

Alex Asil Mashiri, Esq. (SBN 283798)
alex@mashirilawfirm.com
MASHIRI LAW FIRM, APC
11251 Rancho Carmel Drive #500694
San Diego, CA 92150
Tel: (858) 348-4938
Fax: (858) 348-4939

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

02/15/2023 at 10:15:41 AM

Clerk of the Superior Court
By Shiela Retez, Deputy Clerk

Tamim Jami, Esq. (SBN 311351)
tamim@jamilaw.com
THE JAMI LAW FIRM P.C.
3525 Del Mar Heights Rd #941
San Diego, CA 92130
Tel: (858) 284-0248
Fax: (858) 284-0977

Attorneys for Plaintiff
CHASE HUNTER

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

CHASE HUNTER, an individual, for the real
party in interest, the State of California,

Plaintiff,

vs.

SUEZ WTS SERVICES USA, INC; VEOLIA
NORTH AMERICA, LLC; VEOLIA WATER
NORTH AMERICA, LLC and DOES 1 through
50,

Defendants.

Case No. 37-2023-00007205-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 et seq.)**

1 Plaintiff CHASE HUNTER (“Plaintiff”), in his capacity as the State of California’s designated
2 proxy under the Private Attorneys General Act, and on behalf of other current and former California
3 employees (“Represented Employees”) alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the Private Attorneys General Act (“PAGA”), incorporated in Labor Code
6 sections 2698, 2699 *et seq.*, Plaintiff brings this representative action against Defendants SUEZ WTS
7 SERVICES USA, INC. (“SUEZ”), VEOLIA NORTH AMERICA, LLC, VEOLIA WATER NORTH
8 AMERICA, LLC (collectively “VEOLIA”), and DOES 1 through 50 (all defendants are hereinafter
9 collectively referred to as “Defendants”) for wage and hour violations of the California Labor Code
10 and the applicable Industrial Welfare Commission Wage Order (the “IWC Wage Order”).

11 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
13 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
14 for violation of the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
16 to the procedures specified in Labor Code section 2699.3.

17 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
18 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

19 **JURISDICTION AND VENUE**

20 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
21 jurisdiction is proper here because Plaintiff alleges claims arising under California law.

22 5. This Court has jurisdiction over Defendants because each is believed to be an
23 association, corporation, business entity, or individual that conducts substantial business in the State
24 of California, County of San Diego.

25 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

26 7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the
27 Superior Court of California for the County of San Diego because this is where the alleged wrongful
28 misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Plaintiff is an “aggrieved employee” because he was employed by Defendants and had one or more of the alleged violations committed against him, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the Represented Employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

10. Plaintiff worked for Defendants during which time he was paid hourly and was considered non-exempt.

11. Defendants are doing business throughout the state of California, including the County of San Diego.

12. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

13. Plaintiff is informed and believes, and based thereon allege, that at all times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant was acting partly within and partly without the scope and course of their employment, and was acting with the knowledge, permission, consent, and ratification of every other Defendant.

1 15. At all material times, Defendants were and/or are Represented Employees’ employers
2 or persons acting on behalf of Represented Employees’ employer, under California law, the IWC
3 Wage Order, and Labor Code sections 558 and 558.1 and thus are jointly and severally liable for the
4 violations alleged herein and any amounts awarded and/or recoverable as a result of this action.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 16. On December 12, 2022, Plaintiff, via counsel, sent the statutorily required notice to the
7 LWDA (“PAGA Notice”), indicating that Plaintiff intends to pursue claims against Defendants for
8 violations of the Labor Code.

9 17. On December 12, 2022, Plaintiff, via counsel, sent a copy of the PAGA Notice to
10 SUEZ and VEOLIA.

11 18. The statutory period expired since Plaintiff sent the PAGA Notice to the LWDA and
12 LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable
13 penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A). Thus,
14 Plaintiff has exhausted the administrative requirements under the PAGA.

15 **PAGA REPRESENTATIVE ACTION CLAIMS**

16 19. On information and belief, current and former employees of Defendants were subject
17 to wage and hour violations by Defendants, specifically by Defendants’ violations of Labor Code
18 sections 201, 202, 203, 204, 226(a)(1), 226(a)(5), 226(a)(9), 226.7, 226.7(c), 246, 246(l), 510, 512,
19 1198.5, 2802, 2698, and 2699 et seq.

20 20. California law provides that an aggrieved employee may file a representative action
21 under the PAGA against an employer for civil penalties in connection with violations of the Labor
22 Code and Wage Order.

23 **FIRST CAUSE OF ACTION**

24 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**
25 **Sections 246 and 246(l) against all Defendants)**

26 21. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
27 set forth herein.
28

1 22. Under Labor Code sections 246 and 246(l), employers in California must provide
2 employees with paid sick leave to be paid at a specified rate of pay which must factor in additional
3 earnings during a given pay period wherein such leave is used.

4 23. During their employment, Plaintiff and Represented Employees earned additional
5 compensation, such as, for example, shift differentials.

6 24. Upon information and belief, Defendants paid sick leave at the incorrect rate of pay
7 resulting in the underpayment of wages. In particular, Defendants failed to appropriately factor in
8 additional payments and compensation for purposes of computing the appropriate rate of pay for sick
9 leave wages as required by Labor Code sections 246 and 246(l).

10 25. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
11 Labor Code sections 246 and 246(l).

12 26. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
13 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
14 *Alameda Cty.* (2020) 9 Cal.5th 279.)

15 27. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 28. Plaintiff is seeking civil penalties against Defendants, including Labor Code section
20 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
21 amount to be shown according to proof.

22 29. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover
23 attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown
24 according to proof.

25 30. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
26 reasonable attorneys' fees, costs, filing fees paid to the LWDA, and civil penalties in an amount to be
27 shown according to proof.
28

1 **SECOND CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Sections 512, 226.7 and the IWC Wage Order against all Defendants)**

4 31. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 32. Under Labor Code section 512 and the IWC Wage Order, if an employee works more
7 than five hours in a given day, the employer must provide the employee with the opportunity to take
8 a meal period of at least thirty minutes before the end of the employee's fifth hour. (*Brinker Rest.*
9 *Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

10 33. Labor Code section 226.7 prohibits an employer from requiring an employee to work
11 during a meal period and provides that an employee must be paid a wage for doing so.

12 34. Upon information and belief, Defendants failed to provide Plaintiff and the
13 Represented Employees with the opportunity to take compliant meal periods.

14 35. Defendants violated Labor Code sections 512, 226.7 and the IWC Wage Order. The
15 PAGA imposes upon Defendants, civil penalties for such violations.

16 36. Labor Code section 558 imposes upon Defendants, and each of them, penalties of one
17 hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and two hundred
18 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

19 37. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
20 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
21 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
22 all Labor Code provisions for which a civil penalty is not specifically provided.

23 38. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
24 2699(f), 226.7, 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of
25 civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

26 39. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
27 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
28 according to proof.

1 **THIRD CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Sections 226.7, 226.7(c), and the IWC Wage Order against all Defendants)**

4 40. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 41. Under Labor Code section 226.7(c), if an employer fails to provide an employee with
7 a proper meal or rest period, the employer shall pay the employee one hour of pay at the employee's
8 regular rate of compensation for each workday that the meal period is not provided.

9 42. At minimum, Plaintiff and the Represented Employees should have been paid a meal
10 and rest break premium for each and every missed, delayed, or shortened meal and rest period in an
11 amount that was equivalent to their regular rate of pay for the pay period. Because Defendants failed
12 to issue such meal and rest premiums at the regular rate of pay for the pay period, Defendants violated
13 Labor Code section 226.7(c). (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.)

14 43. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
15 Labor Code sections 226.7, 226.7(c) and the IWC Wage Order.

16 44. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
17 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
18 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
19 all Labor Code provisions for which a civil penalty is not specifically provided.

20 45. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
21 2699(f), 226.7, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
22 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

23 46. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
24 reasonable attorneys' fees, costs, filing fees paid to the LWDA, and civil penalties, in an amount to
25 be shown according to proof.

26 ///

27 ///

28 ///

FOURTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 510, 1194, and 1198 and IWC Wage Order against all Defendants)**

47. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

48. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one- and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order.)

49. Upon information and belief, Defendants failed to properly provide Plaintiff and the Represented Employees with overtime pay for hours worked in excess of eight hours in a workday and/or hours worked in excess of 40 hours in one workweek.

50. Upon information and belief, Represented Employees would receive additional nondiscretionary payments, including but not limited to, shift differentials.

51. Upon information and belief, the Represented Employees were not paid accurate overtime wages because Defendants failed to include all compensation earned during a given period when determining the regular rate of pay, resulting in the underpayment of overtime wages.

52. Upon information and belief, during all times relevant to this action, Defendants violated Labor Code sections 510, 1194, 1198, and the IWC Wage Order.

53. Labor Code section 2699(f) imposes upon Defendants, and each of them, penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

54. Pursuant to Labor Code section 558, any employer or other person acting on behalf of an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject

1 to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them,
2 penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations,
3 and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

4 55. Plaintiff is seeking civil penalties against Defendants, including Labor Code sections
5 2699(f), 558, the Applicable IWC Wage Order, and/or any other applicable statute allowing recovery
6 of civil penalties under the PAGA in an amount to be shown according to proof.

7 56. Pursuant to Labor Code section 1194, Plaintiff seeks to recover reasonable attorneys'
8 fees, costs, interest, and civil penalties in an amount to be shown according to proof.

9 57. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
10 reasonable attorneys' fees, costs, filing fees paid to the LWDA, and civil penalties in an amount to be
11 shown according to proof.

12 **FIFTH CAUSE OF ACTION**

13 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**

14 **Section 226(a)(1) against all Defendants)**

15 58. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
16 forth herein.

17 59. Labor Code section 226(a)(1) requires that wage statements that an employer issues to
18 its employees accurately state the gross wages earned.

19 60. Defendants failed to accurately state the proper gross on the wage statements in
20 violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to
21 Plaintiff and the Represented Employees failed to include the accurate amount of gross wages because
22 they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal
23 and rest premium wages, and overtime wages.

24 61. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
25 Labor Code section 226(a)(1).

26 62. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
27 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
28 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for

1 all Labor Code provisions for which a civil penalty is not specifically provided.

2 63. With respect to violations of Labor Code section 226, Labor Code section 226.3
3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
4 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
5 employee for each pay period.

6 64. Plaintiff is seeking civil penalties against Defendants, including Labor Code section
7 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
8 PAGA in an amount to be shown according to proof.

9 65. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
10 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
11 according to proof.

12 **SIXTH CAUSE OF ACTION**

13 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**

14 **Section 226(a)(5) against all Defendants)**

15 66. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
16 set forth herein.

17 67. Labor Code section 226(a)(5) requires that wage statements that an employer issues to
18 its employees accurately state the net wages earned.

19 68. Defendants failed to accurately state the proper net wages earned on the wage
20 statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements
21 issued to Plaintiff and the Represented Employees failed to include the accurate amount of net wages
22 earned during a given pay period because they failed to include the proper amount of all wages earned,
23 including, but not limited to, sick pay wages, meal and rest premium wages, and overtime wages.

24 69. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
25 Labor Code section 226(a)(5).

26 70. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
27 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
28 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for

1 all Labor Code provisions for which a civil penalty is not specifically provided.

2 71. With respect to violations of Labor Code section 226, Labor Code section 226.3
3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
4 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
5 employee for each pay period.

6 72. Plaintiff is seeking civil penalties against Defendants, including Labor Code section
7 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
8 PAGA in an amount to be shown according to proof.

9 73. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
10 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
11 according to proof.

12 **SEVENTH CAUSE OF ACTION**

13 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**

14 **Section 226(a)(9) against all Defendants)**

15 74. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
16 set forth herein.

17 75. Labor Code section 226(a)(9) requires that the employer's wage statements accurately
18 state all applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate by the employee.

20 76. Defendants failed violated Labor Code section 226(a)(9). By way of one example, the
21 rates/hours for sick pay wages, meal and rest premium wages, and overtime wages are inaccurately
22 itemized.

23 77. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
24 Labor Code section 226(a)(9).

25 78. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
26 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
27 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
28 all Labor Code provisions for which a civil penalty is not specifically provided.

79. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

80. Plaintiff is seeking civil penalties against Defendants, including Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

81. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a) against all Defendants)

82. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

83. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage statement provided to an employee or a computer-generated record that accurately shows all of the information required under 226(a)(1) through (a)(9).

84. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the wage statements that Defendants kept do not include the accurate gross and net wages and all applicable hourly rates and corresponding hours worked as described herein and in the aforementioned paragraphs.

85. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a).

86. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for

1 all Labor Code provisions for which a civil penalty is not specifically provided.

2 87. With respect to violations of Labor Code section 226, Labor Code section 226.3
3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
4 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
5 employee for each pay period.

6 88. Plaintiff is seeking civil penalties against Defendants, including Labor Code section
7 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
8 PAGA in an amount to be shown according to proof.

9 89. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
10 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
11 according to proof.

12 **NINTH CAUSE OF ACTION**

13 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
14 **Section 204 against all Defendants)**

15 90. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
16 set forth herein.

17 91. Labor Code section 204 imposes an obligation of timely payment of wages upon
18 California employers.

19 92. Defendants violated Labor Code section 204 because they failed to timely pay Plaintiff
20 and the Represented Employees all earned wages during an applicable pay period.

21 93. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
22 Labor Code section 204.

23 94. Labor Code section 204 imposes upon Defendants, and each of them, civil penalties of
24 one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
25 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

26 95. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
27 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
28 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for

1 all Labor Code provisions for which a civil penalty is not specifically provided.

2 96. Plaintiff is seeking civil penalties against Defendants under Labor Code section 204,
3 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in
4 an amount to be shown according to proof.

5 97. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
6 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
7 according to proof.

8 **TENTH CAUSE OF ACTION**

9 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
10 **Sections 201, 202, and 203 against all Defendants)**

11 98. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
12 set forth herein.

13 99. Under Labor Code section 201, if an employee is discharged by his/her employer, the
14 wages earned and unpaid at the time of discharge are due and payable immediately.

15 100. Under Labor Code section 202, if on the other hand, "an employee not having a written
16 contract for a definite period quits his or her employment, his or her wages shall become due and
17 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of
18 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
19 quitting."

20 101. Labor Code section 203 provides, in pertinent part: "If an employer willfully fails to
21 pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits,
22 the wages of the employee shall continue as a penalty from the due date thereof at the same rate until
23 paid or until an action therefore is commenced; but the wages shall not continue for more than 30
24 days. ..."

25 102. Upon information and belief, Plaintiff and the Represented Employees did not receive
26 all wages upon termination or separation of employment. By way of one example, Plaintiff and the
27 Represented Employees were owed sick pay wages, meal and rest premium wages, and overtime
28 wages. To this date, Defendants have not paid all wages upon termination or separation of

1 employment.

2 103. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
3 Labor Code sections 201, 202, and 203.

4 104. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
5 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
6 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
7 all Labor Code provisions for which a civil penalty is not specifically provided.

8 105. Plaintiff is seeking civil penalties against Defendants under Labor Code section
9 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in
10 an amount to be shown according to proof.

11 106. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
12 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
13 according to proof.

14 **ELEVENTH CAUSE OF ACTION**

15 **(Representative Claims for Civil Penalties Under the PAGA for Violation of Labor Code**
16 **Sections 226(b), 226(c), 1198.5, and 432 against all Defendants)**

17 107. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
18 forth herein.

19 108. Labor Code section 226(b) requires, in pertinent part, that "An employer that is
20 required by this code or any regulation adopted pursuant to this code to keep the information required
21 by subdivision (a) shall afford current and former employees the right to inspect or copy records
22 pertaining to their employment, upon reasonable request to the employer. The employer may take
23 reasonable steps to ensure the identity of a current or former employee. If the employer provides
24 copies of the records, the actual cost of reproduction may be charged to the current or former
25 employee." (Labor Code § 226 subdivision (b).)

26 109. Labor Code section 226(c) requires, in pertinent part, that "An employer who receives
27 a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
28 or former employee shall comply with the request as soon as practicable, but no later than 21 calendar

1 days from the date of the request. A violation of this subdivision is an infraction. Impossibility of
2 performance, not caused by or a result of a violation of law, shall be an affirmative defense for an
3 employer in any action alleging a violation of this subdivision. An employer may designate the person
4 to whom a request under this subdivision will be made.” (Labor Code § 226(c).)

5 110. Labor Code section 432 requires employers doing business in the State of California
6 to provide current and former employees copies of all written instruments they sign upon request.

7 111. Labor Code section 1198.5(b)(1) provides, in pertinent part: “The employer shall make
8 the contents of those personnel records available for inspection to the current or former employee, or
9 his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar
10 days from the date the employer receives a written request.”

11 112. On December 9, 2022, Plaintiff, through counsel, sent a letter to Defendants,
12 requesting copies of his payroll and personnel records. Defendants failed to produce any records. A
13 follow up request was sent on February 1, 2023, but no records were produced.

14 113. Defendants violated Labor Code sections 226, 226(b), 226(c), 432, and 1198.5 by
15 failing to produce the requested records.

16 114. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
17 Labor Code sections 226(b), 226(c), 432, 1198.5.

18 115. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
19 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
20 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
21 all Labor Code provisions for which a civil penalty is not specifically provided.

22 116. Plaintiff is seeking civil penalties against Defendants under the PAGA, including
23 Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil
24 penalties under the PAGA in an amount to be shown according to proof.

25 117. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
26 attorneys’ fees, costs, filing fees paid to the LWDA and civil penalties in an amount to be shown
27 according to proof.

1 **PRAYER FOR RELIEF**

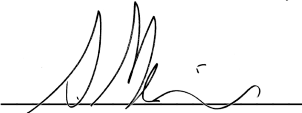
2 WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

- 3 1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
- 4 2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant
- 5 to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
- 6 3. Post-judgment interest as provided by law; and
- 7 4. Such other and further relief that the Court may deem just and proper.

8 Dated: February 15, 2023

MASHIRI LAW FIRM, APC

9

10 By: 

11 Alex Asil Mashiri

12 Attorney for Plaintiff

13 CHASE HUNTER

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28