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As an individual and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JOHNNY GARCIA, as an individual on
behalf of himself and on behalf of all others
similarly situated,

Plaintiff,

v.

WIN-DOR, INC., a California corporation;
and DOES 1-100, inclusive,

Defendants.

Case No.: 30-2022-01290278-CU-OE-CXC

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1. Recovery of Unpaid Minimum Wages and Liquidated Damages**
- 2. Recovery of Unpaid Overtime Wages**
- 3. Failure to Provide Meal Periods or Compensation in Lieu Thereof**
- 4. Failure to Provide Rest Periods or Compensation in Lieu Thereof**
- 5. Failure to Furnish Accurate Itemized Wage Statements**
- 6. Failure to Timely Pay All Wages Due Upon Separation of Employment**
- 7. Failure to Reimburse Business Expenses**
- 8. Failure to maintain business records (§§ 1174, 1198, 1199);**
- 9. Failure to produce personnel file upon request (§§ 1198.5, 432);**
- 10. Refusal to make payment (§ 216);**
- 11. Failure to pay statutory wages (§ 223);**
- 12. Failure to provide sick leave (§§ 233-234, 245-248.5);**
- 13. Failure to provide supplemental paid**

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sick leave (§ 248.2);

- 14. Failure to pay vested vacation and paid time off (§ 227.3);
- 15. Unlawful deductions (§ 221)
- 16. Unlawful inquiries into criminal history (§ 432.7)
- 17. Unfair Competition *and*
- 18. Violation of the Private Attorneys General Act of 2004

DEMAND FOR JURY TRIAL

1 Plaintiff, JOHNNY GARCIA (“PLAINTIFF”), an individual on behalf of himself and all
2 other similarly situated Class Members (as defined below) and Aggrieved Employees (defined
3 below), hereby files this Second Amended Complaint against Defendants WIN-DOR, INC., a
4 California corporation; and DOES 1-100, inclusive, (collectively referred to herein as
5 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of Orange pursuant to California Code of Civil Procedure section 395.5
9 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
10 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
11 PLAINTIFF herein occurred in this this judicial district.

12 **THE PARTIES**

13 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
14 California and a citizen of the State of California. PLAINTIFF was employed by DEFENDANTS
15 in the State of California as a non-exempt employee during the relevant period. PLAINTIFF worked
16 for DEFENDANTS, as a non-exempt employee from in or around late May 2022 until on or about
17 July 25, 2022.

18 3. PLAINTIFF worked for DEFENDANTS as a general laborer, warehouse worker
19 and/or other similar title at DEFENDANTS’ facility located in Brea, California

20 4. Defendant WIN-DOR, INC is a California corporation that, at all relevant times, was
21 authorized to do business within the State of California and is doing business in the State of
22 California.

23 5. DEFENDANTS own, operate, or otherwise manage a business that manufactures
24 and supplies vinyl windows and doors.¹

25 6. The true names and capacities of the DOE Defendants sued herein as DOES 1
26 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
27 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally

28 ¹ See: <https://www.windorsystems.com/>. Last visited on November 4, 2022.

1 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
2 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
3 become known.

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

14 **JOINT LIABILITY**

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

1 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
2 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
3 employment,” *Id.* at 875 [emphasis added].

4 9. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
5 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
6 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
7 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
8 hours and working conditions of PLAINTIFF and the Class Members and Aggrieved Employees;
9 (2) suffered or permitted PLAINTIFF and Class Members and Aggrieved Employees to work for
10 them; and (3) engaged PLAINTIFF and Class Members and Aggrieved Employees to work for them.

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

24 11. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
25 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
26 and Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and causes of
27 action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class
28 Members’ and Aggrieved Employees’ wages, hours and working conditions, and/or suffered or

1 permitted PLAINTIFF and the Class Members and Aggrieved Employees to work so as to be
2 considered the joint employers of PLAINTIFF and the Class Members and Aggrieved Employees.

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

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

24 14. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
25 control over, applied the same policies and practices, and engaged in the same acts and omissions
26 with regard to the other Class Members and Aggrieved Employees.

27 **CLASS ALLEGATIONS**

28 15. PLAINTIFF brings this action on behalf of himself, and all others similarly situated

1 as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks to
2 represent are defined as follows and referred to as the “Class” or “Class Members”:

3 All current and former non-exempt employees that worked either
4 directly or via a staffing agency for DEFENDANTS at any location
5 in California at any time within the four years and 178 days prior to
6 the filing of the initial Complaint (“Class Period”).²

7 a. Numerosity. While the exact number of Class Members is unknown to
8 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
9 all members is impractical under the circumstances of this case. PLAINTIFF is
10 informed and believes the Class consists of at least 100 individuals.

11 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
12 because common questions of law and fact predominate over individual issues.
13 Common questions include, but are not limited to, the following: (1) whether
14 DEFENDANTS understated hours worked and failed to pay all amounts due to
15 PLAINTIFF and the Class Members for wages earned, including minimum and
16 overtime wages, under California law; (2) whether DEFENDANTS provided
17 PLAINTIFF and the Class Members with all meal periods or premium payments
18 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
19 provided PLAINTIFF and the Class Members with all rest periods or premium
20 payments in lieu thereof, in compliance with California law; (4) whether
21 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
22 itemized wage statements in compliance with California law, displaying,
23 including but not limited to, the total hours worked during the pay period; (5)
24 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all

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26 ² In response to the COVID-19 pandemic, the Judicial Council of California
27 adopted Emergency Rule 9(a) (California Rules of Court), whereby “statutes of limitations and
28 repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 to October 1,
2020.”

1 wages due upon separation of employment; (6) whether DEFENDANTS failed
2 to reimburse PLAINTIFF and the Class Members for all business expenses; (7)
3 Whether DEFENDANTS failed to maintain business records; (8) Whether
4 DEFENDANTS failed; Whether DEFENDANTS failed to produce a personnel
5 file upon request; (9) Whether DEFENDANTS violated Labor Code section
6 216; (10) Whether DEFENDANTS failed to pay statutory wages; (11) Whether
7 DEFENDANTS failed to provide sick leave; (12) Whether DEFENDANTS
8 failed to provide supplemental paid sick leave; (13) Whether DEFENDANTS
9 failed to pay vested vacation and paid time off; (14) Whether DEFENDANTS
10 made unlawful deductions; (15) Whether DEFENDANTS conducted Unlawful
11 inquiries into criminal history; and (16) whether DEFENDANTS violated
12 California Business and Professions Code sections 17200, *et seq.*

13 c. Ascertainable Class. The proposed Class is ascertainable as members can be
14 identified and located using information in DEFENDANTS' business, payroll
15 and personnel records.

16 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
17 PLAINTIFF suffered a similar injury as members of the Class as a result of
18 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
19 and pay all owed minimum and overtime wages, failure to provide proper meal
20 periods and rest periods or premium compensation in lieu thereof, failure to
21 provide accurate wage statements, failure to reimburse business expenses, and
22 failure to timely pay all wages due upon separation of employment, and other
23 violations alleged herein.

24 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
25 Class Members. PLAINTIFF has no interests adverse to the interests of the other
26 Class Members. Counsel who represent PLAINTIFF are competent and
27 experienced in litigating similar class action cases and are California lawyers in
28 good standing. Counsel for PLAINTIFF have the experience and resources to

1 vigorously prosecute this case.

2 f. Superiority. A class action is superior to other available means for the fair and
3 efficient adjudication of this controversy since individual joinder of all members
4 of the class is impractical. Class action treatment will permit a large number of
5 similarly situated persons to prosecute their common claims in a single forum
6 simultaneously, efficiently, and without the unnecessary duplication of effort
7 and expense that numerous individual actions would engender. Furthermore, as
8 the damages suffered by each individual member of the Class may be relatively
9 small, the expenses and burden of individual litigation would make it difficult
10 or impossible for individual members of the Class to redress the wrongs done to
11 them, while an important public interest will be served by addressing the matter
12 as a class action. The cost to the court system of adjudication of such
13 individualized litigation would be substantial. Individualized litigation would
14 also present the potential for inconsistent or contradictory judgments. Finally,
15 the alternative of filing a claim with the California Labor Commissioner is not
16 superior, given the lack of discovery in such proceedings, the fact that there are
17 fewer available remedies, and the losing party has the right to a trial de novo in
18 the Superior Court.

19 **FACTUAL AND LEGAL ALLEGATIONS**

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

24 17. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
25 PLAINTIFF worked for DEFENDANTS as a general laborer, warehouse worker and/or other
26 similar title at DEFENDANTS' warehouse facility located in Brea, California, from in or around
27 late May 2022 through on or about July 25, 2022. PLAINTIFF regularly worked at least eight (8)-
28 eleven (11) hours per day, at least five (5) days per week.

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

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

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

16 21. Based on information and belief, Class Members and Aggrieved Employees were
17 not paid for all hours worked due to DEFENDANTS' policy and/or practice of rounding time entries
18 or paying according to scheduled hours worked instead of actual time worked, and/or mandated off-
19 the clock work policies and/or practices. Based on information and belief, at times, Class Members
20 and Aggrieved Employees were required to stand in line behind other employees to access
21 DEFENDANTS' biometric/electronic employee time-keeping system and/or were required to
22 undergo security screenings and/or had to spend time reinitiating DEFENDANTS'
23 fingerprint/electronic time-keeping system before they could clock in for the start of their shifts.
24 This off-the-clock work, including but not limited to, time spent waiting for other employees to
25 clock in for their shifts, undergoing security screenings and/or reinitiating the time-keeping
26 mechanism, was not compensated, resulting in the underpayment of minimum and overtime wages
27 owed to Class Members and Aggrieved Employees.

28 22. Based on information and belief, DEFENDANTS did not compensate Class

1 Members and Aggrieved Employees for time spent donning and doffing personal protective
2 equipment and/or uniforms/work clothing (e.g., steel-toed boots, reflective vests, protective eyewear
3 grip gloves and/or face masks) during meal periods, before the start of a scheduled shift, and/or after
4 completing a scheduled shift, resulting in off-the-clock work and the underpayment of wages owed
5 to Class Members and Aggrieved Employees .

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

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

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

25 26. Based on further information and belief, DEFENDANTS implemented a time-
26 rounding system that as applied systematically deprived PLAINTIFF and other Class Members and
27 Aggrieved Employees of compensable time because the time-rounding system implemented by
28 DEFENDANTS would almost always, if not always, result in understating actual compensable work

1 time. For example, DEFENDANTS' time records for PLAINTIFF beginning on 7/18/22 through
2 7/25/22 show a consistent shift start or "in" time of precisely 5:00 a.m. for each shift worked from
3 7/18/22 through 7/25/22 and a shift end/ "out" time that is rounded to the nearest quarter hour. For
4 example, from 7/18/22 through 7/25/22, PLAINTIFF's shift end times are rounded to nearest quarter
5 hour and recorded as included but not limited to 1:30 p.m., 2:15 p.m., or 2:45 p.m. Similarly,
6 DEFENDANTS' time records for PLAINTIFF for the same period consistently reflect a meal period
7 taken from precisely 10:15 a.m. to exactly 10:45 a.m. for each shift worked from 7/18/22 to 7/25/22.
8 Likewise, DEFENDANTS' time records as listed on PLAINTIFF's wage statement for PLAINTIFF
9 for the previous pay period, i.e., pay period beginning on 7/4/22 and ending on 7/17/22 evidence
10 that each recorded time entry is rounded to the nearest quarter hour. DEFENDANTS' failure to pay
11 for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful
12 meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and
13 policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and Class Members
14 and Aggrieved Employees as well as unpaid overtime wages for those Class Members and
15 Aggrieved Employees who worked more than eight (8) hours in a day and/or more than forty (40)
16 hours in a week.

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

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

26 29. Based on information and belief, DEFENDANTS failed to incorporate all non-
27 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple
28 base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the

1 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed
2 to PLAINTIFF and other Class Members and Aggrieved Employees.

3 30. **Meal Period Violations.** PLAINTIFF and other Class Members and Aggrieved
4 Employees consistently worked shifts of at least five and one-half hours or more, entitling them to
5 at least one meal period. However, PLAINTIFF and other Class Members and Aggrieved
6 Employees would not receive legally compliant thirty (30) minute first and second meal periods.
7 Based on information and belief, Class Members and Aggrieved Employees were consistently
8 unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take
9 late meal periods, interrupted meal periods, and/or work through part or all their meal periods due
10 to understaffing, the nature and constraints of their job duties and/or commentary from supervisors
11 pressuring them to take non-compliant meal periods or skip meal periods completely.

12 31. Based on information and belief, other Class Members and Aggrieved Employees
13 were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had
14 their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise
15 on duty due to commentary from supervisors, understaffing, the nature and constraints of their job
16 duties, and/or the need to meet DEFENDANTS' goals and expectations. For example, oftentimes,
17 PLAINTIFF was forced to take an interrupted meal period and/or take his meal period late (i.e. after
18 working more than five hours) due to lack of relief workers, the need to keep up with warehouse
19 deadlines, load the carts and/or trucks, and/or complete other work tasks. Even when PLAINTIFF
20 was required to work through part or all of his owed thirty-minute meal period, DEFENDANTS
21 performed an automatic deduction of at least thirty minutes per shift as though a full thirty-minute
22 off-duty meal period had been taken, when it had not. For instance, DEFENDANTS' time records
23 for PLAINTIFF consistently show that a 30-minute meal period deduction from 10:15 am to 10:45
24 am, resulting in meal period violations and unpaid wages for off-the-clock work performed during
25 the unpaid meal period. Moreover, the time records as displayed on PLAINTIFF's wage statements
26 show that meal periods were consistently provided after the end of the fifth hour of work in violation
27 of California law.

28 32. Based on information and belief, DEFENDANTS implemented policies and/or

1 practices that failed to relieve Class Members and Aggrieved Employees of all duties and
2 DEFENDANTS' control during unpaid meal periods.

3 33. Based on information and belief, DEFENDANTS required Class Members and
4 Aggrieved Employees to complete off-the-clock work prior to their scheduled shift time which
5 DEFENDANTS failed to take into account when scheduling meal periods for Class Members and
6 Aggrieved Employees. Based on information and belief, meal periods were late, in part due to
7 unaccounted pre-shift off-the-clock work.

8 34. Based on information and belief, despite DEFENDANTS' failure to provide lawful
9 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
10 times of PLAINTIFF's and other Class Members' and Aggrieved Employees' meal periods and/or
11 automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal
12 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Class
13 Members and Aggrieved Employees did not receive lawful meal periods.

14 35. Moreover, per DEFENDANTS' uniform policy and practice, Class Members and
15 Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally
16 compliant thirty (30) minute second meal period. For example, when PLAINTIFF worked shifts
17 lasting longer than ten (10) hours, he was not afforded any version of a second meal period. For
18 example, on 7/18/22, PLAINTIFF's time records show a shift start time of 5:00 am and a shift end
19 time of 5:00 pm, but the records indicate that only a single purported meal period was provided from
20 10:15 am to 10:45 am.

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

25 37. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
26 records of the true start and end times of PLAINTIFF's and Class Members' and Aggrieved
27 Employees' meal periods. Based on information and belief, to the extent meal period were recorded,
28 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in

1 PLAINTIFF and other Class Members and Aggrieved Employees not being paid for all time worked
2 as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th
3 58.

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

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

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

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

23 42. 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. For example, DEFENDANTS did not afford PLAINTIFF the opportunity to take any
26 version of a third rest period when he worked shifts that lasted longer than ten (10) hours.

27 43. Based on information and belief, Class Members' and Aggrieved Employees' rest
28 periods were interrupted, cut short, on duty, restricted to work premises and/or late due to

1 understaffing, the nature and constraints of their job duties, and/or due to commentary from
2 supervisors/managers pressuring them to skip rest periods completely or otherwise take non-
3 compliant rest periods.

4 44. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
5 lasting longer than ten hours.

6 45. Based on information and belief, DEFENDANTS implemented policies and/or
7 practices that failed to relieve PLAINTIFF and other Class Members and Aggrieved Employees of
8 all duties and DEFENDANTS' control during rest periods.

9 46. Based on information and belief, Class Members and Aggrieved Employees were
10 pressured to complete their work duties according to a designated schedule such that rest periods
11 were only taken once tasks were completed, and/or as time permitted.

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

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

28 49. DEFENDANTS issued wage statements to PLAINTIFF and Class Members and

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

8 50. As described herein, based on information and belief, DEFENDANTS also failed to
9 incorporate all forms of non-discretionary compensation earned during the pay period into the
10 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
11 of overtime worked by PLAINTIFF and other Class Members and Aggrieved Employees.

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

16 52. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
17 Members and Aggrieved Employees that were not accurate and did not include all of the statutorily
18 required information. As such, DEFENDANTS violated Labor Code section 226.

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

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

1 all owed sick leave and/or paid time off wages at the properly accrued rates.

2 55. These violations subject DEFENDANTS to civil penalties under Labor Code section
3 203, 210, and/or 256.

4 56. **Unreimbursed Business Expenses.** Based on information and belief,
5 DEFENDANTS required PLAINTIFF and Class Members and Aggrieved Employees to incur
6 business expenses as a direct consequence of the performance of their job duties without providing
7 reimbursement, in violation of Labor Code section 2802. Based on information and belief,
8 PLAINTIFF and Class Members and Aggrieved Employees were improperly required to provide
9 and maintain work tools that are supposed to be the responsibility of the employer.

10 57. Based on information and belief, DEFENDANTS shifted the costs of doing business
11 onto Class Members and Aggrieved Employees by requiring them to pay for business expenses,
12 including but not limited to, the use of Class Members and Aggrieved Employees' personal mobile
13 phone and data usage for work related purposes to receive and respond to work related messages
14 and/or phone calls and uniforms/work clothing/shoes, and/or protective equipment/safety gear. For
15 example, DEFENDANTS required that PLAINTIFF supply his own steel-toed boots, reflective
16 vests, protective eyewear and grip gloves to wear for work without reimbursing PLAINTIFF for the
17 expenses he incurred in connection therewith.

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

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

27 60. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
28 engaged in these same herein described unlawful practices and that DEFENDANTS applied these

1 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

2 **FIRST CAUSE OF ACTION**

3 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
4 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

5 61. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

6 62. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
7 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
8 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
9 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
10 period is unlawful.

11 63. DEFENDANTS violated California’s minimum wage laws by failing to compensate
12 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
13 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
14 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
15 and/or payment according to scheduled hours worked rather than actual hours worked (described
16 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
17 wages.

18 64. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
19 Class Members for all hours worked.

20 65. Based on information and belief, DEFENDANTS had actual or constructive
21 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
22 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
23 periods, policy and practice of payment according to scheduled work time rather than actual work
24 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
25 owed to PLAINTIFF and other Class Members.

26 66. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
27 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
28 attorney's fees and costs, in an amount to be proved at trial.

SECOND CAUSE OF ACTION

Recovery of Unpaid Overtime Wages
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

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

68. Employees in California must be paid overtime, equal to one and one-half times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of work in a workweek, and they must be paid double the regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh consecutive day of work in a workweek, unless they are exempt.

69. As explained above, PLAINTIFF and the Class Members worked overtime hours for which they were not compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding, automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to scheduled hours worked rather than actual hours worked (described above), which resulted in the failure to account for all hours worked and thus the denial of all owed overtime wages.

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

71. Based on information and belief, DEFENDANTS further violated California's overtime wage laws by failing to incorporate all non-discretionary compensation, including but not limited to, non-discretionary bonus compensation, shift differentials, multiple base rates of pay and/or other non-discretionary compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and other Class Members.

72. DEFENDANTS' conduct described above is in violation of California Labor Code sections 510 and 1194 and all applicable Wage Orders.

1 73. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
2 wages, plus attorney's fees and costs, in an amount to be proved.

3 **THIRD CAUSE OF ACTION**

4 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
5 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

6 74. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 75. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
8 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
9 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
10 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
11 waived, but only under the following circumstances: (1) if an employee's total work period in a day
12 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
13 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
14 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
15 waived by mutual consent of the employer and employee, but only if the first meal period was not
16 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
17 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
18 done so.

19 76. Employers must pay employees an additional hour of wages at the employees'
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7.

23 77. As explained above, PLAINTIFF and other Class Members were consistently unable
24 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being
25 forced to take late meal periods, interrupted meal periods, and/or work through part or all of their
26 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary
27 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
28 completely.

 78. As explained above, DEFENDANTS had and continue to have a policy of rounding

1 the start and end times of employees' meal periods and automatically deducting thirty minutes per
2 shift despite having actual and/or constructive knowledge that PLAINTIFF and Class Members did
3 not receive compliant meal periods.

4 79. Moreover, based on information and belief, Class Members did not receive a timely,
5 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

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

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

15 82. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
16 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
17 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
18 all in an amount to be proved at trial.

19 **FOURTH CAUSE OF ACTION**

20 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

21 83. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

22 84. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
24 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
25 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
26 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
27 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
28 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).

1 The rest period requirement obligates employers to permit and authorize employees to take off-duty
2 rest periods, meaning employers must relieve employees of all duties and relinquish control over
3 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

4 85. If the employer fails to provide any required rest period, the employer must pay the
5 employee one hour of pay at the employee's regular rate of compensation for each workday the
6 employer did not provide at least one legally required rest period, pursuant to Labor Code section
7 226.7.

8 86. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-
9 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,
10 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to
11 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,
12 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to
13 skip rest periods completely or otherwise take non-compliant rest periods.

14 87. Based on information and belief, DEFENDANTS implemented policies and/or
15 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer
16 control during rest periods. Based on further information and belief, Class Members were pressured
17 to complete their work duties according to a designated schedule such that rest periods were only
18 taken once tasks were completed, and/or as time permitted.

19 88. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
20 second, or third rest periods as required by California law.

21 89. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
22 period premium to PLAINTIFF and other Class Members for each workday in which there was a
23 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
24 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
25 not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the
26 regular rate of compensation for purposes of determining the owed rest period premium.

27 90. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
28 hour of additional pay at the regular rate of compensation for each workday that a required rest

1 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
2 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
3 trial.

4 **FIFTH CAUSE OF ACTION**

5 **Failure to Furnish Accurate Itemized Wage Statements**
6 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

7 91. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

8 92. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
9 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
10 wage statement accurately stating the following:

11 (1) gross wages earned, (2) total hours worked by the employee,
12 except for any employee whose compensation is solely based on a
13 salary and who is exempt from payment of overtime under
14 subdivision (a) of Section 515 or any applicable order of the Industrial
15 Welfare Commission, (3) the number of piece-rate units earned and
16 any applicable piece rate if the employee is paid on a piece-rate basis,
17 (4) all deductions, provided that all deductions made on written orders
18 of the employee may be aggregated and shown as one item, (5) net
19 wages earned, (6) the inclusive dates of the period for which the
20 employee is paid, (7) the name of the employee and his or her social
21 security number, except that by January 1, 2008, only the last four
22 digits of his or her social security number or an employee
23 identification number other than a social security number may be
24 shown on the itemized statement, (8) the name and address of the
25 legal entity that is the employer, and (9) all applicable hourly rates in
26 effect during the pay period and the corresponding number of hours
27 worked at each hourly rate by the employee.

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

94. Moreover, due to violations detailed above, including but not limited to,
DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide

1 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
2 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
3 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross
4 and net wages earned and the correct applicable rates of pay for all hours worked. Based on
5 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
6 compensation earned during the pay period into the regular rate of pay for purposes of calculating
7 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
8 overtime worked by PLAINTIFF and other Class Members.

9 95. As explained above, wage statements issued by DEFENDANTS failed to list the
10 “total hours worked” by PLAINTIFF and Class Members (by virtue of rounded time entries,
11 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
12 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
13 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
14 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
15 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
16 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

21 97. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
22 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
23 Members over whether they received all wages owed to them.

24 98. As a result, PLAINTIFF and other Class Members have suffered injury as they could
25 not easily determine whether they received all wages owed to them and whether they were paid for
26 all hours worked.

27 99. Moreover, as a result of DEFENDANTS’ failure to list the correct name and/or
28 address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered injury

1 as they could not contact their employer regarding any question(s) they had about wages paid.

2 100. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
3 Class Members with accurate, itemized wage statements.

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

13 102. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
14 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
15 violation occurred and one hundred dollars per employee per violation for each subsequent pay
16 period, not to exceed an aggregate penalty of four thousand dollars per employee.

17 103. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
18 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
19 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
20 provide currently employed Class Members with inaccurate wage statements in violation of
21 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
22 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
23 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
24 with California Labor Code § 226(a).

25 104. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
26 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
27 attorneys' fees, and costs of suit.

28 **SIXTH CAUSE OF ACTION**

Failure to Timely Pay All Wages Due Upon Separation of Employment

1 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

2 105. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

3 106. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
4 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
5 payable immediately.”

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

11 108. Based in information and belief, DEFENDANTS failed and continue to fail to timely
12 pay final wages to Class Members upon separation of employment in violation of Labor Code
13 section 201-202. Moreover, final paychecks once provided to Class Members do not include all
14 wages owed as they are devoid of, including but not limited to, all owed minimum wages, overtime
15 wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the
16 properly accrued rates.

17 109. Under Labor Code section 203, Class Members who are no longer employed by
18 DEFENDANTS are entitled to recover waiting time penalties of up to 30 days’ pay, plus attorney’s
19 fees and costs, in an amount to be proved at trial.

20 **SEVENTH CAUSE OF ACTION**

21 **Failure to Reimburse Business Expenses**

22 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

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

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

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

113. As described above, Class Members were improperly required to pay for business expenses that are legally the responsibility of the employer.

114. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

115. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class Members have suffered injury in that they were not completely reimbursed as mandated by California law.

116. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable attorneys' fees, and costs of suit.

EIGHTH CAUSE OF ACTION

Failure to maintain business records (§§ 1174, 1198, 1199) (By PLAINTIFF and the Class Members Against all DEFENDANTS)

117. 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.

118. Due to DEFENDANTS' automatic meal break deductions, failure to relieve

1 employees of all duties and employer control during meal periods, time rounding and/or payment
2 according to scheduled hours rather than actual hours worked, and other off-the-clock work policies
3 and practices described above, DEFENDANTS failed, and continue to fail, to keep accurate and
4 complete records as required by law, including but not limited to the following records: total daily
5 hours worked, applicable rates of pay, time records showing when PLAINTIFF and other Class
6 Members began and ended each work period, time records of meal periods, shift start times and end
7 times, and accurate itemized wage statements.

8 119. DEFENDANTS' failure to keep "accurate and complete" payroll records for
9 PLAINTIFF and other Class Members violates Labor Code §§ 1174, 1198, 1199, and all applicable
10 Wage Orders, section 7.

11 NINTH CAUSE OF ACTION

12 Failure to produce personnel file upon request (§§ 1198.5, 432)

13 By PLAINTIFF and the Class Members Against all DEFENDANTS)

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

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

122. *Personnel Records.* In addition to their right to time and pay records, employees, and

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

5 123. Labor Code section 1198.5 also requires that the file be made available for inspection
6 or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date
7 the employer receives a written request." An employer's failure to comply within this timeframe
8 likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty
9 from the employer. Lab. Code section 1198.5(k).

10 124. Based on information and belief, DEFENDANTS have a uniform policy and practice
11 of failing to produce or make available a current or former employee's personnel records and/or
12 payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the
13 applicable Wage Order.

14 125. DEFENDANTS' conduct explained above is in violation of Labor Code Sections
15 226(b) & (c). Accordingly, PLAINTIFF and Class Members are therefore each entitled to recover
16 a \$750.00 penalty from DEFENDANTS, along with costs and reasonable attorneys' fees, pursuant
17 to Labor Code Section 226(f).

18 126. DEFENDANTS' conduct is also in violation of Labor Code section 1198.5. Pursuant
19 to Labor Code Sections Labor Code section 1198.5(k), PLAINTIFF and the Class Members are
20 entitled to recover an additional \$750.00 penalty from DEFENDANTS, along with injunctive relief,
21 costs and reasonable attorney's fees pursuant to Labor Code section 1198.5(l).

22 **TENTH CAUSE OF ACTION**

23 **Refusal to make payment (§ 216)**

24 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

25 127. 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 Class Members for all hours
28 worked at the proper wage rate and by failing to pay an additional hour of pay for each meal/rest
period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries, Inc.*

1 (1995) 31 Cal.App.4th 1137, 1154-1155.

2 **ELEVENTH CAUSE OF ACTION**

3 **Failure to pay statutory wages (§ 223)**

4 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

5 128. California Labor Code section 223 makes it unlawful for an employer to secretly pay
6 wages lower than required by statute while purporting to pay legal wages. As described above,
7 DEFENDANTS willfully and systematically denied PLAINTIFF and Class Members of all earned
8 minimum and overtime compensation for all hours worked which resulted in the payment of less
9 than statutorily required wages. DEFENDANTS acted with the intent to deprive them of statutory
10 wages, including, but not limited to, minimum and overtime wages, to which they were entitled to
11 under California law. Thus, DEFENDANTS paid PLAINTIFF and other Class Members lower
12 wages than those they were entitled to while purporting that PLAINTIFF and other Class Members
13 were properly paid.

14 **TWELFTH CAUSE OF ACTION**

15 **Failure to provide sick leave (§§ 233-234, 245-248.5)**

16 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

17 129. 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 Class Members 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/incentive pay, shift differential pay, multiple base rates of
23 pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

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

131. But for this failure, PLAINTIFF and other Class Members would have used their

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

3 132. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
4 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all Class
5 Members permitting the presumption that PLAINTIFF and all Class Members were entitled to the
6 maximum number of hours accruable.

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

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

12 135. On information and belief, PLAINTIFF alleges that all of these practices were
13 experienced and continue to be experienced by other Class Members.

14 **THIRTEENTH CAUSE OF ACTION**

15 **Failure to provide supplemental paid sick leave (§ 248.2)**

16 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

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

24 **FOURTEENTH CAUSE OF ACTION**

25 **Failure to pay vested vacation and paid time off (§ 227.3)**

26 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

27 137. California Labor Code section 227.3 provides that when an employer policy provides
28 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the

1 employee's final rate in accordance with such contract of employment or employer policy respecting
2 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
3 off upon termination.

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

9 **FIFTEENTH CAUSE OF ACTION**

10 **Unlawful deductions (§ 221)**

11 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

12 139. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
13 an employee any part of wages theretofore paid by said employer to said employee." Based on
14 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees'
15 paychecks during the relevant period, by including but not limited to unlawfully deducting wages
16 paid in previous pay periods, costs of uniforms, and/or costs advanced by DEFENDANTS from
17 Class Members' final paychecks. Such a practice is in violation of including but not limited to,
18 Labor Code Sections 221-222.

19 **SIXTEENTH CAUSE OF ACTION**

20 **Unlawful inquiries into criminal history (§ 432.7)**

21 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

22 140. Labor code section 432.7 prohibits an employer from asking applicants about past
23 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
24 information and belief, defendants asked aggrieved employees about arrests not resulting in
25 convictions on its employment application, in violation of California law.

26 141. Upon information and belief, DEFENDANTS, in violation of California law,
27 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
28 ("FEHA"), asked Class Members about convictions prior to extending an offer of employment
and/or otherwise impermissibly inquired into criminal history on its employment application in

1 violation of California law.

2 142. By asking about arrests not resulting in convictions, DEFENDANTS violated labor
3 code section 432.7. By asking about convictions at the application phase or prior to extending an
4 employment offer, employer violated California's Fair Chance Act, and thereby violated labor code
5 section 432.5 by unlawfully requiring Class Members to agree in writing to disclose arrests and/or
6 convictions as a condition of employment.

7 **SEVENTEENTH CAUSE OF ACTION**

8 **Unfair Competition**

9 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

10 143. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

11 144. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
12 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
13 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
14 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
15 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
16 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
17 wage statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure
18 to timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to
19 provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to,
20 including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
21 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
22 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and
23 practices, payment according to scheduled hours worked and/or other off-the-clock work policies
24 and practices) and other violations alleged herein.

25 145. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
26 California Labor Code, DEFENDANTS have gained a competitive advantage over other
27 comparable companies doing business in the State of California that comply with their obligations
28 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate

1 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
2 minimum and overtime wages and to pay all wages due upon separation of employment of their
3 employees.

4 146. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
5 and Class Members have suffered injury in fact and lost money or property, as described in more
6 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
7 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
8 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
9 unlawful and unfair business practices.

10 147. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
11 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
12 engaging in each of the unlawful practices and policies set forth herein.

13 148. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc
14 Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted
15 by law.

16 **EIGHTEENTH CAUSE OF ACTION**

17 **Violation of the Private Attorneys General Act of 2004**

18 **(By PLAINTIFF and the Aggrieved Employees Against All DEFENDANTS)**

19 149. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

20 150. PLAINTIFF brings this action under the Private Attorneys General Act of 2004,
21 Labor Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of the State of
22 California and Aggrieved Employees, regarding violations of the California Labor Code as set forth
23 herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

24 All current and former non-exempt employees that worked either directly or via a
25 staffing agency for DEFENDANTS at any location in California at any time from
26 one year plus 65 days from the filing of the initial Complaint through the present
27 ("PAGA Period").

28 151. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory

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

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

10 152. On December 5, 2022, PLAINTIFF, through counsel, gave written notice by online
11 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that
12 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
13 in this Complaint ("PAGA Notice").

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

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

23 155. From one year prior to PLAINTIFF's filing of the required PAGA notice with the
24 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated California
25 Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 432, 432.5, 432.7, 510,
26 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all
27 applicable Wage Orders.

28 156. As set forth above, DEFENDANTS have committed numerous violations of the

1 California Labor Code due to including but not limited to their failure to pay all owed minimum
2 wages and all owed overtime wages, failure to provide lawful meal and rest periods or compensation
3 in lieu thereof, failure to provide accurate wage statements, failure to reimburse business expenses,
4 and failure to pay all wages owed upon separation of employment as alleged above. PAGA penalties
5 are in addition to any other relief available under the Labor Code.

6 157. Additionally, DEFENDANTS have violated the following Labor Code sections and
7 provisions of the applicable Wage Order as to the Aggrieved Employees.

8 **Record Keeping Violations**

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

13 159. Due to DEFENDANTS’ automatic meal break deductions, failure to relieve
14 employees of all duties and employer control during meal periods, time rounding and/or payment
15 according to scheduled hours rather than actual hours worked, and other off-the-clock work policies
16 and practices described above, DEFENDANTS failed, and continue to fail, to keep accurate and
17 complete records as required by law, including but not limited to the following records: total daily
18 hours worked, applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved
19 Employees began and ended each work period, time records of meal periods, shift start times and
20 end times, and accurate itemized wage statements.

21 160. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
22 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
23 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
24 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
25 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
26 period during which the referenced statutes and Wage Order provisions were violated.³

27 ³ Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor
28 Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the
employee was underpaid”); All applicable wage orders, § 20 (establishing that “[i]n addition to any other civil

1 161. **Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432: Time and Pay**
2 **Records.** Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that
3 employers keep the following information on file for each employee for a minimum of three years:
4 The employee’s dates of employment; the employee’s hourly rates and the corresponding number
5 of hours worked by the employee at each hourly rate, when the employee begins and ends each work
6 period (including meal periods) and split intervals; total hours worked by the employee; all
7 deductions; gross wages earned; and net wages earned.

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

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

22 164. Labor Code section 1198.5 also requires that the file be made available for inspection
23 or receipt within a “reasonable” amount of time, but “not later than 30 calendar days from the date
24 the employer receives a written request.” An employer’s failure to comply within this timeframe
25 likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty

26 _____
27 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
28 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 from the employer. Lab. Code section 1198.5(k).

2 165. Based on information and belief, DEFENDANTS fail to timely produce or make
3 available a current or former employee's personnel records and/or payroll records when requested
4 pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example,
5 on September 28, 2022, PLAINTIFF sent a written request for payroll and personnel records to
6 DEFENDANTS. Yet, DEFENDANTS failed to timely produce complete records within the time
7 periods delineated by California labor law. Based on information and belief, DEFENDANTS failed
8 and continue to fail to timely produce complete time, pay, and personnel records when requested by
9 other Aggrieved EMPLOYEES. Based on information and belief, EMPLOYER failed and continues
10 to fail to timely produce complete payroll and personnel records when requested by other Aggrieved
11 Employees.

12 166. These violations subject DEFENDANTS to penalties under Labor Code sections
13 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for
14 each Aggrieved Employee, results in a separate civil penalty.

15 **Standard Conditions of Labor Violations**

16 167. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
17 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
18 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
19 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
20 violations with respect to meal periods, rest periods, record keeping provisions, suitable seating,
21 business expenses, and minimum/overtime wages result in separate violations of sections 1198 and
22 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

23 **Refusal to Make Payment**

24 168. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
25 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
26 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
27 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
28 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*

1 Inc. (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
2 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
3 each Aggrieved Employee, for each pay period during which the statute provisions were violated.⁴

4 **Statutory Wage Violations**

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

16 **Sick Leave Violations**

17 170. 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/incentive pay, shift differential pay, multiple base rates of
23 pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

24 171. 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

27 ⁴ 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 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
2 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
3 Aggrieved Employees' intelligent exercise of their paid sick leave.

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

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

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

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

18 176. On information and belief, PLAINTIFF alleges that all of these practices were
19 experienced and continue to be experienced by other Aggrieved Employees.

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

23 **Failure To Provide Supplemental Paid Sick Leave.**

24 178. Labor Code § 248.2 provides that all employers with 26 or more employees are
25 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
26 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based
27 on information and belief, DEFENDANTS violated Labor Code § 248.2 by not providing Aggrieved
28 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information

1 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
2 Labor Code section 248.6.

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

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

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

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

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

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

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

26 183. Suitable seating is one of the worker protections covered by California's Wage
27 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
28 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*

1 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

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

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

12 186. The Aggrieved Employees worked in various positions, including but not limited to,
13 warehouse workers, general laborers, and/or similar titles. The nature of PLAINTIFF's and other
14 Aggrieved Employees' work reasonably permitted the use of seats. However, DEFENDANTS
15 failed to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas in
16 violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199,
17 subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each
18 violation of each Labor Code section and IWC Wage Order provision, for each Aggrieved
19 Employee, results in a separate civil penalty.

20 **Unlawful Deductions**

21 187. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
22 an employee any part of wages theretofore paid by said employer to said employee." Based on
23 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees'
24 paychecks during the relevant period, by including but not limited to unlawfully deducting wages
25 paid in previous pay periods, costs of uniforms, and/or costs advanced by DEFENDANTS from
26 Aggrieved Employees' final paychecks. Such a practice is in violation of including but not limited
27 to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor
28 Code Section 2699. Each violation results in a separate civil penalty, for each Aggrieved Employee,

1 for each pay period during which the statute provisions were violated. See Lab. Code §225.5
2 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
3 provided in this article, every person who unlawfully withholds wages due any employee in
4 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
5 to pay each employee”).

6 **Unlawful Agreements/ Unlawful Criminal History Inquiries:**

7 **Unlawful Agreements**

8 188. Labor code section 432.5 provides that “no employer...shall require any employee
9 or applicant for employment to agree, in writing, to any term or condition which is known by such
10 employer...to be prohibited by law.” Based on information and belief, DEFENDANTS required
11 PLAINTIFF, and other Aggrieved Employees to agree in writing to unlawful conditions of
12 employment including but not limited to , unlawful non-compete agreements and/or non-solicitation
13 agreements, unlawful confidentiality agreements, and/or unlawful criminal and/or financial checks,
14 as a condition of obtaining and/or continuing employment in violation of labor code section 432.5.

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

27 190. Based on information and belief, DEFENDANTS ordered unlawful financial credit
28 checks on Aggrieved Employees, in violation of labor code section 1024.5, and required aggrieved

1 employees to provide ongoing written consent to the unlawful credit checks as a condition of
2 employment, in violation of California and Federal law, which results in a further violation of labor
3 code section 432.5.

4 191. Based on information and belief, DEFENDANTS also required Aggrieved
5 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as
6 a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For
7 example, DEFENDANTS required PLAINTIFF to submit and/or agree to submit in writing to an
8 unlawful criminal background check as a condition of obtaining and/or holding employment and
9 conducted a criminal background check on PLAINTIFF. For example, DEFENDANTS' purported
10 background check disclosure was not clear and conspicuous and was therefore unlawful, for, among
11 other reasons, it contains irrelevant information, including but not limited to, irrelevant information
12 pertaining to other states (e.g., Minnesota and Oklahoma).

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

23 193. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
24 financial checks not in conformance with the applicable laws, DEFENDANTS violated labor code
25 section 432.5.

26 194. Based on information and belief, DEFENDANTS also required Aggrieved
27 Employees to agree in writing to provide ongoing consent to defendants to conduct background
28 checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or

1 other applicable laws, resulting in a further violation of labor code section 432.5, by requiring
2 applicants and employees to agree to an unlawful provision as a condition of employment.

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

6 196. By requiring Aggrieved Employees agree in writing to unlawful provisions as a
7 condition of employment, DEFENDANTS violated labor code section 432.5.

8 Unlawful inquiries into criminal history

9 197. Labor code section 432.7 prohibits an employer from asking applicants about past
10 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
11 information and belief, defendants asked aggrieved employees about arrests not resulting in
12 convictions on its employment application, in violation of California law.

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

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

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

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

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

1 202. Labor Code section 6401 provides as follows:

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

6 204. Labor Code section 6402 prohibits the following:

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

9 206. Similarly, Labor Code section 6404 provides as follows:

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

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

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

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

17 211. (b) To adopt and use methods and processes reasonably adequate to render the
18 employment and place of employment safe.

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

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

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

24 215. Finally, Labor Code section 6407 provides:

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

28 217. Moreover, Labor Code section 6409.6 sets forth the actions an employer (or

1 representative of employer) must take within one business day of receiving notice of potential
2 exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

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

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

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

1 notifications required in subdivision (a) for a period of at least three years.

2 221. At all relevant times, DEFENDANTS had and have a policy and practice of failing
3 within one business day after DEFENDANTS or a representative of DEFENDANTS received notice
4 of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other Aggrieved
5 Employees and/or their exclusive representatives, who were on the premises at the same worksite
6 as a qualifying individual who was within the infectious period that they may have been exposed to
7 COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and
8 practice of failing within one business day after DEFENDANTS or a representative of EMLOYER
9 received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other Aggrieved
10 Employees who were on the premises at the same worksite as the qualifying individual within the
11 infectious period and the exclusive representative, if any, with information regarding COVID-19-
12 related benefits to which the employee may be entitled under applicable federal, state or local laws,
13 including but not limited to, workers' compensation, and options for exposed employees, including
14 COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or
15 negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the
16 employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and
17 6432.

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

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

1 to notify the local public health agency in the jurisdiction of the worksite of the names, number,
2 occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as
3 defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed
4 health care provider; a COVID-19 related order to isolate provided by a public health official; or
5 died due to COVID-19, in the determination of a county public health department or per inclusion
6 in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation,
7 Labor Code sections 6409.6 and 6432.

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

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

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

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

1 228. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
2 Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF and Aggrieved Employees and
3 is subject to civil penalties.

4 229. On information and belief, PLAINTIFF alleges that all of these practices were
5 experienced and continue to be experienced by other Aggrieved Employees.

6 230. Under the provisions of PAGA and the following Labor Code sections, including but
7 not limited to, Labor Code sections, 201-203, 210, 216, 221-223, 225.5, 226, 226.7, 245-248.6, 256,
8 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2699,
9 2699.3, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6, 6432 and all relevant sections of the
10 applicable Wage Orders, as well as all interpretations of these laws by California Courts and
11 administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS
12 are liable for the following penalties:

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

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

24 232.

25 **PRAYER FOR RELIEF**

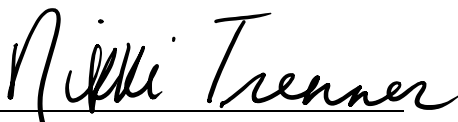
26 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and
27 Class Members and Aggrieved Employees as follows:

- 28 1. For an order that the action be certified as a class action;

2. For an order that PLAINTIFF be appointed as class representative;
3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred;
12. For civil penalties according to proof, including PAGA penalties (75% payable to the LWDA and 25% payable to Aggrieved Employees); and
13. For such other and further relief that the Court deems just and proper.

Dated: August 18, 2023

CROSNER LEGAL, PC

By: 

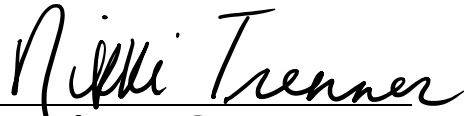
Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Nikki Trenner, Esq.
Attorneys for Plaintiff,
JOHNNY GARCIA

DEMAND FOR JURY TRIAL

PLAINTIFF demands a trial by jury on all claims so triable.

1 Dated: August 18, 2023

CROSNER LEGAL, PC

2
3 By: 
4 Zachary M. Crosner, Esq.
5 Jamie Serb, Esq.
6 Nikki Trenner, Esq.
7 Attorneys for Plaintiff,
8 JOHNNY GARCIA
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