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10 on behalf of the State of California,
11 and others similarly situated and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF CONTRA COSTA**

14 MARYAMA ALHARK, on behalf of the
15 State of California, and others similarly
16 situated and aggrieved,

17 Plaintiff,

18 v.

19 CORTEVA AGRISCIENCE LLC, a
20 Delaware limited liability company;
21 HUNTER INTERNATIONAL, INC., an
22 Ohio corporation; and DOES 1-100,
23 inclusive,

24 Defendants.

Case No.: C23-00468

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

1 Plaintiff, MARYAMA ALHARK (“PLAINTIFF”), an individual on behalf of the State of
2 California, and all other Aggrieved Employees (as defined below), hereby files this First Amended
3 Complaint against Defendants CORTEVA AGRISCIENCE LLC, a Delaware limited liability
4 company; HUNTER INTERNATIONAL, INC., an Ohio 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 Contra Costa 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 the end of April 2022 through
26 on or about June 6, 2022.

27 5. PLAINTIFF worked for DEFENDANTS as a document maintenance administrator
28 and/or similar title(s). DEFENDANTS assigned PLAINTIFF to work out of DEFENDANTS’

1 plant/facility/location in Pittsburg, California.

2 6. DEFENDANTS are either a Delaware limited liability company and/or an Ohio
3 corporation that, at all relevant times, were authorized to do business within the State of California
4 and are doing business in the State of California.

5 7. DEFENDANTS own, operate, or otherwise manage an agricultural sciences business
6 that, among other things, produces agricultural chemicals, and/or a company that supplies labor to
7 businesses, including but not limited to, agricultural sciences companies.

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

14 9. PLAINTIFF is further informed and believes that, at all relevant times, each
15 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
16 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
17 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
18 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
19 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
20 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
21 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
22 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
23 controlled, aided and abetted the conduct of all other Defendants.

24 **JOINT LIABILITY**

25 10. Under California law, the definition of the terms “to employ” are broadly construed
26 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
27 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
28 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49

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

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

21 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
22 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
23 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
24 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
25 policies and practices regardless of the location(s) where they worked. Among other things,
26 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
27 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
28 over the day-to-day operations and employment matters, including the power to hire and fire, set

1 schedules, issue employee policies, and determine rates of compensation across its locations in
2 California; (3) DEFENDANTS utilize the same policies and procedures for all California
3 employees, including issuing the same employee handbooks and other form agreements; (4)
4 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
5 employment matters; and, (6) DEFENDANTS share employees.

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

12 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
13 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
14 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
15 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
16 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
17 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
18 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
19 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
20 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
21 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
22 writing the details of their compensation, and the manner in which they were to take meal and rest
23 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
24 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
25 collectively would evaluate their wage rates.

26 15. Moreover, based on information and belief, HUNTER INTERNATIONAL, INC.
27 hired PLAINTIFF and entered into a written employment agreement with PLAINTIFF. During
28 PLAINTIFF's employment, HUNTER INTERNATIONAL, INC., maintained control over many

1 aspects of PLAINTIFF's employment, including, among other things, having the authority to
2 discipline PLAINTIFF, change PLAINTIFF's job assignment, change PLAINTIFF's work hours,
3 change PLAINTIFF's rates of pay, and to terminate PLAINTIFF's employment.

4 16. In addition, when PLAINTIFF was first hired, HUNTER INTERNATIONAL, INC.
5 provided PLAINTIFF with orientation and training materials. HUNTER INTERNATIONAL, INC.
6 issued PLAINTIFF written policies concerning meal periods, rest breaks, timekeeping, hours
7 worked, and payment of PLAINTIFF's wages, with which PLAINTIFF was required to comply.
8 Based on information and belief, among other things, these policies provided that PLAINTIFF's
9 weekly time records be submitted to HUNTER INTERNATIONAL, INC., and HUNTER
10 INTERNATIONAL, INC. was supposed to process PLAINTIFF's time records and pay
11 PLAINTIFF for all hours worked. HUNTER INTERNATIONAL, INC., exercised ultimate control
12 over the payment of PLAINTIFF's wages, as HUNTER INTERNATIONAL, INC. issued
13 PLAINTIFF her paychecks. Finally, HUNTER INTERNATIONAL, INC. directed PLAINTIFF to
14 comply with CORTEVA AGRISCIENCE LLC's policies and directions. PLAINTIFF is informed
15 and believes that HUNTER INTERNATIONAL, INC. exercised the same control over, applied the
16 same policies and practices, and engaged in the same acts and omissions with regard to the other
17 Aggrieved Employees.

18 17. CORTEVA AGRISCIENCE LLC similarly suffered or permitted PLAINTIFF to
19 work for them or engaged PLAINTIFF to work for them. PLAINTIFF is informed and believes that
20 CORTEVA AGRISCIENCE LLC entered into a written agreement with HUNTER
21 INTERNATIONAL, INC., pursuant to which CORTEVA AGRISCIENCE LLC paid HUNTER
22 INTERNATIONAL, INC. to provide it with workers, including PLAINTIFF, to conduct
23 CORTEVA AGRISCIENCE LLC's business operations - namely, to work in CORTEVA
24 AGRISCIENCE LLC's production/processing centers and/or administration offices. CORTEVA
25 AGRISCIENCE LLC suffered or permitted PLAINTIFF to work at CORTEVA AGRISCIENCE
26 LLC and for the entirety of PLAINTIFF's employment.

27 18. CORTEVA AGRISCIENCE LLC further exercised control over PLAINTIFF's
28 wages, hours and working conditions. CORTEVA AGRISCIENCE LLC also: (1) set PLAINTIFF's

1 work hours and provided PLAINTIFF with PLAINTIFF's work schedule; (2) provided PLAINTIFF
2 with policies regarding meal periods and rest breaks, with which PLAINTIFF was required to
3 comply; (3) directly supervised PLAINTIFF's work through its employees; (4) assigned
4 PLAINTIFF job duties and trained PLAINTIFF on said job duties; (5) exercised authority to
5 reprimand and counsel PLAINTIFF regarding any work performance and other issues; (6) exercised
6 authority to end PLAINTIFF's work assignment at any time, which essentially equated to a
7 termination of employment as PLAINTIFF was not guaranteed any other job assignments; (7)
8 required PLAINTIFF to use its timekeeping system for purposes of recording time worked; (8)
9 determined whether and when PLAINTIFF would receive meal periods and rest breaks; (9)
10 subjected PLAINTIFF to unlawful schedules for taking meal periods and rest breaks; and, (10) was
11 responsible for recording when PLAINTIFF began and ended work shifts. On information and
12 belief, CORTEVA AGRISCIENCE LLC issued further written policies and practices and guidelines
13 governing PLAINTIFF's working conditions with which PLAINTIFF was required to comply.
14 PLAINTIFF is informed and believes that CORTEVA AGRISCIENCE LLC exercised the same
15 control over, applied the same policies and practices, and engaged in the same acts and omissions
16 with regard to the other Aggrieved Employees.

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

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

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

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

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

6 **CORTEVA AGRISCIENCE LLC's LIABILITY UNDER CALIFORNIA LABOR CODE**

7 **SECTION 2810.3**

8 23. California Labor Code section 2810.3(b)(1) provides that “a client employer shall
9 share with the labor contractor all civil legal responsibility and civil liability for all workers supplied
10 by that labor contractor for . . . the payment of wages.” A “labor contractor” means “an individual
11 or entity that supplies, either with or without a contract, a client employer with workers to perform
12 labor within the client employer’s usual course of business.” Cal. Labor Code § 2810.3(a)(3). A
13 “client employer” is “a business entity, regardless of its form, that obtains or is provided workers to
14 perform labor within its usual course of business from a labor contractor.” Cal. Labor Code §
15 2810.3(a)(1)(A). Client employers do not include a business entity with a workforce of fewer than
16 twenty-five workers or with five or fewer workers provided by a labor contractor or labor contractors
17 to the client employer at any time. Cal. Labor Code § 2810.3(a)(1)(B). “Usual course of business”
18 means “the regular and customary work of a business, performed within or upon the premises or
19 worksite of the client employer.” Cal. Labor Code § 2810.3(a)(6).

20 24. HUNTER INTERNATIONAL, INC., is a “labor contractor” in that it supplies a
21 client employer, CORTEVA AGRISCIENCE LLC, with workers to perform labor within
22 CORTEVA AGRISCIENCE LLC’s usual course of business.

23 25. CORTEVA AGRISCIENCE LLC is a “client employer” as it obtains or is provided
24 workers to perform labor within its usual course of business from labor contractors, including but
25 not limited to HUNTER INTERNATIONAL, INC. CORTEVA AGRISCIENCE LLC has a
26 workforce of more than twenty-five workers, and is supplied with at least five workers from a labor
27 contractor at any given time.

28 26. Under California Labor Code Section 2810.3, CORTEVA AGRISCIENCE LLC, a

1 client employer, shares with the labor contractor, HUNTER INTERNATIONAL, INC., all civil
2 legal responsibility and civil liability for all workers supplied by that labor contractor for the
3 payment of wages.

4 27. PLAINTIFF complied with Labor Code Section 2810.3 by mailing certified a letter
5 outlining the substance of the allegations alleged herein to the “Client Employer,” namely
6 CORTEVA AGRISCIENCE LLC, thirty (30) days before filing suit.

7 28. Whenever and wherever reference is made in this complaint to any act or failure to
8 act by a DEFENDANTS or co-Defendant, such allegations and references shall also be deemed to
9 mean the acts and/or failures to act by each Defendant acting individually, jointly and severally.

10 **PAGA ALLEGATIONS**

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

- 15 i. HUNTER INTERNATIONAL, INC. Direct Hires: All non-exempt workers who
16 were directly employed by HUNTER INTERNATIONAL, INC. – regardless of
17 where those non-exempt workers were assigned or staffed to work – in California
18 at any time from one year plus 65 days from the filing of the initial Complaint
19 through the present (“PAGA Period”).
- 20 ii. CORTEVA AGRISCIENCE LLC Temporary Hires: All non-exempt workers
21 who were assigned/staffed to work at CORTEVA AGRISCIENCE LLC by
22 HUNTER INTERNATIONAL, INC. and/or any other staffing/temporary service
23 agencies in California at any time from one year plus 65 days from the filing of
24 the initial Complaint through the present (“PAGA Period”).
- 25 iii. CORTEVA AGRISCIENCE LLC Direct Hires: All non-exempt workers who
26 were directly employed by CORTEVA AGRISCIENCE LLC in California at any
27 time within from one year plus 65 days from the filing of the initial Complaint
28 through the present (“PAGA Period”).

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

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

13 31. On December 16, 2022, PLAINTIFF, through counsel, gave written notice by online
14 filing with the California Labor and Workforce Development Agency (“LWDA”) informing the
15 LWDA and the Division of Occupational Safety and Health that DEFENDANTS failed to comply
16 with California’s labor laws with regard to the allegations alleged in this Complaint (“PAGA
17 Notice”). The PAGA Notice was also sent to DEFENDANTS via certified mail.

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

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

27 34. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
28 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46

1 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

2 **FACTUAL ALLEGATIONS**

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

7 36. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
8 PLAINTIFF worked for DEFENDANTS as a document maintenance administrator and/or similar
9 title(s) at DEFENDANTS' location in Pittsburg, California, from in or around late April 2022
10 through on or about June 6, 2022, when PLAINTIFF's employment was terminated. PLAINTIFF
11 regularly worked at least eight (8) hours per day, at least five (5) days per week.

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

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

21 39. Based on information and belief, DEFENDANTS implemented a policy and/or
22 practice of rounding meal period start and end times and/or automatically deducting at least thirty
23 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
24 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
25 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
26 PLAINTIFF and Aggrieved Employees of all wages owed. For example, at times, PLAINTIFF
27 was required to clock out for her meal periods but to continue working through her meal periods to
28 attend work meetings, e.g., DEFENDANTS' "staff lunches" to discuss e.g. the day-to-day

1 operations of the facility, DEFENDANTS' business goals, among other work topics. PLAINTIFF
2 was not compensated for this time. On information and belief, other Aggrieved Employees were
3 also forced to work during unpaid meal periods due to lack of relief workers, the nature and
4 constraints of their job duties/and/or the need to meet production/other work deadlines/complete
5 work tasks, resulting in consistent off-the-clock work and the underpayment of minimum wages
6 owed to Aggrieved Employees. Based on information and belief, Aggrieved Employees were not
7 paid for all hours worked due to DEFENDANTS' policy and/or practice of rounding time entries or
8 paying according to scheduled hours worked instead of actual time worked, and/or mandated off-
9 the clock work policies and/or practices. For example, PLAINTIFF was required to perform pre-
10 shift and post-shift off-the-clock work outside of her scheduled shift times, for which
11 DEFENDANTS did not compensate PLAINTIFF, resulting in the underpayment of wages owed to
12 PLAINTIFF. For example, PLAINTIFF and other Aggrieved Employees were required to stand in
13 line behind other employees to access DEFENDANTS' electronic employee time-keeping system
14 and/or were required to undergo security screenings and/or had to spend time reinitiating
15 DEFENDANTS' electronic time-keeping system before they could clock in for the start of their
16 shifts. This off-the-clock work, including but not limited to, time spent waiting for other employees
17 to clock in for their shifts, undergoing security screenings and/or reinitiating the time-keeping
18 mechanism, was not compensated, resulting in the underpayment of minimum and overtime wages
19 owed to Aggrieved Employees. PLAINTIFF estimates this afore-described pre-shift work resulted
20 in at least five to ten minutes of off-the-clock work at least several times per week, that was neither
21 recorded nor compensated, resulting in the consistent underpayment of wages owed to PLAINTIFF
22 and other Aggrieved Employees.

23 40. DEFENDANTS did not compensate Aggrieved Employees for time spent donning
24 and doffing personal protective equipment and/or uniforms/work clothing (e.g., helmets/hard hats,
25 protective suits, and/or protective eyewear) during meal periods, before the start of a scheduled shift,
26 and/or after completing a scheduled shift, resulting in off-the-clock work and the underpayment of
27 wages owed to Aggrieved Employees.

28 41. Based on information and belief, Aggrieved Employees were not paid for all hours

1 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
2 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
3 the clock work policies and/or practices.

4 42. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
5 required to complete other off-the-clock work tasks after clocking out for the end of their shifts
6 and/or during uncompensated meal periods, resulting in the underpayment of minimum and
7 overtime wages owed to PLAINTIFF and other Aggrieved Employees.

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

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

24 45. Based on information and belief, DEFENDANTS failed to pay Aggrieved
25 Employees for time they were required to spend completing orientation, policy questionnaires,
26 and/or time spent completing the onboarding process including but not limited to reviewing various
27 documents and policies provided by DEFEDANTS. Based on information and belief, this work time
28 was completed off-the-clock and was not compensated. For example, during orientation, training

1 and/or the onboarding process, PLAINTIFF was required to remotely log onto DEFENDANTS'
2 system and create an online portal. DEFENDANTS then required PLAINTIFF to review
3 information regarding DEFENDANTS' background and/or DEFENDANTS' policies. PLAINTIFF
4 estimates this took at least one (1) hour to complete. PLAINTIFF then had to take a test regarding
5 what she had learned. This DEFENDANTS-mandated testing took at least twenty (20) additional
6 minutes to complete. PLAINTIFF was not compensated for any of this time spent reviewing various
7 documents, policies and/or information as required by DEFENDANTS and/or time spent
8 undergoing DEFENDANTS-mandated testing, resulting in off-the-clock work and the
9 underpayment of wages owed to PLAINTIFF.

10 46. Based on information and belief, at times, Aggrieved Employees were required to be
11 “on-call” outside of their scheduled shift times and were required to respond to work-related
12 communications outside of their scheduled shift times without being compensated for this on-call
13 time/time spent performing work duties outside of their scheduled shift times, resulting in the
14 underpayment of wages owed to Aggrieved Employees, in violation of California law, including but
15 not limited to, California’s minimum wage laws

16 47. Based in information and belief, DEFENDANTS implemented a time-rounding
17 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
18 compensable time because the time-rounding system implemented by DEFENDANTS would
19 almost always, if not always, result in understating actual compensable work time. For example, at
20 times, DEFENDANTS required PLAINTIFF and other Aggrieved Employees to sign off on a
21 written time sheet that merely listed their scheduled hours for the day and/or week as opposed to the
22 actual hours worked. For example, based on information and belief, DEFENDANTS’ pay/time
23 records for PLAINTIFF show a consistent shift start time of precisely 7:00 a.m. and/or 8:00 a.m.
24 and a shift end time of precisely 3:30 p.m., and/or 4:30 p.m.

25 48. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
26 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
27 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
28 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages

1 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
2 forty (40) hours in a week.

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

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

12 51. Based on information and belief, DEFENDANTS failed to incorporate all non-
13 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
14 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
15 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
16 wages owed to PLAINTIFF and other Aggrieved Employees.

17 52. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
18 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
19 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
20 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
21 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
22 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
23 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
24 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
25 completely. For example, at times, PLAINTIFF was regularly interrupted during her meal breaks
26 and/or had to skip her meal periods completely to attend work meetings, e.g., "staff lunches" to
27 discuss e.g. the day-to-day operations of the facility, DEFENDANTS' business goals, among other
28 work topics.

1 53. Based on information and belief, other Aggrieved Employees were consistently
2 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
3 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
4 lack of relief workers, the nature and constraints of their job duties, and/or the need to meet
5 DEFENDANTS' goals and expectations and/or the need to meet production/other work deadlines
6 and/or complete other work tasks.

7 54. Based on information and belief, DEFENDANTS implemented policies and/or
8 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
9 during unpaid meal periods.

10 55. Based on information and belief, DEFENDANTS required Aggrieved Employees to
11 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
12 into account when scheduling meal periods for Aggrieved Employees. Based on information and
13 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

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

20 57. Moreover, based on information and belief, Aggrieved Employees who worked shifts
21 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

22 58. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
23 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
24 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
25 did DEFENDANTS have any sort of compliant policy in practice.

26 59. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
27 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
28 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally

1 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
2 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
3 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

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

8 61. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
9 additional hour of wages at their respective regular rates of compensation for each workday a lawful
10 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
11 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
12 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
13 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
14 compensation for purposes of calculating the owed meal period premium.

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

19 63. PLAINTIFF and other Aggrieved Employees were not adequately informed,
20 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
21 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
22 the taking or timing of duty-free rest periods.

23 64. Based on information and belief, DEFENDANTS did not have a have a compliant
24 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
25 practice.

26 65. Based on information and belief, any purported rest periods were interrupted, cut
27 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
28 their job duties, and/or commentary from supervisors pressuring them to skip rest periods

1 completely and/or take non-compliant rest periods. For example, at times, PLAINTIFF was required
2 to work through her rest periods and/or cut them short due to the need to attend to onsite inspections,
3 complete paperwork and/or other complete other work tasks. Based on information and belief, other
4 Aggrieved Employees were also required to skip rest periods and/or cut them short due to lack of
5 relief workers available, the need to keep up with production deadlines and/or complete other work
6 tasks.

7 66. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
8 lasting longer than ten hours.

9 67. Based on information and belief, DEFENDANTS implemented policies and/or
10 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
11 DEFENDANTS' control during rest periods.

12 68. Based on information and belief, Aggrieved Employees were pressured to complete
13 their work duties according to a designated schedule such that rest periods were only taken once
14 tasks were completed, and/or as time permitted.

15 69. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
16 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
17 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
18 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
19 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
20 shift differential pay, and/or other non-discretionary compensation into the regular rate of
21 compensation for purposes of calculating the owed rest period premium.

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

1 worked at each hourly rate by the employee.

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

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

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

18 74. Based on information and belief, wage statements issued by DEFENDANTS failed
19 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid, in
20 violation of Labor Code section 226(a)(6).

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

24 76. Based on further information and belief, DEFENDANTS issued wage statements to
25 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential
26 wages were paid in violation of Labor Code section 226.

27 77. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
28 Employees that were not accurate and did not include all of the statutorily required information. As

1 such, DEFENDANTS violated Labor Code section 226.

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

10 79. DEFENDANTS have failed and continue to fail to keep accurate and complete
11 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
12 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
13 employer control during unpaid meal periods, failure to record the true start and end times of meal
14 periods, shift start times and shift end times, and other off-the-clock work policies and practices
15 described herein.

16 80. **Unreimbursed Business Expenses.** Based on information and belief,
17 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses
18 as a direct consequence of the performance of their job duties without providing reimbursement, in
19 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
20 Aggrieved Employees were improperly required to provide and maintain work tools that are
21 supposed to be the responsibility of the employer.

22 81. Based on information and belief, DEFENDANTS shifted the costs of doing business
23 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
24 to, uniforms, work clothing/shoes, protective equipment/safety gear and/or the use of Aggrieved
25 Employees' personal mobile phone and data usage for work related purposes including but not
26 limited to receiving and responding to work related messages and/or phone calls. PLAINTIFF
27 regularly received text messages and/or calls to her personal cellphone/mobile device from her
28 supervisor regarding, for example, incoming deliveries and/or the need to set up a conference room

1 for a meeting and/or other work tasks and/or scheduling, however PLAINTIFF was not reimbursed
2 by DEFENDANTS for DEFENDANTS' business use of her personal cell phone/mobile device.
3 Based on information and belief, Aggrieved Employees were not reimbursed for the cost of using
4 their personal phone for work related purposes and/or the cost of purchasing and/or maintaining
5 work uniforms, work clothing/shoes, protective equipment/safety gear.

6 82. Based on further information and belief, DEFENDANTS failed to provide
7 reimbursement/ full reimbursement for expenses Aggrieved Employees incurred as a result of
8 working for DEFENDANTS remotely and/or from their homes, including but not limited to, cost of
9 internet service, home electricity, cost of additional memory and/or virus software for home
10 computer / home computer use, among other business expenses associated with remote work as
11 required by DEFENDANTS. For example, DEFENDANTS required PLAINTIFF to remotely log
12 onto DEFENDANTS' system and create an online portal so she could then review various
13 information regarding the background of DEFENDANTS and/or DEFENDANTS' policies.
14 PLAINTIFF was not reimbursed by DEFENDANTS for DEFENDANTS' business use of her
15 personal computer/devices and/or cost of home internet and/or electricity. Based on information
16 and belief, DEFENDANTS have a policy and practice of failing to reimburse Aggrieved Employees
17 for all costs associated with mandated work from home, including but not limited to, home
18 electricity and home internet costs.

19 83. Additionally, Aggrieved Employees were not reimbursed for the business use of their
20 personal vehicles, including but not limited to, mileage, wear and tear, and gas when they were
21 required to drive between job sites/facilities. For example, at times, PLAINTIFF had to use her
22 personal vehicle to drive to/between DEFENDANTS' buildings and/or facilities (e.g. to assist with
23 transporting items and/or food to DEFENDANTS' business events) but was not provided any
24 reimbursement for DEFENDANTS' business use of her personal vehicle. PLAINTIFF was required
25 to use her personal vehicle for business purposes without reimbursement for mileage, wear and tear
26 on the vehicle, or gas.

27 84. Based on information and belief, DEFENDANTS regularly failed to reimburse and
28 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section

1 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
2 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
3 assigned by DEFENDANTS.

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

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

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

25 88. Based on information and belief, throughout the relevant time period,
26 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
27 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
28 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least

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

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

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

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

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

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

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

26 (B) When employees are not engaged in the active duties of their employment and the
27 nature of the work requires standing, an adequate number of suitable seats shall be placed in
28

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 94. 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 95. 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 96. 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 97. **Failure to Pay Vested Vacation/Paid Time Off:** Based on information and belief,
16 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
17 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
18 failing to pay all vested, accrued paid time off to Aggrieved Employees upon separation of
19 employment, in violation of California law, including but not limited to, Labor Code section 227.3.

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

25 99. Upon separation of employment, Aggrieved Employees' final paychecks were not
26 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
27 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
28 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,

1 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
2 accrued rates. For example, PLAINTIFF was terminated, on or about June 6, 2022, however,
3 PLAINTIFF did not receive her final paycheck until at least several days after her date of
4 termination, and her final paycheck once provided, was devoid of all wages owed, including but not
5 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick
6 leave and/or paid time off wages at the properly accrued rates.

7 **100. Unlawful Deductions:** Labor Code section 221 prohibits an employer from
8 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
9 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
10 from Aggrieved Employees’ paychecks during the relevant period, by including but not limited to
11 unlawfully deducting wages paid in previous pay periods. Such a practice is in violation of including
12 but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties
13 under Labor Code Section 2699.

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

18 **102.** Based on information and belief, DEFENDANTS have and continue to have a
19 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
20 consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551.
21 Based on information and belief, Aggrieved Employees were also suffered, permitted, or required
22 to work at least seven (7) days consecutively in a workweek, in violation of California law, including
23 but not limited to Labor Code Section 551.

24 **103. Reporting Time Pay Violations.** Plaintiff was not paid reporting time wages in
25 accordance with California law, including but not limited to the applicable IWC Wage Order. For
26 example, based on information and belief, at times, Aggrieved Employees reported to work for their
27 scheduled shift but were sent home and/or was not put to work and were not paid their owed
28 reporting time pay wages in accordance with California law.

1 104. Based on information and belief, DEFENDANTS have a policy and practice of
2 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
3 including but not limited to, the applicable IWC Wage Order, Section 5.

4 105. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

5 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

6 106. Based on information and belief, DEFENDANTS required Aggrieved Employees to
7 agree in writing to unlawful conditions of employment including but not limited to unlawful
8 criminal and/or financial checks as a condition of obtaining and/or continuing employment in
9 violation of Labor Code section 432.5.

10 107. Based on information and belief, DEFENDANTS ordered unlawful financial credit
11 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
12 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
13 employment, in violation of California and Federal law, which results in a further violation of Labor
14 Code section 432.5.

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

24 109. Based on information and belief, DEFENDANTS required Aggrieved Employees to
25 agree in writing to a background check which failed to abide by the requirements set forth in CA
26 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
27 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
28 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for

1 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,
2 failing to provide a way by which the individual could request a copy of the report, failing to disclose
3 the name, address, and telephone number of the third party preparing the report, and failing to
4 properly obtain authorization or consent to such a background check, and thus was an unlawful
5 background check.

6 110. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
7 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
8 section 432.5.

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

14 112. Based on further information and belief, DEFENDANTS knew that requiring
15 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
16 condition of obtaining and/or holding employment was unlawful.

17 113. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
18 condition of employment, DEFENDANTS violated Labor Code section 432.5.

19 Unlawful Inquires into Criminal History

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

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

116. **Failure to Provide a Safe and Healthful Workplace.** During the PAGA Period, DEFENDANTS have had a policy and practice of failing, within one business day after DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to COVID-19, to notify PLAINTIFF and other Aggrieved Employees who were on the premises at the same worksite as the qualifying individual within the infectious period, and the employers of 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 COVID 10 prevention program per the Cal-OSHA COVID-19 Emergency Temporary Standards, among other things in violation of Labor Code sections 6409.6 and/or 6432.

117. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS engaged in these same herein described unlawful practices, which led to violations of the California Labor Code as further alleged below, and that DEFENDANTS applied these same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

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

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

118. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

Failure to Keep Accurate Records

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

120. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate and complete 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 PLAINTIFF and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

1 121. DEFENDANTS' failure to keep "accurate and complete" payroll records for
2 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
3 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
4 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
5 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
6 period during which the referenced statutes and Wage Order provisions were violated.¹

7 **Meal Period Violations**

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

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

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

24 125. Employers must pay employees an additional hour of wages at the employees'

25 ¹ Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "[i]n addition to any other civil
28 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 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
2 meal period, first meal period provided after five (5) hours, second meal period provided after 10
3 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
4 provide an employee a meal period in accordance with the applicable provision of this Order, the
5 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
6 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

7 126. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
8 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
9 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
10 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
11 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
12 periods completely.

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

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

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

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

28 131. These unlawful meal period policies and practices result in violations of Labor Code

1 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
2 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
3 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
4 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

5 **Rest Period Violations**

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

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

1 periods] to its employees.”).

2 134. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
3 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
4 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
5 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
6 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
7 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

8 135. Based on information and belief, DEFENDANTS implemented policies and/or
9 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
10 employer control during rest periods. Based on further information and belief, Aggrieved
11 Employees were pressured to complete their work duties according to a designated schedule such
12 that rest periods were only taken once tasks were completed, and/or as time permitted.

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

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

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

24 **Minimum and Overtime Wage Violations**

25 139. California law provides that employees in California must be paid for all hours
26 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
27 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
28 The minimum wage standard applies to each hour employees worked for which they were not paid.

1 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
2 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
3 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

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

10 141. As explained above, DEFENDANTS violated California's minimum and overtime
11 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
12 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
13 start and end times and meal period start and end times), payment according to scheduled hours
14 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
15 meal periods, and/or other otherwise off-the-clock work (described above), which resulted in the
16 failure to account for all hours worked and thus the denial of minimum and overtime wages.

17 142. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
18 Aggrieved Employees for all hours worked.

19 143. Based on information and belief, DEFENDANTS had actual or constructive
20 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
21 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
22 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
23 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
24 Employees.

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

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

8 146. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
9 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
10 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
11 Wage Orders, section 20.

12 **Statutory Wage Violations**

13 147. California Labor Code section 223 makes it unlawful for an employer to secretly pay
14 wages lower than required by statute while purporting to pay legal wages. As described above,
15 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
16 earned minimum and overtime compensation for all hours worked which resulted in the payment of
17 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
18 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
19 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
20 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
21 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
22 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
23 Labor Code § 2699(f)-(g).

24 **Refusal to Make Payment**

25 148. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
26 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
27 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
28 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each

1 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
2 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
3 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
4 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

5 **Standard Conditions of Labor Violations**

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

13 **Business Expense Violations**

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

20 151. Among other things, under California law, when employees must use their personal
21 cellphones for work-related purposes, the employer must reimburse them for a reasonable
22 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
23 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
24 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
25 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile

26 _____
27 ² 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 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
2 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

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

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

9 154. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
10 full reimbursement for all reasonable expenses associated with carrying out their duties required
11 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
12 expenses in violation of Labor Code section 2802.

13 155. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
14 Employees have suffered injury in that they were not completely reimbursed as mandated by
15 California law.

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

20 157. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
21 Employees have suffered injury in that they were not completely reimbursed as mandated by
22 California law.

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

27 **Wage Statement Violations**

28 159. California law requires every employer semi-monthly or at the time of each payment

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

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

17 161. Moreover, due to violations detailed above, including but not limited to,
18 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
19 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
20 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
21 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
22 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
23 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
24 compensation earned during the pay period into the regular rate of pay for purposes of calculating
25 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
26 overtime worked by PLAINTIFF and other Aggrieved Employees.

27 162. As explained above, wage statements issued by DEFENDANTS failed to list the
28 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,

1 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
2 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
3 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
4 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
5 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

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

17 166. DEFENDANTS' failure to accurately list all hours worked on all wage statements
18 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
19 Employees over whether they received all wages owed to them.

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

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

26 169. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
27 Aggrieved Employees with accurate, itemized wage statements.

28 170. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved

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

9 171. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
10 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
11 during which the statute provisions were violated. ³

12 **Seating Violations**

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

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

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

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

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

27 175. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and

28 ³ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 other Aggrieved Employees with suitable seating, and when such employees were not engaged in
2 duties which required them to stand, no seating was placed in reasonable proximity to their
3 workstations.

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

9 177. The Aggrieved Employees worked in various positions. The nature of Aggrieved
10 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
11 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
12 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
13 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
14 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
15 separate civil penalty.

16 **Sick Leave Violations**

17 178. DEFENDANTS violated California's paid sick leave laws including, Labor Code
18 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
19 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
20 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
21 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
22 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
23 compensation into the sick leave pay rate calculation.

24 179. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
25 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
26 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
27 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
28 Aggrieved Employees' intelligent exercise of their paid sick leave.

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

5 181. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
6 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
7 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
8 were entitled to the maximum number of hours accruable.

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

14 183. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

15 184. On information and belief, PLAINTIFF alleges that all of these practices were
16 experienced and continue to be experienced by other Aggrieved Employees.

17 185. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
18 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
19 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

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

21 186. Labor Code § 248.2 provides that all employers with 26 or more employees are
22 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
23 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
24 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved
25 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
26 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
27 Labor Code section 248.6.

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

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

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

12 **Untimely Payment of Final Wages**

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

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

26 191. Based in information and belief, DEFENDANTS failed and continue to fail to timely
27 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
28 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF

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

4 192. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
5 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
6 256.

7 **Unlawful Deductions**

8 193. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from
9 an employee any part of wages theretofore paid by said employer to said employee.” Based on
10 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees’
11 paychecks during the relevant period, by including but not limited to unlawfully deducting wages
12 paid in previous pay periods. Such a practice is in violation of including but not limited to, Labor
13 Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section
14 2699.

15 194. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
16 each pay period during which the statute provisions were violated. See Lab. Code §225.5
17 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
18 provided in this article, every person who unlawfully withholds wages due any employee in
19 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
20 to pay each employee”).

21 **Reporting Time Pay Violations:**

22 195. Section 5 of all applicable IWC Wage Orders provides as follows:

23 (A) Each workday an employee is required to report for work and does report, but is
24 not put to work or is furnished less than half said employee’s usual or scheduled day’s work,
25 the employee shall be paid for half the usual or scheduled day’s work, but in no event for
26 less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay,
27 which shall not be less than the minimum wage.

28 (B) If an employee is required to report for work a second time in any one workday

1 and is furnished less than two (2) hours of work on the second reporting.

2 196. PLAINTIFF was not paid reporting time wages in accordance with California law,
3 including but not limited to the applicable IWC Wage Order. For example, based on information
4 and belief, at times, Aggrieved Employees reported to work for their scheduled shift but were sent
5 home and/or was not put to work and were not paid their owed reporting time pay wages in
6 accordance with California law.

7 197. Based on information and belief, DEFENDANTS have a policy and practice of
8 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
9 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
10 pay all reporting time wages to Aggrieved Employees violated and continues to violate section 5(A)-
11 (B) of the applicable IWC Wage Order and the California Labor Code, including but not limited to
12 section 1198.

13 **Violation of California Day of Rest Law:**

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

18 199. Based on information and belief, DEFENDANTS have and continue to have a
19 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
20 consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551.
21 Based on information and belief, Aggrieved Employees were also suffered, permitted, or required
22 to work at least seven (7) days consecutively in a workweek, in violation of California law, including
23 but not limited to Labor Code Section 551.

24 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

25 200. *Unlawful Agreements.* Labor Code section 432.5 provides that "no employer...shall
26 require any employee or applicant for employment to agree, in writing, to any term or condition
27 which is known by such employer...to be prohibited by law." DEFENDANTS required and
28 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful

1 conditions of employment including but not limited to unlawful criminal and/or financial checks as
2 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

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

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

22 204. Based on further information and belief, DEFENDANTS required Aggrieved
23 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
24 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
25 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
26 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

27 205. Based on further information and belief, DEFENDANTS knew that requiring
28 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a

1 condition of obtaining and/or holding employment was unlawful.

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

4 Unlawful Inquires into Criminal History

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

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

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

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

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

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

25 212. Labor Code section 6401 provides as follows:

26 Every employer shall furnish and use safety devices and safeguards, and shall adopt
27 and use practices, means, methods, operations, and processes which are reasonably adequate
28 to render such employment and place of employment safe and healthful. Every employer

1 shall do every other thing reasonably necessary to protect the life, safety, and health of
2 employees.

3 213. Labor Code section 6402 prohibits the following:

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

6 214. Similarly, Labor Code section 6404 provides as follows:

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

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

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

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

14 (b) To adopt and use methods and processes reasonably adequate to render the
15 employment and place of employment safe.

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

18 216. Similarly, Labor Code section 6406(d) states the following: No person shall do any
19 of the following ... (d) Fail or neglect to do every other thing reasonably necessary to protect the
20 life, safety, and health of employees.

21 217. Finally, Labor Code section 6407 provides:

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

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

1 219. At all relevant times, DEFENDANTS employed PLAINTIFF and Aggrieved
2 Employees subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times,
3 DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and
4 safeguards and of failing to adopt and use practices, means, methods, operations, and/or processes
5 which are reasonably adequate to render such employment and place of employment safe and
6 healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times
7 DEFENDANTS had and have a policy and practice of requiring or permitting employees to go or
8 be in in any employment or place of employment which is not safe and healthful, pursuant to Labor
9 Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of
10 failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render
11 the employment and place of employment safe; adopt and use methods and processes reasonably
12 adequate to render the employment and place of employment safe; and do every other thing
13 reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code
14 section 6403.

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

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

28 222. At all relevant times, DEFENDANTS had and have a policy and practice of failing

1 within one business day after DEFENDANTS or a representative of DEFENDANTS received notice
2 of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other Aggrieved
3 Employees and/or their exclusive representatives, who were on the premises at the same worksite
4 as a qualifying individual who was within the infectious period that they may have been exposed to
5 COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and
6 practice of failing within one business day after DEFENDANTS or a representative of EMLOYER
7 received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other Aggrieved
8 Employees who were on the premises at the same worksite as the qualifying individual within the
9 infectious period and the exclusive representative, if any, with information regarding COVID-19-
10 related benefits to which the employee may be entitled under applicable federal, state or local laws,
11 including but not limited to, workers' compensation, and options for exposed employees, including
12 COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or
13 negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the
14 employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and
15 6432.

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

26 224. At all relevant times, DEFENDANTS had and have a policy and practice of failing
27 to notify the local public health agency in the jurisdiction of the worksite of the names, number,
28 occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as

1 defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed
2 health care provider; a COVID-19 related order to isolate provided by a public health official; or
3 died due to COVID-19, in the determination of a county public health department or per inclusion
4 in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation,
5 Labor Code sections 6409.6 and 6432.

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

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

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

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

27 229. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
28 Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF and Aggrieved Employees and

1 is subject to civil penalties.

2 230. Under the provisions of PAGA and the above mentioned Labor Code sections,
3 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
4 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
5 1199, 2699, 2699.3, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6, 6432 and all applicable Wage
6 Orders as well as all interpretations of these laws by California Courts and administrative bodies, as
7 well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
8 penalties:

9 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
10 relevant California Labor Code provisions listed herein only if permitted by the PAGA statute,
11 pursuant to Labor Code section 2699(a); and

12 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
13 violations without a civil penalty recoverable under the PAGA, all in the default amounts provided
14 by Labor Code section 2699(f).

15 c. The proper measure of penalties under PAGA is the number of violations, whether
16 those violations were committed as against PLAINTIFF or any Aggrieved Employee, whether a
17 party to this action or not.

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

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1 **PRAYER FOR RELIEF**

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

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

11 Dated: April 4, 2023

CROSNER LEGAL, PC

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13 By: 
14 Zachary M. Crosner, Esq.
15 Jamie Serb, Esq.
16 Brandon Brouillette, Esq.
17 Attorneys for Plaintiff
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