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13 as an individual on behalf of himself
14 and on behalf of all others similarly situated

15
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF LOS ANGELES**

18 ROBERT SOSA, as an individual on behalf
19 of himself and on behalf of all others
20 similarly situated,

21 Plaintiff,

22 v.

23 CITY OF LOS ANGELES, a California
24 public entity; and DOES 1-100, inclusive,

25 Defendants.

FILED
Superior Court of California
County of Los Angeles
03/28/2023

David W. Slayton, Executive Officer / Clerk of Court
By: K. Martinez Deputy

Case No.: 23STCV01058

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages (California Labor Code sections 1182.12, 1194, 1197, 1197.1 and IWC Wage Order No. 4-2001)**
2. **Violation of the Private Attorneys General Act of 2004**

DEMAND FOR JURY TRIAL

1 Plaintiff, ROBERT SOSA (“PLAINTIFF”), an individual on behalf of himself and all other
2 similarly situated Class Members (as defined below), and Aggrieved Employees (defined below),
3 and the State of California, hereby files this First Amended Complaint against Defendants CITY OF
4 LOS ANGELES, a California public entity; and DOES 1-100, inclusive, (collectively referred to
5 herein as “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 Los Angeles 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 from in or around April 1990 and continuing
16 through the present.

17 3. PLAINTIFF worked for DEFENDANTS in DEFENDANTS’ Department of Public
18 Works, Bureau of Sanitation, as a refuse collection field supervisor, field supervisor and/or similar
19 title(s) during the Class Period (defined below).

20 4. DEFENDANTS are a California public entity that, at all relevant times, were
21 authorized to do business within the State of California and are doing business in the State of
22 California. DEFENDANTS own, operate and/or otherwise manage 44 different departments,
23 including but not limited to, the Department of Public Works, and employ a workforce of more than
24 50,000 people across those various departments.¹

25 5. 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 <https://lacity.gov/jobs> (Last visited on January 11, 2023).

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

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

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

1 Members and Aggrieved Employees' wages, hours and working conditions, and/or suffered or
2 permitted PLAINTIFF and the Class Members and Aggrieved Employees to work so as to be
3 considered the joint employers of PLAINTIFF and the Class Members and Aggrieved Employees.

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

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

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

28 **CLASS ALLEGATIONS**

1 14. PLAINTIFF brings this action on behalf of himself, and all others similarly situated
2 as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks to
3 represent are defined as follows and referred to as the “Class” or “Class Members”:

4 All current and former non-exempt employees employed by
5 DEFENDANTS in California at any time within the four years prior
6 to the filing of the initial Complaint (“Class Period”).

- 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
16 wages, under California law.
- 17 c. Ascertainable Class. The proposed Class is ascertainable as members can be
18 identified and located using information in DEFENDANTS’ business, payroll
19 and personnel records.
- 20 d. Typicality. PLAINTIFF’s claims are typical of the claims of the Class Members.
21 PLAINTIFF suffered a similar injury as members of the Class as a result of
22 DEFENDANTS’ common practices regarding, *inter-alia*, DEFENDANTS’
23 failure to calculate and pay all owed minimum wages.
- 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 15. 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 16. PLAINTIFF is employed by DEFENDANTS as a non-exempt employee.
25 PLAINTIFF worked for DEFENDANTS as a refuse collection field supervisor, field supervisor
26 and/or similar title(s) at including but not limited to, 786 N. Mission Rd, Los Angeles, California
27 90023 from in or around 2019 through on or about November 4, 2022. PLAINTIFF regularly
28 worked at least eight (8) hours per day, at least five (5) days per week.

1 17. 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 18. **Unpaid Minimum Wages.** DEFENDANTS failed to compensate PLAINTIFF and
4 Class Members and Aggrieved Employees for all hours worked, resulting in the underpayment of
5 minimum wages. DEFENDANTS failed to compensate PLAINTIFF and Class Members and
6 Aggrieved Employees for all hours worked by virtue of, including but not limited to,
7 interrupted/shortened meal periods (described below), time-rounding policies and practices,
8 payment according to scheduled hours worked instead of actual time worked, and mandated pre-
9 shift/post-shift and/or other mandated off-the-clock work policies and practices.

10 19. Based on information and belief, PLAINTIFF and other Class Members and
11 Aggrieved Employees were consistently unable to take uninterrupted meal periods and/or were
12 required to work through part or all their unpaid meal periods due to the nature and constraints of
13 their job duties and/or understaffing. For example, based on information and belief, PLAINTIFF
14 and other Class Members and Aggrieved Employees' meal periods were often interrupted, cut short
15 and/or worked through completely due to lack of relief workers, the need to respond to work-related
16 communications and/or complete other work tasks. Nevertheless, despite failing to provide off-duty
17 thirty-minute uninterrupted meal periods, DEFENDANTS implemented a policy and/or practice of
18 automatically deducting at least thirty minutes per shift for meal periods, despite having actual
19 and/or constructive knowledge that the purported meal periods were interrupted, cut short and/or
20 worked through completely, thereby depriving PLAINTIFF and Class Members and Aggrieved
21 Employees of all earned minimum wages.

22 20. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
23 records of the true start and end times of PLAINTIFF's and Class Members and Aggrieved
24 Employees' meal periods. Based on information and belief, to the extent meal period were recorded,
25 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in
26 PLAINTIFF and other Class Members and Aggrieved Employees not being paid for all time worked.
27 *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

28 21. Based on information and belief, Class Members and Aggrieved Employees were

1 not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to
2 scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies
3 and/or practices. For example, DEFENDANTS compensated PLAINTIFF only for scheduled hours
4 worked rather than all hours actually worked. For example, DEFENDANTS' time records for
5 PLAINTIFF for week beginning 3/13/22 and ending 3/19/22 show rounded daily totals of precisely
6 8.00 regular hours worked and/or precisely 1.00 or .50 overtime hours worked. Similarly,
7 DEFENDANTS' time records for PLAINTIFF for week beginning 3/20/22 through 3/26/22, show
8 rounded daily totals of precisely 8.00 regular hours worked and/or precisely 1.20 overtime hours.
9 Based on information and belief, DEFENDANTS recorded only scheduled total daily hours worked
10 regardless of when PLAINTIFF and other Class Members and Aggrieved Employees actually
11 started and stopped working on those days, which did not account for pre-shift and/or post-shift off-
12 the-clock work that was not recorded and not compensated by DEFENDANTS and, as such, resulted
13 in the significant underpayment of wages owed to Class Members and Aggrieved Employees. Based
14 on information and belief, Class Members and Aggrieved Employees were also pressured to
15 complete at least some of their work tasks off-the-clock in order to meet DEFENDANTS' goals and
16 expectations. For example, based on information and belief, Class Members and Aggrieved
17 Employees were also required to complete off-the-clock work outside of scheduled shifts due to
18 work-related phone calls and/or messages they received and were required to respond to, including
19 but not limited to, communications from supervisors regarding scheduling and/or other work tasks,
20 resulting in the underpayment of wages owed to Class Members and Aggrieved Employees. For
21 example, at times, PLAINTIFF received work-related phone calls and/or messages to his cell phone
22 from his supervisor and/or other Class Members and Aggrieved Employees outside of his scheduled
23 shift times lasting at least five (5) to ten (10) minutes per call. This time PLAINTIFF was required
24 to spend responding to work-related phone calls and/or messages outside of his scheduled shift times
25 was not compensated, resulting in the underpayment of wages owed to PLAINTIFF.

26 22. Moreover, PLAINTIFF and other Class Members and Aggrieved Employees were
27 required to perform other off-the-clock work for which they were not compensated. For example,
28 PLAINTIFF was often required to give a debriefing of work performed and/or events that had

1 transpired during PLAINTIFF's shift to the subsequent shift worker, resulting in at least ten (10)
2 minutes of post-shift off-the-clock work that was neither recorded nor compensated and the
3 significant underpayment of wages owed to PLAINTIFF. Additionally, PLAINTIFF was
4 consistently required to arrive at work prior to the start of his scheduled shift start time to assist co-
5 workers and/or perform other work tasks resulting in at least five (5) minutes of pre-shift off-the-
6 clock work at least several times per month and the significant underpayment of wages owed to
7 PLAINTIFF. Based on information and belief, other Class Members and Aggrieved Employees
8 were also required to undergo off-the-clock shift debriefings, assist co-workers and/or complete
9 other work tasks outside of their scheduled shift times resulting in consistent off-the-clock work and
10 the underpayment of minimum wages owed to Class Members and Aggrieved Employees.

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

16 24. Based on information and belief, DEFENDANTS rounded the start and end times of
17 employee meal periods and true shift start and end times resulting in PLAINTIFF and other Class
18 Members and Aggrieved Employees not being paid all owed minimum wages for all time worked.
19 On information and belief, DEFENDANTS implemented a time-rounding system that as applied
20 systematically deprived PLAINTIFF and Class Members and Aggrieved Employees of
21 compensable time because the time-rounding system implemented by DEFENDANTS would
22 almost always, if not always, result in understating actual compensable work time. For example,
23 DEFENDANTS' wage statements issued to PLAINTIFF show DEFENDANTS rounded
24 PLAINTIFF's hours worked. For instance, DEFENDANTS' wage statement issued to PLAINTIFF
25 for pay period ending 6/18/22 shows exactly 80.00 Hours Worked and exactly 2.00 Overtime Hours.
26 Likewise, DEFENDANTS' wage statement issued to PLAINTIFF for pay period ending 6/4/22
27 shows exactly 64.00 Hours Worked and exactly 11.00 Overtime Hours. Based on information and
28 belief, DEFENDANTS' wage statements issued to other Class Members and Aggrieved Employees

1 also evidence rounding of hours worked. DEFENDANTS' failure to pay for all time worked by
2 virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to
3 PLAINTIFF and Class Members and Aggrieved Employees.

4 25. DEFENDANTS' time rounding, automatic deduction policies and practices as well
5 as mandated off-the-clock work explained above resulted in a failure to account for all hours worked
6 and deprived PLAINTIFF and Class Members and Aggrieved Employees of all owed minimum
7 wages.

8 26. Based on information and belief, DEFENDANTS had actual or constructive
9 knowledge that its time-rounding policies and practices, automatic deduction for meal periods that
10 were interrupted/cut short, and/or off-the-clock work completed during unpaid meal periods,
11 payment according to scheduled hours rather than actual hours worked/other off-the-clock work
12 policies and practices described above, resulted in the underpayment of minimum wages owed to
13 PLAINTIFF and Class Members and Aggrieved Employees.

14 27. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
15 engaged in these same herein described unlawful practices with regard to all of the Class Members
16 and Aggrieved Employees and that DEFENDANTS applied these same herein described unlawful
17 practices to all of their employees that it applied to PLAINTIFF.

18 **FIRST CAUSE OF ACTION**

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

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

22 29. DEFENDANTS failed to pay the minimum wage for all hours worked to
23 PLAINTIFF and Class Members, in violation of Labor Code sections 1182.12, 1194, 1197, 1197.1,
24 and all applicable Wage Orders, including but not limited to IWC Wage Order No. 4-2001.

25 30. Labor Code section 1182.12(b) provides in pertinent part, "...the minimum wage for
26 all industries shall not be less than...(D) From January 1, 2021 to December 31, 2021, inclusive -
27 twelve dollars (\$12) per hour and (E) From January 1, 2022 to December 2021, inclusive, --thirteen
28 dollars (\$13) per hour."

31. Labor Code section 1194 provides, "...any employee receiving less than the legal

1 minimum wage...applicable to the employee is entitled to recover in a civil action the unpaid
2 balance of the full amount of this minimum wage...including interest thereon, reasonable attorneys'
3 fees and costs of suit." Payment of a lower wage than the minimum so fixed is unlawful. Labor
4 Code section 1197.

5 32. California Labor Code section 1197.1 provides penalties for any employer who pays
6 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
7 local law.

8 33. DEFENDANTS violated Labor Code sections 1182.12, 1194, 1197, 1197.1, and
9 subsection 4(A)(1) of all applicable IWC Wage Orders, including but not limited to, IWC Wage
10 Order No. 4-2001, by failing to compensate PLAINTIFF and the Class Members for all hours
11 worked by virtue of, among other things, DEFENDANTS' time rounding policies and practices,
12 payment according to scheduled hours worked instead of actual time worked, mandated off-the-
13 clock work policies and/or practices, automatic deduction policies and practice for interrupted meal
14 periods(described above).

15 34. DEFENDANTS had and continue to have a continuous policy of failing to pay
16 PLAINTIFF and Class Members for all hours worked at the minimum wage.

17 35. Based on information and belief, DEFENDANTS had and continue to have a
18 continuous policy of requiring PLAINTIFF and the Class Members to perform work prior to
19 clocking in for their shifts and/or outside of their scheduled shift times and during
20 interrupted/shortened meal periods, resulting in unpaid minimum wages.

21 36. Based on information and belief, DEFENDANTS had actual or constructive
22 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
23 interrupted/shortened meal periods, mandated off-the-clock work, policy and practice of payment
24 according to scheduled work time rather than actual work time resulted in the underpayment of
25 minimum wages owed to PLAINTIFF and other Class Members.

26 37. DEFENDANTS were required to compensate PLAINTIFF and Class Members with
27 the minimum wage for all hours worked. DEFENDANTS failed to do so, and pursuant to Labor
28 Code section 1194(a), PLAINTIFF and Class Members are entitled to recover "the unpaid balance

1 of the full amount of this minimum wage compensation, including interest thereon, reasonable
2 attorneys' fees and costs of suit.

3 **SECOND CAUSE OF ACTION**

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

5 **(By PLAINTIFFS and the Aggrieved Employees Against All DEFENDANTS)**

6 38. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

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

11 All current and former non-exempt employees employed by DEFENDANTS in
12 California at any time from one year plus 65 days from the filing of the initial
13 Complaint through the present ("PAGA Period").

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

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

26 41. On January 20, 2023, PLAINTIFF, through counsel, gave written notice by online
27 filing with the California Labor and Workforce Development Agency ("LWDA") informing it that
28 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
in this Complaint ("PAGA Notice").

1 42. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
2 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
3 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
4 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
5 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

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

9 44. From one year prior to PLAINTIFF's filing of the required PAGA notice with the
10 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated California
11 Labor Code sections 1182.12, 1194, 1197, 1197.1 and the applicable Wage Order.

12 45. Therefore, under the provisions of PAGA and Labor Code section 558, 558.1,
13 1194, 1194.2, 1197, 1197.1, 2699 and all applicable Wage Orders, as well as all interpretations
14 of these laws by California Courts and administrative bodies, as well as any other law that is
15 enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 16 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
17 relevant California Labor Code provisions listed herein only if permitted by the
18 PAGA statute

19 46. The proper measure of penalties under PAGA is the number of violations, whether
20 those violations were committed as against PLAINTIFF or any Aggrieved Employee, whether a
21 party to this action or not.

22 47. 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.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and
3 Class Members as follows:

- 4 1. For an order that the action be certified as a class action;
5 2. For an order that PLAINTIFF be appointed as class representative;
6 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
7 4. For compensatory damages according to proof;
8 5. For liquidated damages according to proof;
9 6. For penalties according to proof;
10 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
11 withheld from PLAINTIFF and the Class Members;
12 8. For pre-judgment interest as permitted by law;
13 9. For attorney's fees and costs reasonably incurred;
14 10. For civil penalties according to proof, including PAGA penalties (75% payable to the
15 LWDA and 25% payable to Aggrieved Employees); and
16 11. For such other and further relief that the Court deems just and proper.

17
18 Dated: March 28, 2023

CROSNER LEGAL, PC

19
20 By: 

21 Zachary M. Crosner, Esq.
22 Jamie Serb, Esq.
23 Brandon Brouillette, Esq.
24 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

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

Dated: March 28, 2023

CROSNER LEGAL, PC

By: 
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