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Attorneys for Plaintiff TOMAS MALDONADO
as an Aggrieved Employee, and on behalf of all other
Aggrieved Employees

Assigned for All Purposes

Judge William Claster

CX-101

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

TOMAS MALDONADO, as an Aggrieved
Employee, and on behalf of all other
Aggrieved Employees under the Labor Code
Private Attorneys' General Act of 2004,

Plaintiff,

v.

TRES AMIGOS FROM SAN DIEGO LLC, a
California limited liability company doing
business as GUACAMIGOS; KELLY
COMPANIES OF SOUTHERN
CALIFORNIA, LLC, a California limited
liability company; KELLY OPERATIONS
GROUP, LLC, a Pennsylvania limited liability
company; KELLY INVESTMENT GROUP,
LLC, a California limited liability company;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 30-2026-01540275-CU-OE-CXC

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff TOMAS MALDONADO (“Plaintiff”), as an Aggrieved Employee, and on behalf
2 of all other Aggrieved Employees under the Labor Code Private Attorneys’ General Act of 2004,
3 alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against TRES AMIGOS
7 FROM SAN DIEGO LLC, a California limited liability company doing business as
8 GUACAMIGOS and any of its respective subsidiaries or affiliated companies within the State of
9 California (“Tres Amigos from San Diego”), KELLY COMPANIES OF SOUTHERN
10 CALIFORNIA, LLC, a California limited liability company and any of its respective subsidiaries
11 or affiliated companies within the State of California (“Kelly Companies of Southern California”),
12 KELLY OPERATIONS GROUP, LLC, a Pennsylvania limited liability company and any of its
13 respective subsidiaries or affiliated companies within the State of California (“Kelly Operations”),
14 KELLY INVESTMENT GROUP, LLC, a California limited liability company and any of its
15 respective subsidiaries or affiliated companies within the State of California (“Kelly Investment
16 Group”), (hereinafter, collectively, with DOES 1 through 100, as further defined below,
17 “Defendants”) as a proxy of the Labor and Workforce Development Agency of the State of
18 California (“LWDA”), on behalf of Plaintiff and all Aggrieved Employees that worked for
19 Defendants during the PAGA Period. Specifically, in connection with any alleged claims for failure
20 to comply with Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.3, 226.7, 233, 234,
21 245, 246, 432, 432.5, 432.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1198,
22 1198.5, 1774, 1174.5, 1197, 1197.1, 2800, 2802, 2699, 2699.3, as well as applicable Wage Orders,
23 Plaintiff seeks to represent all current and former employees that worked for Defendants during the
24 PAGA Period. On all other claims mentioned herein, Plaintiff seeks to represent only non-exempt
25 current and former employees that worked for Defendants during the PAGA Period. Collectively,
26 these employees are herein referred to as “Aggrieved Employees.” The “PAGA Period” refers to
27 three years preceding the date notice was submitted to the LWDA, continuing past the date of notice
28 to the LWDA into perpetuity.

PARTIES

2. Plaintiff TOMAS MALDONADO is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-exempt employee. Plaintiff worked as a line cook with duties that included, but were not limited to, opening the restaurant, heating food, taking inventory and cooking. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff TOMAS MALDONADO worked for Defendants from approximately February of 2019 through approximately November of 2024.

3. Plaintiff is informed and believes and based thereon alleges that defendant Tres Amigos San Diego is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of California and doing business in the County of Orange, State of California. At all relevant times herein, Tres Amigos San Diego employed Plaintiff and Aggrieved Employees within the State of California.

4. Plaintiff is informed and believes and based thereon alleges that defendant Kelly Companies of Southern California is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of California and doing business in the County of Orange, State of California. At all relevant times herein, Kelly Companies of Southern California employed Plaintiff and Aggrieved Employees within the State of California.

5. Plaintiff is informed and believes and based thereon alleges that defendant Kelly Operations is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of Pennsylvania and doing business in the County of Orange, State of California. At all relevant times herein, Kelly Operations employed Plaintiff and Aggrieved Employees within the State of California.

6. Plaintiff is informed and believes and based thereon alleges that defendant Kelly Investment Group is, and at all times relevant hereto was, a limited liability company organized and existing under and by virtue of the laws of the State of California and doing business in the County of Orange, State of California. At all relevant times herein, Kelly Investment Group employed Plaintiff and Aggrieved Employees within the State of California.

1 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
2 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
3 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
4 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
5 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
6 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
7 the defendants designated hereinafter as DOES when such identities become known.

8 **JOINT LIABILITY ALLEGATIONS**

9 8. Plaintiff is informed and believes, and based thereon alleges, that each defendant
10 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
11 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
12 legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made
13 to “Defendants,” it shall include Tres Amigos from San Diego, Kelly Companies of Southern
14 California, Kelly Operations, Kelly Investment Group, and any of their parent, subsidiary, or
15 affiliated companies within the State of California, as well as DOES 1 through 100 identified herein.

16 9. Plaintiff is informed and believes and based thereon alleges that all the times
17 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
18 representative, joint venture or co-conspirator of each of the other defendants, either actually or
19 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
20 employment, joint venture, and conspiracy.

21 10. All of the acts and conduct described herein of each and every corporate defendant
22 was duly authorized, ordered, and directed by the respective and collective defendant corporate
23 employers, and the officers and management-level employees of said corporate employers. In
24 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
25 their said employees, agents, and representatives, and each of them; and upon completion of the
26 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
27 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
28 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the

aforementioned corporate employees, agents and representatives.

11. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, are joint employers.

JURISDICTION

12. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

13. Venue is proper in Orange County, California pursuant to Code of Civil Procedure sections 392, *et seq.* because, among other things, Orange County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiff and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiff and Defendants was actually performed; and the county in which Defendants, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved Employees in Orange County, and Defendants employ Aggrieved Employees in Orange County.

PAGA REPRESENTATIVE ALLEGATIONS

14. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by Defendants during the PAGA Period and suffered the Labor Code violations set forth herein, even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to recover civil penalties under PAGA, plus reasonable attorneys’ fees and costs, for Plaintiff and all other Aggrieved Employees of Defendants during the PAGA Period.

15. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v. Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the PAGA allegations described herein is not required.

16. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees such as Plaintiff to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3 on behalf of Plaintiff and all other Aggrieved Employees within the PAGA Period.

1 17. Pursuant to Labor Code section 2699.3, on or around July 25, 2025, Plaintiff
2 provided written notice of Defendants' violation of various provisions of the Labor Code to the
3 LWDA online and by certified mail, with return receipt requested, to Defendants ("PAGA Notice").

4 18. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
5 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
6 calendar days of the PAGA Notice.

7 19. To the extent Defendants, or either of them, previously used the notice and cure
8 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
9 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
10 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
11 conference process pursuant to section 2699.3(f).

12 20. In the event that Defendants, or either of them, is/are determined to have satisfied
13 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
14 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
15 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

16 21. In the event that Defendants, or either of them, is/are determined to have, prior to
17 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
18 and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all
19 provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to
20 section 2699(g)(1)-(3).

21 22. In the event that Defendants, or either of them is/are deemed to have adequately taken
22 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
23 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
24 Code section 2699(h)(1)-(3).

25 23. In the event, the LWDA and/or a court issued a finding or determination to the
26 Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the
27 policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or
28 any of them, would be subject to heightened penalties pursuant to Labor Code sections

1 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either
2 Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving
3 of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations
4 as detailed herein was and is malicious, fraudulent, and/or oppressive. Thus, Defendants, or any of
5 them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack
6 eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

7 **FACTUAL ALLEGATIONS**

8 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew,
9 or should have known, that Plaintiff and Aggrieved Employees are entitled to receive wages for all
10 time worked, including regular, overtime, and double times wages, and that Plaintiff and Aggrieved
11 Employees were not receiving all wages owed for work that was required to be performed.

12 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
13 and have a policy or practice of requiring Plaintiff and other Aggrieved Employees to work more
14 than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
15 workweek (in violation of Labor Code sections 551 and 552) without paying them proper overtime
16 wages.

17 26. Upon information and belief, Defendants failed to accurately track and/or pay for all
18 minutes actually worked by Plaintiff and Aggrieved Employees at the proper rates of pay.
19 Defendants also engaged, suffered, or permitted Aggrieved Employees to work off the clock,
20 including, without limitation, by requiring Plaintiff and Aggrieved Employees to make or receive
21 phone calls off the clock; and to clock out and continue performing work duties at the direction of
22 management, including during meal periods.

23 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 violated, without limitation, Labor Code sections 223, 510, 551, 552, 1197, 1182.12, and applicable
25 Wage Orders based on its continued failure to pay minimum and overtime wages for all hours
26 worked. Thus, Plaintiff and other Aggrieved Employees are entitled to actual and liquidated
27 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198. Plaintiff is further
28 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such

1 violations and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
2 penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1197.1,
3 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further
4 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

5 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
6 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
7 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per
8 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
9 compensation in lieu thereof. By way of example, Defendants regularly denied Plaintiff and
10 Aggrieved Employees lawful meal periods by, without limitation, by interrupting meal periods; not
11 providing timely meal periods; failing to provide first and second meal periods; providing short
12 meal periods, including without, limitation meal periods that were recorded for less than thirty
13 minutes, and meal periods that may appear on the record to be thirty minutes or longer but in practice
14 were shorter than thirty minutes; and requiring that employees carry cellular telephones during meal
15 periods. Specifically, Plaintiff was regularly required to work 10 to 12 hour shifts without taking
16 meal breaks and never received penalty pay for meal break violations. Plaintiff and other Aggrieved
17 Employees personally suffered these violations. Consequently, Plaintiff is informed and believes,
18 and based thereon alleges, that Defendants violated Labor Code sections 512 and 1198 each day for
19 each Aggrieved Employee during the PAGA Period, and thus each Aggrieved Employee was owed
20 one hour of premium pay at their regular rate of pay for each day worked during the PAGA Period
21 under Labor Code section 226.7. However, Plaintiff is informed and believes that those premium
22 payments under Labor Code section 226.7 were not made for these non-compliant meal periods,
23 either at all or at the proper regular rate of pay. Defendants would thus be liable for civil penalties
24 pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1198 and 2699 for
25 both failing to authorize the taking of compliant meal periods and for failing to provide premium
26 pay under Labor Code section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k).
27 Plaintiff is further informed and believes, and based thereon alleges, that Defendants' conduct that
28

1 gave rise to such violations and was malicious, fraudulent, or oppressive. As such, Defendants are
2 further liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,
5 including, without limitation, work over four-hour periods (or major fractions thereof) without
6 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
7 and complete ten-minute rest periods in which the employees are completely relieved of all of their
8 duties. By way of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful
9 rest periods by, without limitation, by failing to provide rest periods all together; failing to provide
10 rest periods that were at least ten minutes in length, including rest periods that were shorter than ten
11 minutes, or rest periods that may have encompassed a total of ten minutes but were in practice less
12 than ten uninterrupted minutes; interrupting them; requiring that employees carry cellular
13 telephones during rest periods; not providing rest periods in a timely fashion; and not permitting
14 employees to leave the premises. Plaintiff and other Aggrieved Employees personally suffered these
15 violations. Consequently, Plaintiff is informed and believes, and based thereon alleges, that
16 Defendants violated the applicable Wage Order(s) each day for each Aggrieved Employee during
17 the PAGA Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at
18 their regular rate of pay for each day worked during the PAGA Period under Labor Code section
19 226.7. However, Plaintiff is informed and believes that those premium payments under Labor Code
20 section 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper
21 regular rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants would thus be
22 liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages),
23 558, 1198 and 2699 for both failing to authorize the taking of compliant rest periods and for failing
24 to provide premium pay under Labor Code section 226.7, or injunctive relief under sections
25 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that
26 Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
27 oppressive. As such, Defendants are further liable for civil penalties pursuant to Labor Code section
28 2699(f)(2)(B)(ii).

1 30. As a result of, among other things, Defendants' herein-described policy or practice
2 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
3 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
4 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
5 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
6 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that
7 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the
8 inclusive dates of the period for which the employee is paid; the name of the employee and only the
9 last four digits of their social security number or an employee identification number other than a
10 social security number; all deductions; all applicable hourly rates in effect during the pay period and
11 the corresponding number of hours worked at each hourly rate by the employee; the legal name and
12 address of the employer, and other such information as required by Labor Code section 226,
13 subdivision (a). Consequently, Plaintiff is informed and believes, and based thereon alleges, that
14 Defendants violated Labor Code sections 226, and 1198 each day for each Aggrieved Employee
15 during the PAGA Period, and that, thus Plaintiff and each Aggrieved Employee personally suffered
16 these violations and was owed penalties under Labor Code section 226 for each pay period worked
17 during the PAGA Period. Plaintiff is informed and believes that those penalties under Labor Code
18 section 226 were not paid for these violations of Labor Code section 226. Defendants would thus
19 be liable for civil penalties pursuant to Labor Code sections 226.3, 558, 1198, and 2699, or
20 injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes,
21 and based thereon alleges, that Defendants' conduct above gave rise to such violations and was
22 malicious, fraudulent, or oppressive. Thus, Defendants would further be liable for civil penalties
23 pursuant to Labor Code section 2699(f)(2)(B)(ii).

24 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants also
25 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
26 compensation to Plaintiff and other terminated or resigned employees, including but not limited to,
27 all overtime wages owed; all minimum wages owed; and all premium pay owed as set out above,
28 including, without limitation, for failure to pay at the proper regular rate of pay, among other things.

1 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants violated
2 Labor Code sections 201, 202 203, and 1198 each pay period for each Aggrieved Employee during
3 the PAGA Period, and thus Plaintiff and each Aggrieved Employee personally suffered these
4 violations and was owed penalties under Labor Code section 203 for each pay period worked during
5 the PAGA Period. However, Plaintiff is informed and believes that those penalties under Labor
6 Code section 203 were not made for these violations of Labor Code sections 201, 202, and 203.
7 Defendants would thus be liable for civil penalties pursuant to Labor Code sections 558, 1198 and
8 2699, or injunctive relief under sections 2699(e)(1) and 2699(j). Plaintiff is further informed and
9 believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations and
10 was malicious, fraudulent, or oppressive. As such, Defendants would further be liable for civil
11 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

12 32. Plaintiff is informed and believes, and based thereon alleges that Defendants also
13 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
14 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
15 vehicles (*i.e.*, mileage and gas), purchasing uniforms, separately laundering mandatory uniforms,
16 and for the purchase and maintenance of cellular phones and cellular phone plans, in direct
17 consequence of the discharge of their duties, or of their obedience to the directions of Defendants,
18 as required by Labor Code sections 1198, 2800, 2802, and other statutory and common law
19 offenses. As a result, Plaintiff and other Aggrieved Employees have personally suffered these
20 violations and Defendants are liable to reimburse Plaintiff and other Aggrieved Employees for these
21 costs incurred in furtherance of work duties. Defendants would thus be liable for civil penalties
22 pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1)
23 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
24 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. As such,
25 Defendants would further be liable for civil penalties pursuant to Labor Code section
26 2699(f)(2)(B)(ii).

27 33. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
28 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with

1 Labor Code Section 204, which requires that: “[l]abor performed between the 1st and 15th days,
2 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
3 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
4 any calendar month, shall be paid for between the 1st and 10th day of the following month.” Plaintiff
5 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
6 and other Aggrieved Employees every day and every workweek in accordance with Labor Code
7 sections 204 and 1198. Plaintiff is informed and believes, and based thereon alleges, that
8 Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees have
9 personally suffered these violations. As such, Defendants would be liable for civil penalties pursuant
10 to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and
11 2699(k). Plaintiff further informed and believes, and based thereon alleges, that Defendants’ conduct
12 above gave rise to such violations and was malicious, fraudulent, or oppressive. Therefore,
13 Defendants would further be liable for civil penalties pursuant to Labor Code section
14 2699(f)(2)(B)(ii).

15 34. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
16 have or had a policy or practice of failing to provide Plaintiff and other Aggrieved Employees with
17 all rights afforded to them under the Healthy Workplace Healthy Families Act of 2014, codified at
18 Labor Code section 245, *et seq.*, including, without limitation, the amount of paid sick leave required
19 to be provided pursuant to California and local laws. Plaintiff is further informed and believes that
20 the sick pay was not provided at the proper regular of pay as required under California law due to
21 failure to properly calculate the regular rate. Plaintiff is additionally informed and believes that the
22 notice requirement of Labor Code section 221, 223, 233, 234, 245 and 246 involves a mandatory
23 payroll or workplace injury reporting. Plaintiff is thus informed and believes that Defendants
24 violated these Labor Code sections, as well as Labor Code section 1198. As such, Plaintiff and
25 other Aggrieved Employees have personally suffered violations under these sections and
26 Defendants would be liable for civil penalties for violation of the paid sick leave regulations under
27 Labor Code sections 1198 and 2699, as well as equitable, injunctive, or restitutionary relief, and
28 reasonable attorneys’ fees and costs. Plaintiff further informed and believes, and based thereon

1 alleges, that Defendants' conduct above gave rise to such violations and was malicious, fraudulent,
2 or oppressive. Defendants would further be liable for civil penalties pursuant to Labor Code section
3 2699(f)(2)(B)(ii).

4 35. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
5 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
6 statements and similar payroll documents under Labor Code section 226, documents signed to
7 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
8 section 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and
9 other Aggrieved Employees to calculate their unpaid wages and/or premium payments. Indeed,
10 Defendants failed to provide any of Plaintiff's personnel records requested in writing on April 15,
11 2025. Plaintiff and the Aggrieved Employees personally suffered these violations, which in turn
12 would entitle Plaintiff and other Aggrieved Employees to penalties prescribed by Labor Code
13 sections 226 and 1198.5. Defendants would also be liable for civil penalties pursuant to Labor Code
14 sections 558, 1174.5, and 2699. Plaintiff further informed and believes, and based thereon alleges,
15 that Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
16 oppressive. Defendants would further be liable for civil penalties pursuant to Labor Code section
17 2699(f)(2)(B)(ii).

18 36. As stated above, Defendants did not provide Plaintiff with any of Plaintiff's
19 personnel records, including documents Plaintiff signed to obtain or maintain employment in
20 violation of Labor Code sections 1198.5 and 432. However, based on memory, Plaintiff is informed
21 and believes, and based thereon alleges, that Defendants, including their agents, managers,
22 superintendents, and/or officers, required Plaintiff and/or Aggrieved Employees to agree, in writing,
23 to terms and conditions known by Defendants (and its agents, managers, superintendents and/or
24 officers) to be prohibited by law, including, without limitation, non-compete agreements, terms
25 known to be illegal in purported arbitration agreements, purported confidentiality agreements,
26 purported severance agreements, or purported release agreements, and other written documents
27 presented for signature and/or assent to Plaintiff and/or Aggrieved Employees by Defendants.
28 Defendants also required Plaintiff and Aggrieved Employees to inform prospective employers of

1 Defendants' restrictions of Plaintiff's and Aggrieved Employees' freedom to work. As a result,
2 Plaintiff is informed and believes that Defendants violated Labor Code sections 432.5 and 1198. As
3 such, Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and other Aggrieved
4 Employees personally suffered these violations, and that Defendants violated, without limitation,
5 Labor Code section 432.5 and Government Code section 12952, entitling Plaintiff and other
6 Aggrieved Employees to damages. Plaintiff is further informed and believes, and based thereon
7 alleges, that Defendants' conduct above gave rise to such violations and was malicious, fraudulent,
8 or oppressive. Defendants would also be liable for civil penalties pursuant to Labor Code sections
9 432.5, 1198, and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would
10 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

11 37. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
12 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
13 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
14 Employees pursuant to PAGA.

15 **FIRST AND ONLY CAUSE OF ACTION**

16 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

17 38. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
18 preceding paragraphs as though fully set forth hereat.

19 **Civil Penalties Under Labor Code § 210**

20 39. At all relevant times herein, Labor Code section 204, requires and required that:
21 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
22 between the 16th and 26th day of the month during which the labor was performed, and labor
23 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
24 between the 1st and 10th day of the following month.”

25 40. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
26 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
27 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
28 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any

1 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
2 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
3 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

4 41. At all relevant times herein, Defendants have had a consistent policy or practice of
5 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
6 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
7 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
8 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
9 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
10 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
11 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
12 violation in connection with each payment that was made in violation of Labor Code section 204.

13 Civil Penalties Under Labor Code § 226.3

14 42. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
15 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
16 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
17 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
18 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

19 43. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
20 this section are in addition to any other penalty provided by law.”

21 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
22 and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by
23 intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements
24 that accurately reflect gross wages earned; total hours worked; net wages earned; the name and
25 address of each employer with whom they have been placed to work; all applicable hourly rates in
26 effect during the pay period and the corresponding number of hours worked at each hourly rate; the
27 legal name of the employer and other such information as required by Labor Code section 226,
28 subdivision (a).

45. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 558

46. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty as follows:

- (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

47. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections and Wage Orders regulating wages, hours and days of work described herein, including but not limited to Labor Code sections 201-204, 223, 226.7, 510, 511, 512, 551, 552, 1182.12, 1194, 1197, 1198, and 2802.

48. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 1174.5

49. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required

1 every person employing labor in California to “[a]llow any member of the commission or the
2 employees of the Division of Labor Standards Enforcement free access to the place of business or
3 employment of the person to secure any information or make any investigation that they are
4 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
5 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
6 or papers of the person.”

7 50. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
8 every person employing labor in California to “[k]eep a record showing the names and addresses of
9 all employees employed and the ages of all minors.”

10 51. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
11 every person employing labor in California to “[k]eep, at a central location in the state or at the
12 plants or establishments at which employees are employed, payroll records showing the hours
13 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
14 piece rate paid to, employees employed at the respective plants or establishments. These records
15 shall be kept in accordance with rules established for this purpose by the commission, but in any
16 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
17 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
18 earned.”

19 52. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
20 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
21 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
22 member of the commission or employees of the division to inspect records pursuant to subdivision
23 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

24 53. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
25 willfully failed to keep adequate or accurate time records including wage statements and similar
26 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
27 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
28 under Labor Code section 1174.

54. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

Violation of Labor Code § 1197.1

55. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:

- (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
- (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
- (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

56. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants routinely failing to accurately track and/or pay for all minutes actually worked by Plaintiff and

1 Aggrieved Employees at the proper rates of pay, as described above.

2 57. As a direct and proximate result of the herein-described Labor Code violations,
3 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
4 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of one
5 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
6 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
7 subsequent violation.

8 Civil Penalties Under Labor Code § 2699

9 58. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
10 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
11 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
12 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
13 action brought by an Aggrieved Employee on behalf of himself or herself and other current or former
14 employees pursuant to the procedures specified in Labor Code section 2699.3.

15 59. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
16 each of them, violated the Labor Code sections described in the preceding paragraphs.

17 60. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one
18 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
19 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
20 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

21 61. Moreover, Plaintiff and other Aggrieved Employees within the State of California
22 whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
23 connection with their herein-described claims for civil penalties.

24 **PRAYER**

25 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
26 judgment against Defendants as follows:

27 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
28 1174.5, 1197.1, and 2699;

- 1 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
2 210, 226.3, 558, 1174.5, 1197.1, and 2699;
3 C. For equitable, including, without limitation, injunctive relief;
4 C. Pre-judgment and post-judgment interest;
5 D. For costs of suit incurred herein; and
6 E. Such other and further relief as the Court deems just and proper.

7 Dated: January 14, 2026

BIBIYAN LAW GROUP, P.C.

8
9 BY: /s/ Sarah H. Cohen

10 SARAH H. COHEN

11 Attorneys for Plaintiff TOMAS
12 MALDONADO and on behalf of all other
13 Aggrieved Employees
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