following:

1 223. No employer shall require, or permit any employee to go or be in any employment
2 or place of employment which is not safe and healthful.

3 224. Similarly, Labor Code section 6404 provides as follows:

4 225. No employer shall occupy or maintain any place of employment that is not safe and
5 healthful.

6 226. In addition to the above, Labor Code section 6403 requires that employees provide
7 safety devices to its employees. Labor Code section 6403 states:

8 227. No employer shall fail or neglect to do any of the following:

9 228. (a) To provide and use safety devices and safeguards reasonably adequate to render
10 the employment and place of employment safe.

11 229. (b) To adopt and use methods and processes reasonably adequate to render the
12 employment and place of employment safe.

13 230. (c) To do every other thing reasonably necessary to protect the life, safety, and health
14 of employees.

15 231. Similarly, Labor Code section 6406(d) states the following:

16 232. No person shall do any of the following ... (d) Fail or neglect to do every other thing
17 reasonably necessary to protect the life, safety, and health of employees.

18 233. Finally, Labor Code section 6407 provides:

19 234. Every employer and every employee shall comply with occupational safety and
20 health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations,
21 and orders pursuant to this division which are applicable to his own actions and conduct.

22 235. Moreover, Labor Code section 6409.6 sets forth the actions an employer (or
23 representative of employer) must take within one business day of receiving notice of potential
24 exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

25 236. At all relevant times, DEFENDANTS employed PLAINTIFF and Aggrieved
26 Employees subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times,
27 DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and
28 safeguards and of failing to adopt and use practices, means, methods, operations, and/or processes

1 which are reasonably adequate to render such employment and place of employment safe and
2 healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times
3 DEFENDANTS had and have a policy and practice of requiring or permitting employees to go or
4 be in in any employment or place of employment which is not safe and healthful, pursuant to Labor
5 Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of
6 failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render
7 the employment and place of employment safe; adopt and use methods and processes reasonably
8 adequate to render the employment and place of employment safe; and do every other thing
9 reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code
10 section 6403.

11 237. PLAINTIFF is informed and believes and thereon alleges that these failures include,
12 without limitation, failing to disinfect time clocks and other surfaces after use by PLAINTIFF and/or
13 other Aggrieved Employees; failing to provide adequate protection equipment (e.g., face masks) to
14 PLAINTIFF, other Aggrieved Employees; and failing to provide adequate distance in working
15 conditions between PLAINTIFF and/or other Aggrieved Employees.

16 238. At all relevant times, DEFENDANTS had a policy and practice of failing to give
17 sufficient, adequate and proper notice to PLAINTIFF and/or other Aggrieved Employees of the
18 COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace
19 exposure from a qualifying individual as required by Labor Code section 6409.6. PLAINTIFF is
20 informed and believes that numerous employees contracted COVID-19 during the relevant time
21 periods, but that DEFENDANTS failed to provide notice to employees. Based on further
22 information and belief, DEFENDANTS do not or did not keep adequate records of written
23 notifications required in subdivision (a) for a period of at least three years.

24 239. At all relevant times, DEFENDANTS had and have a policy and practice of failing
25 within one business day after DEFENDANTS or a representative of DEFENDANTS received notice
26 of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other Aggrieved
27 Employees and/or their exclusive representatives, who were on the premises at the same worksite
28 as a qualifying individual who was within the infectious period that they may have been exposed to

1 COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and
2 practice of failing within one business day after DEFENDANTS or a representative of EMLOYER
3 received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other Aggrieved
4 Employees who were on the premises at the same worksite as the qualifying individual within the
5 infectious period and the exclusive representative, if any, with information regarding COVID-19-
6 related benefits to which the employee may be entitled under applicable federal, state or local laws,
7 including but not limited to, workers' compensation, and options for exposed employees, including
8 COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or
9 negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the
10 employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and
11 6432.

12 240. At all relevant times, DEFENDANTS had and have a policy and practice of failing
13 within one business day after DEFENDANTS or a representative of DEFENDANTS received a
14 notice of potential exposure to COVID-19 to notify PLAINTIFF and other Aggrieved Employees
15 who were on the premises at the same worksite as the qualifying individual within the infectious
16 period, and the employers of the subcontracted employees who were on the premises at the same
17 worksite as the qualifying individual within the infectious period and the exclusive representative,
18 if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of
19 the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per
20 the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, DEFENDANTS violated,
21 without limitation, Labor Code sections 6409.6 and 6432.

22 241. At all relevant times, DEFENDANTS had and have a policy and practice of failing
23 to notify the local public health agency in the jurisdiction of the worksite of the names, number,
24 occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as
25 defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed
26 health care provider; a COVID-19 related order to isolate provided by a public health official; or
27 died due to COVID-19, in the determination of a county public health department or per inclusion
28 in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation,

1 Labor Code sections 6409.6 and 6432.

2 242. PLAINTIFF is informed and believes , and based thereon alleges that
3 DEFENDANTS violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and
4 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule
5 for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and
6 serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or
7 blowers; and a sufficient number of toilets to be used.

8 243. PLAINTIFF is informed and believes and based thereon alleges that DEFENDANTS
9 violated the Labor Code sections described herein, including without limitation, for failure to:
10 furnish and use safety devices and safeguards; give sufficient, adequate and proper notice to
11 employees of COVID-19 exposures, to provide written notice to PLAINTIFF and/or other
12 Aggrieved Employees, who were on the premises at the same worksite as a qualifying individual
13 who was within the infectious period that they may have been exposed to COVID-19 pursuant to
14 California and local laws.

15 244. Based on information and belief, DEFENDANTS failed to protect Aggrieved
16 Employees from exposure to COVID-19 due to, including but not limited to, failing to
17 maintain/update DEFENDANTS' workplace safety plans and/or procedures to properly address
18 hazards related to the COVID-19 virus.

19 245. As such, DEFENDANTS failed to comply with the occupational safety and health
20 standards, failed to do everything reasonably necessary to protect the health and safety of
21 employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices
22 necessary to maintain a safe and healthful workplace.

23 246. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
24 Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF and Aggrieved Employees and
25 is subject to civil penalties.

26 247. Under the provisions of PAGA and the above mentioned Labor Code sections,
27 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
28 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,

1 1199, 2699, 2699.3, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6, 6432 and all applicable Wage
2 Orders as well as all interpretations of these laws by California Courts and administrative bodies, as
3 well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
4 penalties:

- 5 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
6 relevant California Labor Code provisions listed herein only if permitted by the
7 PAGA statute, pursuant to Labor Code section 2699(a); and
- 8 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
9 violations without a civil penalty recoverable under the PAGA, all in the default
10 amounts provided by Labor Code section 2699(f).
- 11 c. The proper measure of penalties under PAGA is the number of violations,
12 whether those violations were committed as against PLAINTIFF or any
13 Aggrieved Employee, whether a party to this action or not.

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

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PRAYER FOR RELIEF

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

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: February 24, 2023

CROSNER LEGAL, PC

By: 
Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Attorneys for Plaintiff

EXHIBIT 1



Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (310) 496-5818
fax: (310) 510-6429

December 20, 2022

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA PAGA ONLINE FILING ONLY

Notice to Division of Occupational
Safety and Health Via PAGA Online
Filing
Attn: Division of Occupational Safety
and Health (Cal OSHA)
1515 Clay Street, St. 1901
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL:

Corporation Service Company Which Will Do Business In
California As CSC-Lawyers Incorporating Service
Agent for Service of Process for
St. John Knits, Inc.
2710 Gateway Oaks Dr. Ste 150N
Sacramento, CA 95833

St. John Knits, Inc.
Attn: Human Resources / Legal Department
17522 Armstrong Ave
Irvine, CA 92614

Corporation Service Company
Which Will Do Business In
California As CSC-Lawyers
Incorporating Service
Agent for Service of Process for
**St. John Knits International,
Incorporated**
2710 Gateway Oaks Dr. Ste 150N
Sacramento, CA 95833

**St. John Knits International,
Incorporated**
Attn: Human Resources / Legal
Department
17522 Armstrong Ave
Irvine, CA 92614

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Division of Occupational Safety and Health; St. John Knits, Inc. and St. John Knits International, Incorporated
Date: December 20, 2022
Subject: *Rosalba Arvizu v. St. John Knits, Inc. and St. John Knits International, Incorporated, et. al.*

Introduction

This office represents COMPLAINANT, Rosalba Arvizu (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: St. John Knits, Inc. and St. John Knits International, Incorporated (hereinafter, these entities and their managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by any one or more of the EMPLOYER entities at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the EMPLOYER entities at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or

change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative has authority to seek penalties for all known violations committed by the employer – regardless of whether the representative experienced all violations personally. *Id.* at 760-761. Moreover, under *Johnson v. Maxim Healthcare Servs., Inc.*, (2021) 66 Cal. App. 5th 924, 929, an employee may pursue a claim under PAGA even when that employee's individual claim is time-barred.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 432, 432.3, 432.5, 432.7, 510, 511, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6 and 6432, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

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.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider

four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT 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.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages a clothing design, manufacturing and retail business. EMPLOYER specializes in luxury/high-end clothing, among other items, with its collections sold in high-end specialty retailers internationally and nationally and through the brand's ecommerce site [stjohnknits.com](https://www.stjohnknits.com).¹ EMPLOYER operates several plants, facilities, and/or locations in California, including but not limited to, the manufacturing facility/location in Irvine, at which COMPLAINANT was regularly assigned by EMPLOYER to work during the relevant period. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT was employed by EMPLOYER as a non-exempt employee. COMPLAINANT worked for EMPLOYER as a steam presser, steam press operator and/or similar title(s) from in or around March 1997 through on or around January 14, 2022, when COMPLAINANT went on leave. COMPLAINANT worked for EMPLOYER out of EMPLOYER's facility located in Irvine, California. COMPLAINANT regularly worked at least eight (8) hours per day, at least (5) days per week. EMPLOYER paid COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12)

¹ See <https://www.stjohnknits.com/our-story> (Last visited on December 17, 2022.)

conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGREIVED EMPLOYEES to disclose their salary history; (15) failed and continues to fail to provide suitable seating; and (16) required and continues to require COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER's time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER's failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER's failure to keep "accurate and complete" payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 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.²

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

employer receives a written request.” An employer’s failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee’s personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a written request for payroll and personnel records to EMPLOYER. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee’s total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee’s total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT’s employment by EMPLOYER.

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

Employers must pay employees an additional hour of wages at the employees’ regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first

meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, oftentimes, COMPLAINANT’s meal periods were consistently interrupted and/or cut short due to being instructed to return to work in order to prepare clothing material, assist models and designers and/or complete other work tasks.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER’s premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER’s goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER’s control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER’s control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California’s meal period laws.

Based on information and belief, per EMPLOYER’s uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break. For example, when COMPLAINANT

worked shifts lasting longer than ten (10) hours, she did not receive any version of a second meal break.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT 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 EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT 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.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses/incentive pay (e.g., non-discretionary safety bonus/incentive pay), shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 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 EMPLOYER to civil penalties under Labor Code sections 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.³ EMPLOYER's 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.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

Moreover, under California law, rest periods must be a "net" ten minutes in a suitable rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to its employees.").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice. For example, COMPLAINANT's rest periods were typically worked through, interrupted, and/or cut short due to the nature and constraints of her job duties, including but not limited to, the need to prepare clothing material, assist models and designers and/or complete other work tasks. Moreover, on information and belief, EMPLOYER failed to authorize and permit rest periods that were a "net" ten minutes in a suitable rest area and instead, to the extent rest periods were provided at all, limited NON-EXEMPT AGGRIEVED EMPLOYEES to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving, in violation of California rest period law. EMPLOYER's failure to communicate that the rest period is a net ten minutes deprived NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to a full rest period, as such as policy only relieves NON-EXEMPT AGGRIEVED EMPLOYEES from their workstation for ten minutes to travel to and from a rest area and be back at the workstation by the end of that ten minutes.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours. For example, when COMPLAINANT worked shifts lasting longer than ten (10) hours, she was not provided with any version of a third rest period.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods. For example, on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain tethered to their worksites and/or work communication devices during purportedly off-duty rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER 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.⁴

Minimum Wage Violations: “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 attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” as “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.” *See* §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 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...” *Cal. Lab. Code* § 1194.2.

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER's automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER's control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER's policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were required to stand in line behind other employees to access EMPLOYER's electronic employee time-keeping system and/or were required to undergo security screenings and/or had to spend time reinitiating EMPLOYER's electronic time-keeping system before they could clock in for the start of their shifts. For example, after arriving at work but prior to clocking in for the start of her shift, COMPLAINANT typically had to wait in line behind numerous other employees to access EMPLOYER's time-keeping machine/mechanism. At times, EMPLOYER had only one timeclock mechanism for the entire worksite, resulting in additional wait time and off-the-clock work. Moreover, after clocking out for the end of their shifts, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to form a line to undergo security checks, which typically resulted in at least five (5) to seven (7) minutes of additional off-the-clock work per shift. This pre-shift and/or post-shift off-the-clock work, including but not limited to, time spent waiting for other employees to clock in for their shifts, undergoing security screenings/security checks and/or reinitiating the time-keeping mechanism, was not compensated, resulting in the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent donning and doffing personal protective equipment and/or uniforms/work clothing (e.g., protective eyewear, gloves, and/or face masks) during meal periods, before the start of a scheduled shift, and/or after completing a scheduled shift, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete other off-the-clock work tasks before clocking in for the start of their shifts, after clocking out for the end of their shifts and/or during uncompensated meal

periods, resulting in the underpayment of minimum and overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, at times, EMPLOYER's electronic time-keeping system malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES experienced the same issues when clocking out for shifts and/or back in for meal periods. This time spent under EMPLOYER' control was not recorded and not compensated and resulted in unpaid minimum wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also pressured to complete at least some of their work tasks off-the-clock in order to meet EMPLOYER's goals and expectations. For example, on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received and were required to respond to, including but not limited to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. For example, based on information and belief, wage statements issued to COMPLAINANT evidence rounding to at least the nearest quarter hour. For example, EMPLOYER's pay records for COMPLAINANT for pay date 11/5/21 show precisely 80.00 regular hours worked; EMPLOYER's pay records for COMPLAINANT for pay date 11/19/21 show precisely 79.75 regular hours worked; EMPLOYER's pay records for COMPLAINANT for 12/3/21 show precisely 32.00 regular hours worked; EMPLOYER's pay records for pay date 12/17/21 shows precisely 61.50 regular hours worked; and EMPLOYER's pay records for COMPLAINANT for pay date 12/30/21 shows precisely 70.00 regular hours worked. Based on information and belief, EMPLOYER also rounded other NON-EXEMPT AGGRIEVED EMPLOYEES hours worked to the nearest quarter, half, and/or whole hour, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 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.⁵

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or

⁵ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

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

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on further information and belief, EMPLOYER failed to properly blend multiple rates of regular pay in calculating the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive pay (e.g., non-discretionary safety bonuses/incentive pay), multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Alternative Workweek Schedule Violations (Labor Code Section 511 and All Applicable Wage Orders, Section 3):

Per California Labor Code section 511, an employer may adopt a regularly scheduled alternative workweek consisting of shifts over eight (8) hours per day but no more than ten (10) hours per day, within a 40-hour workweek, without payment of overtime being required for those hours. Cal. Lab. Code § 511(a). If an employee with an alternative workweek works more than the scheduled work hours in any day, the employee is entitled to be paid 1.5 times his regular pay rate for the excess hours worked up to twelve (12) hours, and for any time worked in excess of 40 hours that week. Cal. Lab. Code § 511(b). If the employee works more than twelve (12) hours in a day, the employee is entitled to be paid twice his regular rate of pay for time worked in excess of the twelve (12) hours. *Id.* An employee is also entitled to compensation at twice his regular rate of pay for any time worked beyond eight (8) hours on a day that is not a scheduled workday. *Id.*

Moreover, Section 3(B)(2) of all applicable IWC Wage Orders provides that "[i]f an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double

the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.”

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES worked subject to an alternative work week schedule in which NON-EXEMPT AGGRIEVED EMPLOYEES were scheduled to work ten (10) hours per shift, four (4) shifts per week. According to the California Department of Industrial Relations Alternative Workweek Elections Database, EMPLOYER conducted various elections to adopt a 4/10 alternative workweek schedule (“AWS”), which were subsequently approved. Pursuant thereto, EMPLOYER was required to pay NON-EXEMPT AGGRIEVED EMPLOYEES at their base rate(s) for the first ten (10) hours in a shift and required to pay 1.5 times the base rate(s) for time worked over 40 hours in a week. However, based on information and belief, on various diverse dates, NON-EXEMPT AGGRIEVED EMPLOYEES were sent home between one (1) to two (2) hours before completing their ten-hour shifts. On such shortened shifts, NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to overtime pay at 1.5 times their regular rate(s) of pay after the first eight (8) hours of work. Instead, EMPLOYER paid NON-EXEMPT AGGRIEVED EMPLOYEES their respective base rate(s) for all scheduled hours worked on the shortened shift(s) in violation of the alternative workweek schedule, and in violation of California Labor Code sections 510, 511, the applicable Wage Order, and Labor Code section 1198.

Based on further information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to work more than eight (8) hours on days that were not scheduled workdays without compensating NON-EXEMPT AGGRIEVED EMPLOYEES at twice their regular rate(s) of pay for the time worked beyond eight (8) hours on those days, in violation of California overtime laws, including but not limited to, California Labor Code sections 510 and 511, the applicable Wage Order, and Labor Code section 1198.

Based on further information and belief, EMPLOYER failed to comply with all mandated procedures for proper adoption and implementation of an alternative workweek schedule and/or failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES according to the terms of the alternative workweek schedule and/or in compliance with California Labor Code sections 510, 511, all applicable IWC Wage Orders, and Labor Code section 1198.

This conduct results in violations of Labor Code sections 218.5, 510, 511, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 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.⁶

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable Wage Orders, §20 (establishing that “in addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes

Violation of California Day of Rest Law

Under California law, every employee in California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

Based on information and belief, EMPLOYER has and continues to have a uniform policy and practice of requiring NON-EXEMPT AGGRIEVED EMPLOYEES to work at least seven days consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551. For example, at times, COMPLAINANT worked multiple weeks consecutively without a day off. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were also suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction 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 and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would

to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT 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 EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on

information and belief, EMPLOYER failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (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; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only 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. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during

⁷ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

the pay period, the correct applicable rates of pay for all hours worked, and the “total hours worked” by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). For example, based on information and belief, EMPLOYER’s wage statements issued to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES show EMPLOYER rounded COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES’ hours worked to at least the nearest quarter hour, thereby failing to list the accurate hours COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES worked on EMPLOYER’s issued wage statements. Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

Based on information and belief, wage statements issued by EMPLOYER failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE or EXEMPT AGGRIEVED EMPLOYEE is being paid.

EMPLOYER’s failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER’s failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by EMPLOYER failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer, in violation of Labor Code section 226(a)(8).

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, EMPLOYER failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

⁸ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

EMPLOYER's NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, EMPLOYER failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting EMPLOYER to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

Standard Conditions of Labor Violations: Together, Labor Code sections 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 sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable seating, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

⁹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, EMPLOYER had and continues to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

Moreover, EMPLOYER failed to timely provide all owed wages immediately upon discharge of employment. For example, at times, COMPLAINANT experienced breaks in her employment

caused by EMPLOYER whereby COMPLAINANT would not be called in for work for longer than a single pay period due to including but not limited to EMPLOYER's lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, EMPLOYER failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

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

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

¹⁰ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, hand tools, uniforms/protective equipment/safety gear and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES' personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing/protective equipment/safety gear. For example, on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES received calls/messages to their personal cell phones/mobile devices from supervisors and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and/or other work tasks but were not provided any and/or full reimbursement from EMPLOYER for this personal cell phone use.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to pay for the purchase and/or maintenance of uniforms/work clothing, work shoes, protective equipment and/or safety gear without providing any and/or full reimbursement for the costs they incurred in connection therewith.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were at times required to purchase and/or maintain their own tools, including but not limited to, hand tools, they required to complete their job duties, however, EMPLOYER failed to reimburse NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for the costs they incurred in connection therewith. For example, COMPLAINANT was required to purchase her own scissors, measuring tape, pencils and/or other hand tools necessary to perform her job duties. COMPLAINANT was not reimbursed for the cost of purchasing tools necessary to complete her job duties. Based on information and belief, EMPLOYER has a policy and/or practice of failing to reimburse NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for the cost of purchasing work tools.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT

AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Inquiries into Salary History

Labor code section 432.3 provides in part "(b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment." Based on information and belief, EMPLOYER has a policy and/or practice of unlawfully asking NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to reveal their salary history when applying for employment with EMPLOYER. For example, when COMPLAINANT applied for employment with EMPLOYER, COMPLAINANT was required to fill out an application that requested, among other things, the following information: Name and address of former employer, length of former employment relationship, and the "starting" and "final" "hourly rate/salary" - and/or in effect the same/similar information - of the former employment relationship. Based on information and belief, EMPLOYER required other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose the same or similar information, in violation of Labor Code section 432.3.

Moreover, by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose prior salary information in a written application for employment, EMPLOYER violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose their salary history as a condition of obtaining employment with EMPLOYER, in violation of California law.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further

violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, EMPLOYER violated Labor Code section 432.5 by requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is no individual component to a PAGA action because 'every PAGA action ... is a representative action on behalf of the state.'")

Upon information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. For example, EMPLOYER required/requires NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to sign as a condition of employment agreements that include language that waives their right to bring a representative action. As explained above, representative actions include PAGA actions. By requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, EMPLOYER required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Failure to Provide a Safe and Healthful Workplace: Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the California Occupational Safety and Health Act ("Cal OSHA"), employers must maintain a safe and healthful place of employment.

Specifically, Labor Code section 6400, requires the following:

- (a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein...

Labor Code section 6401 provides as follows:

Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

Labor Code section 6402 prohibits the following:

No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

Similarly, Labor Code section 6404 provides as follows:

No employer shall occupy or maintain any place of employment that is not safe and healthful.

In addition to the above, Labor Code section 6403 requires that employees provide safety devices to its employees. Labor Code section 6403 states:

No employer shall fail or neglect to do any of the following:

- (a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.
- (b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.
- (c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.

Similarly, Labor Code section 6406(d) states the following:

No person shall do any of the following ... (d) Fail or neglect to do every other thing reasonably necessary to protect the life, safety, and health of employees.

Finally, Labor Code section 6407 provides:

Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

Moreover, Labor Code section 6409.6 sets forth the actions an employer (or representative of employer) must take within one business day of receiving notice of potential exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

At all relevant times, EMPLOYER employed COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times, EMPLOYER had and has a policy and practice of failing to furnish and use safety devices and safeguards and of failing to adopt and use practices, means, methods, operations, and/or processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times EMPLOYER had and has a policy and practice of requiring or permitting employees to go or be in in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. At all relevant times, EMPLOYER had and has a policy and practice of failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403.

COMPLAINANT is informed and believes and thereon alleges that these failures include, without limitation, failing to disinfect time clocks and other surfaces after use by COMPLAINANT and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; failing to provide adequate protection equipment (e.g., face masks) to COMPLAINANT, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; and failing to provide adequate distance in working conditions between COMPLAINANT and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

At all relevant times, EMPLOYER had a policy and practice of failing to give sufficient, adequate and proper notice to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES of the COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace exposure from a qualifying individual as required by Labor Code section 6409.6. COMPLAINANT is informed and believes that numerous employees contracted COVID-19 during the relevant time periods, but that EMPLOYER failed to provide notice to employees. Based on further information and belief, EMPLOYER does not or did not keep adequate records of written notifications required in subdivision (a) for a period of at least three years.

At all relevant times, EMPLOYER had and has a policy and practice of failing within one business day after EMPLOYER or a representative of EMPLOYER received notice of potential exposure to COVID-19 to provide written notice to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES and/or their exclusive representatives, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19. Based on further information and belief, EMPLOYER had and has a policy and practice of failing within one business day after EMPLOYER or a representative of EMPLOYER received a notice of potential exposure to COVID-19 to provide NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state or local laws, including but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the employee. As such, EMPLOYER violated, without limitation, Labor Code sections 6409.6 and 6432.

At all relevant times, EMPLOYER had and has a policy and practice of failing within one business day after EMPLOYER or a representative of EMPLOYER received a notice of potential exposure to COVID-19 to notify NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES who were on the premises at the same worksite as the qualifying individual within the infectious period, and the employers of the subcontracted employees who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, of the cleaning and disinfection plan that the employer is

implementing per the guidelines of the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, EMPLOYER violated, without limitation, Labor Code sections 6409.6 and 6432.

At all relevant times, EMPLOYER had and has a policy and practice of failing to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed health care provider; a COVID-19 related order to isolate provided by a public health official; or died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county. As such, EMPLOYER violated, without limitation, Labor Code sections 6409.6 and 6432.

COMPLAINANT is informed and believes , and based thereon alleges that EMPLOYER violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each of sex of employee.

COMPLAINANT is informed and believes and based thereon alleges that EMPLOYER violated the Labor Code sections described herein, including without limitation, for failure to: furnish and use safety devices and safeguards; give sufficient, adequate and proper notice to employees of COVID-19 exposures, to provide written notice to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19 pursuant to California and local laws.

Based on information and belief, EMPLOYER failed to protect NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES from exposure to COVID-19 due to, including but not limited to, failing to maintain/update EMPLOYER's workplace safety plans and/or procedures to properly address hazards related to the COVID-19 virus.

As such, EMPLOYER failed to comply with the occupational safety and health standards, failed to do everything reasonably necessary to protect the health and safety of employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices necessary to maintain a safe and healthful workplace.

As a result of EMPLOYER's acts and omissions, EMPLOYER violated Labor Code section 6400-6404, 6406-6407, and 6409.6 as to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES and is subject to civil penalties.

Conclusion

EMPLOYER has 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 COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code. Likewise, COMPLAINANT requests that the Division of Occupational Safety and Health investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA's provisions. Alternatively, COMPLAINANT requests that the agency and division inform COMPLAINANT if they do not intend to investigate these violations so that COMPLAINANT may file a lawsuit with respect to the allegations discussed in this NOTICE.

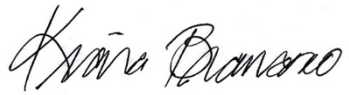
If the LWDA and/or the Division of Occupational Safety and Health elect not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, reading "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC