

1 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
2 JAMIE SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
3 **CROSNER LEGAL, PC**
4 9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
5 Tel: (866) 276-7637
Fax: (310) 510-6429

6 Attorneys for Plaintiff VERONICA TOPETE
7 on behalf of the State of California,
8 and others similarly situated and aggrieved

Assigned for all purposes:
Judge William D. Cluster
Dept. CX104

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF ORANGE**

12 VERONICA TOPETE, on behalf of the
State of California, and others similarly
13 situated and aggrieved,

14 Plaintiff,

15 v.

16
17 SOUTH COAST BAKING, LLC, a
California Limited Liability Company;
18 RISE BAKING COMPANY, LLC, a
Delaware Limited Liability Company;
19 RISE BAKING ARTISAN BREAD, LLC,
a Delaware Limited Liability Company;
20 RISE BAKING SWEET GOODS, LLC, a
Delaware Limited Liability Company; and
21 DOES 1-100, inclusive,

22 Defendants.
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Case No.: 30-2023-01312362-CU-OE-CXC

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

1
2 Plaintiff, VERONICA TOPETE (“PLAINTIFF”), an individual on behalf of the State of
3 California, and all other Aggrieved Employees (as defined below), hereby files this Complaint
4 against Defendants SOUTH COAST BAKING, LLC, a California Limited Liability Company;
5 RISE BAKING COMPANY, LLC, a Delaware Limited Liability Company; RISE BAKING
6 ARTISAN BREAD, LLC, a Delaware Limited Liability Company; RISE BAKING SWEET
7 GOODS, LLC, a Delaware Limited Liability Company; and DOES 1-100, inclusive, (collectively
8 referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges
9 as follows:

10 **INTRODUCTION**

11 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
12 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
13 Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties (75%
14 payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
15 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

16 **JURISDICTION AND VENUE**

17 2. This Court has jurisdiction over representative claims for penalties pursuant to
18 California statutes, including but not limited to the PAGA, and decisional law and regulations.

19 3. Venue is proper in this judicial district and the County of Orange pursuant to
20 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
21 this judicial district, Defendant SOUTH COAST BAKING, LLC’s principal place of business is in
22 this judicial district, and conduct alleged by PLAINTIFF herein occurred in this this judicial district.
23 *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue
24 in a PAGA action is proper in any county where the defendants committed Labor Code violations
25 against some of its employees).

26 **THE PARTIES**

27 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
28 California and a citizen of the State of California. PLAINTIFF was employed by DEFENDANTS

1 in the State of California as a non-exempt employee. PLAINTIFF worked for DEFENDANTS as a
2 packer and/or similar title(s) from in or around 2015 through in or around March 2022. PLAINTIFF
3 regularly worked for DEFENDANTS out of DEFENDANTS' manufacturing facility/location in,
4 Bloomington, California.

5 5. DEFENDANTS are limited liability companies that, all relevant times, were
6 authorized to do business within the State of California and are doing business in the State of
7 California.

8 6. DEFENDANTS own, operate or otherwise manage a business that manufactures
9 cookies, dessert bars, artisan breads, and flatbreads. DEFENDANTS own, operate and/or otherwise
10 manages plants, facilities and/or locations in California.

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

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

27 **JOINT LIABILITY**

28 9. Under California law, the definition of the terms "to employ" are broadly construed

1 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
2 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
3 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
4 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
5 was to reach situations in which multiple entities control different aspects of the employment
6 relationship. Supervision of the work, in the specific sense of exercising control over how services
7 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
8 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
9 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
10 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
11 California, applying a less stringent standard to what constitutes sufficient control by a business
12 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
13 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
14 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
15 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
16 employment,” *Id.* at 875 [emphasis added].

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

24 11. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
25 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
26 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
27 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
28 policies and practices regardless of the location(s) where they worked. Among other things,

1 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
2 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
3 over the day-to-day operations and employment matters, including the power to hire and fire, set
4 schedules, issue employee policies, and determine rates of compensation across its locations in
5 California; (3) DEFENDANTS utilize the same policies and procedures for all California
6 employees, including issuing the same employee handbooks and other form agreements; (4)
7 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
8 employment matters; and, (6) DEFENDANTS share employees.

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

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

1 14. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
2 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
3 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
4 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
5 PLAINTIFF seeks relief in this Complaint.

6 15. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
7 control over, applied the same policies and practices, and engaged in the same acts and omissions
8 with regard to the other Aggrieved Employees.

9 16. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must
10 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
11 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
12 services from which they benefited, and furthermore that the aforementioned entities had the right
13 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
14 times herein, so as to be considered the joint employers of PLAINTIFF.

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

18 **PAGA ALLEGATIONS**

19 18. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
20 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
21 Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

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

26 19. PLAINTIFF is an "aggrieved employee," as that term is defined under Labor Code
27 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
28 limitations period and suffered one or more of the Labor Code violations set forth herein.

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

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

10 20. On January 4, 2023, PLAINTIFF, through counsel, gave written notice by online
11 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it and
12 the Division of Occupational Safety and Health that DEFENDANTS failed to comply with
13 California’s labor laws with regard to the allegations alleged in this Complaint (“PAGA Notice”).
14 The PAGA Notice was also sent to DEFENDANTS via certified mail.

15 21. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
16 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
17 Employees.

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

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

27 **FACTUAL ALLEGATIONS**

28 24. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees

1 worked for DEFENDANTS in the State of California. At all times referenced herein,
2 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or
3 permitted them to work.

4 25. PLAINTIFF worked for DEFENDANTS as a packer and/or similar title(s) from in
5 or around 2015 through in or around March 2022. PLAINTIFF regularly worked for
6 DEFENDANTS out of DEFENDANTS' manufacturing facility/location in, Bloomington,
7 California. PLAINTIFF regularly worked at least eight (8) to twelve (12) hours per day at least six
8 (6) days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
9 DEFENDANTS as hours worked. Based on information and belief, at times, DEFENDANTS also
10 compensated PLAINTIFF and other Aggrieved Employees with non-discretionary remuneration,
11 including but not limited to, non-discretionary bonuses/incentive pay (e.g., attendance bonuses
12 and/or other non-discretionary bonuses) and/or other non-discretionary compensation.

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

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

26 28. Based on information and belief, Aggrieved Employees were not paid for all hours
27 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
28 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-

1 the clock work policies and/or practices.

2 29. Based on information and belief, at times, Aggrieved Employees were required to
3 stand in line behind other employees to access DEFENDANTS' biometric/electronic employee
4 time-keeping system and/or were required to undergo security screenings and/or had to spend time
5 reinitiating DEFENDANTS' fingerprint/electronic time-keeping system before they could clock in
6 for the start of their shifts. This off-the-clock work, including but not limited to, time spent waiting
7 for other employees to clock in for their shifts, undergoing security screenings and/or reinitiating
8 the time-keeping mechanism, was not compensated, resulting in the underpayment of minimum and
9 overtime wages owed to Aggrieved Employees.

10 30. Based on information and belief, DEFENDANTS did not compensate Aggrieved
11 Employees for time spent donning and doffing personal protective equipment and/or uniforms/work
12 clothing (e.g. face masks, gloves, and/or hairnets) during meal periods, before the start of a
13 scheduled shift, and/or after completing a scheduled shift, resulting in off-the-clock work and the
14 underpayment of wages owed Aggrieved Employees.

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

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

28 33. Based on information and belief, Aggrieved Employees were required to complete

1 additional pre-shift and/or post-shift off-the-clock work that was neither recorded nor compensated.
2 For example, based on information and belief, Aggrieved Employees were from time to time
3 required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls
4 and/or messages they received and were required to respond to, including but not limited to,
5 communications from supervisors and/or other Aggrieved Employees regarding scheduling and/or
6 other work tasks, resulting in the underpayment of wages owed to Aggrieved Employees

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

12 35. Based in information and belief, DEFENDANTS implemented a time-rounding
13 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
14 compensable time because the time-rounding system implemented by DEFENDANTS would
15 almost always, if not always, result in understating actual compensable work time. For example,
16 DEFENDANTS' time records for PLAINTIFF evidence rounding to at least the nearest quarter
17 hour.

18 36. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
19 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
20 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
21 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
22 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
23 forty (40) hours in a week.

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

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

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

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

19 41. For example, based on information and belief, Aggrieved Employees were from time
20 to time forced to take interrupted, short, and/or late meal periods and/or skip their meal periods
21 completely due to the need to meet production deadlines and/or complete other work tasks. For
22 instance, PLAINTIFF's meal periods were at times cut short and/or taken after the fifth hour of
23 work due to the need to finish packaging finished product (to avoid having to dispose of the product)
24 and/or complete other work tasks. Other times, PLAINTIFF was forced to take a
25 shortened/interrupted and/or late meal period due to the need to keep up with production deadlines
26 and/or due to interruptions and/or delays due to broken machinery, and/or the need to complete other
27 work tasks.

28 42. Based on information and belief, other Aggrieved Employees were consistently

1 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
2 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
3 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
4 expectations.

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

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

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

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

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

24 48. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
25 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
26 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
27 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
28 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal

1 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

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

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

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

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

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

24 54. For example, Aggrieved Employees were consistently forced to cut their rest periods
25 short and/or work through them completely due to the need to meet production deadlines and/or
26 complete other work tasks. For instance, PLAINTIFF's rest periods were consistently worked
27 through completely due to the need to continue packaging product and/or complete other work tasks.

28 55. Moreover, on information and belief, DEFENDANTS failed to authorize and permit

1 rest periods that were a “net” ten minutes in a suitable rest area and instead, to the extent rest periods
2 were provided at all, limited Aggrieved Employees to only ten-minute rest periods, requiring them
3 to be back at their workstations within ten minutes of leaving, in violation of California rest period
4 law. DEFENDANTS’ failure to communicate that the rest period is a net ten minutes deprived
5 Aggrieved Employees of their rights to a full rest period, as such as policy only relieves Aggrieved
6 Employees from their workstation for ten minutes to travel to and from a rest area and be back at
7 the workstation by the end of that ten minutes.

8 56. Based on information and belief, any purported rest periods were interrupted, cut
9 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
10 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
11 completely and/or take non-compliant rest periods.

12 57. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
13 lasting longer than ten hours.

14 58. For example, based on information and belief, PLAINTIFF and other Aggrieved
15 Employees did not receive any version of a third rest period when working shifts lasting longer than
16 ten (10) hours.

17 59. Based on information and belief, DEFENDANTS implemented policies and/or
18 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
19 DEFENDANTS' control during rest periods.

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

23 61. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
24 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
25 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
26 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
27 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
28 shift differential pay, and/or other non-discretionary compensation into the regular rate of

1 compensation for purposes of calculating the owed rest period premium.

2 62. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
3 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
4 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
5 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
6 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
7 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
8 applicable hourly rates in effect during the pay period and the corresponding number of hours
9 worked at each hourly rate by the employee.

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

18 64. Based on information and belief, wage statements issued by DEFENDANTS failed
19 to list all applicable hourly rates in effect during the pay period and the corresponding number of
20 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
21 Code section 226(a)(9) due to DEFENDANTS' failure to list failure to list a category containing
22 the proper overtime rate.

23 65. Moreover, based on information and belief, DEFENDANTS issued wage statements
24 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
25 other things, failing to list the correct name and/or address of the legal entity that is the employer,
26 in violation of Labor Code section 226(a)(8). For example, DEFENDANTS issued wage statements
27 to PLAINTIFF that identify "South Coast Baking Co." as the legal name of the employer. However,
28 based on information and belief, an entity with that name does not exist. Moreover, documents in

1 PLAINTIFF's personnel file, including without limitation, safety shoe deduction form,
2 verification(s) of employment and/or other employment policy documents identify South Coast
3 Baking, LLC and/or "South Coast Baking Company" as the name of the employer. Still, most
4 documents contained in PLAINTIFF's personnel file, including but not limited to, PLAINTIFF's
5 job offer letter, employee handbook acknowledgement, various employment policies and/or other
6 employment-related documents, all identify "Rise Baking Company" and/or "Rise Baking" as the
7 name of the employer. As such, DEFENDANTS issued wage statements to PLAINTIFF and
8 Aggrieved Employees that are inaccurate, due to, including but not limited to, failure to list the
9 correct name and/or address of the legal entity that is the employer, in violation of Labor Code
10 section 226(a)(8).

11 66. Based on information and belief, wage statements issued by DEFENDANTS failed
12 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

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

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

19 69. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
20 Employees that were not accurate and did not include all of the statutorily required information. As
21 such, DEFENDANTS violated Labor Code section 226.

22 70. **Failure to Produce Employment Records.** Based on information and belief,
23 DEFENDANTS have a uniform policy and practice of failing to produce or make available a current
24 or former employee's time, pay, and/or personnel records when requested pursuant to Labor Code
25 sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF, through
26 counsel, sent a written request for time, pay and personnel records to DEFENDANTS. Yet,
27 DEFENDANTS failed to timely produce complete records (e.g. wage statements) within the time
28 periods delineated by California labor law. Based on information and belief, DEFENDANTS failed

1 and continue to fail to timely produce complete time, pay, and personnel records when requested by
2 other Aggrieved Employees.

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

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

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

23 74. Based on information and belief, DEFENDANTS shifted the costs of doing business
24 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
25 to including but not limited to, uniforms//protective equipment/safety gear and/or the use of
26 Aggrieved Employees personal mobile phone and data usage for work-related purposes, including
27 but not limited to, receiving and responding to work related messages and/or phone calls. For
28 example, based on information and belief, at times, Aggrieved Employees received calls/messages

1 to their personal cell phones/mobile devices from supervisors and/or other Aggrieved Employees
2 regarding scheduling and/or other work tasks at least several times per week but were not provided
3 any from DEFENDANTS for this business use of their personal cell phones/mobile devices.
4 including but not limited to, the use of Aggrieved Employees' personal mobile phones and data
5 usage for work-related purposes to receive and respond to work-related messages and/or phone calls.

6 75. Based on information and belief, at times, Aggrieved Employees were required to
7 purchase their own tools, including but not limited to, hand tools, that Aggrieved Employees were
8 required to perform the duties of their jobs, however Aggrieved Employees did not receive any
9 and/or full reimbursement from DEFENDANTS for the costs Aggrieved Employees incurred in
10 connection therewith.

11 76. Based on further information and belief, DEFENDANTS failed to provide any
12 reimbursement / full reimbursement for expenses Aggrieved Employees incurred as a result of being
13 required to at times perform work for DEFENDANTS remotely and/or from their homes, including
14 but not limited to, cost of internet service, home electricity, cost of additional memory and/or virus
15 software for home computer / home computer use, among other business expenses associated with
16 remote work as required by DEFENDANTS. For example, based on information and belief, at times
17 DEFENDANTS required Aggrieved Employees to review safety policies and/or training documents
18 and/or other employment-related policies/documents from home/remotely without reimbursing
19 Aggrieved Employees for the costs they incurred in connection therewith.

20 77. Based on further information and belief, at times, Aggrieved Employees incurred
21 expenses associated with being required to use their personal vehicles for work without receiving
22 any/full reimbursement from DEFENDANTS for the costs they incurred in connection therewith,
23 including but not limited to, costs of gas, mileage, and/or vehicle wear and tear.

24 78. Based on information and belief, DEFENDANTS regularly failed to reimburse and
25 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
26 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
27 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
28 assigned by DEFENDANTS.

1 79. DEFENDANTS’ failure to provide Aggrieved Employees with full reimbursement
2 for all reasonable expenses associated with carrying out their duties required that Aggrieved
3 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
4 2802.

5 80. **Violation of the California Worker Adjustment and Retraining Notification Act**
6 **(“WARN” Act) - Labor Code Sections 1400-1408.** Mass layoffs, relocations and terminations in
7 California are regulated by the California WARN Act (Labor Code sections 1400-1408). Under the
8 California WARN Act (“Cal-WARN Act”), employers must provide 60 days’ notice to affected
9 employees before ordering a “mass layoff.” Labor Code section 1400, et seq.

10 81. At all relevant times, DEFENDANTS directly or indirectly owned, operated and/or
11 otherwise managed a covered establishment at which DEFENDANTS ordered a mass layoff of
12 Aggrieved Employees without providing legally compliant written notice at least sixty days in
13 advance to Aggrieved Employees as required under the Cal-WARN Act, thereby denying Aggrieved
14 Employees of the notice and mandated waiting-time period under the Cal-WARN Act prior to the
15 mass layoff, in violation of the Cal WARN Act, section 1401(a).

16 82. For example, DEFENDANTS violated the Cal-WARN act by terminating
17 PLAINTIFF’s employment without cause and the employment of other Aggrieved Employees
18 without cause pursuant to a “mass layoff,” “relocation” and/or “termination” as defined in Labor
19 Code section 1400, on or about March 11, 2022, without giving written notice containing all legally-
20 mandated elements at least sixty (60) days before the order took effect to (1) the employees affected
21 by the order, namely, PLAINTIFF and other Aggrieved Employees and/or (2) the Employment
22 Development Department, the local investment board, and the chief elected official of each city and
23 county government within which the mass layoff, relocation or termination occurred.

24 83. Based on information and belief, DEFENDANTS have a policy and practice of
25 failing to give compliant written notice to Aggrieved Employees within the timing requirements set
26 forth in Labor Code section 1401(a) before ordering a mass layoff, relocation or termination, in
27 violation of, including but not limited to, Labor Code section 1401(a).

28 84. These violations subject DEFENDANTS to civil penalties including but not limited

1 to penalties pursuant to Labor Code 1403 of up to \$500 dollars for each day of DEFENDANTS
2 violation of Labor Code section 1401 for each Aggrieved Employees. Moreover, PLAINTIFF and
3 other Aggrieved Employees are entitled to recover reasonable attorney's fees and costs under Labor
4 Code section 1404.

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

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

22 87. Based on information and belief, throughout the relevant time period,
23 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
24 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
25 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
26 prior to their respective separations, for as on several occasions thereafter, he or she would have
27 been entitled to use the banked sick leave and earn appropriate compensation.

28 88. Upon information and belief, DEFENDANTS failed and continue to fail to comply

1 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
2 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
3 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
4 wages.

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

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

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

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

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

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

27 93. Suitable seating is one of the worker protections covered by California's Wage
28 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly

1 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
2 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

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

6 95. 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 Aggrieved Employees were working.
8 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
9 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
10 of seats would not interfere with the performance of their duties.

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

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

21 98. Upon separation of employment, Aggrieved Employees' final paychecks were not
22 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
23 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
24 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
25 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
26 accrued rates.

27 99. Moreover, DEFENDANTS failed to timely provide all owed wages immediately
28 upon discharge of employment. For example, at times, PLAINTIFF experienced breaks in her

1 employment caused by DEFENDANTS whereby PLAINTIFF would not be called in for work for
2 longer than a single pay period due to including but not limited to DEFENDANTS lack of work or
3 lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS
4 failed to timely pay all owed wages at the end of such periods of employment, in violation of
5 including but not limited to Labor Code section 201-202.

6 **100. Unlawful Agreements-Unlawful Criminal History Inquiries.**

7 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

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

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

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

26 104. Based on information and belief, DEFENDANTS required Aggrieved Employees to
27 agree in writing to a background check which failed to abide by the requirements set forth in CA
28 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by

1 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
2 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for
3 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,
4 failing to provide a way by which the individual could request a copy of the report, failing to disclose
5 the name, address, and telephone number of the third party preparing the report, and failing to
6 properly obtain authorization or consent to such a background check, and thus was an unlawful
7 background check.

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

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

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

19 108. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
20 condition of employment, DEFENDANTS violated Labor Code section 432.5.

21 Unlawful Inquires into Criminal History

22 109. 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.

26 110. 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 Aggrieved Employees about convictions prior to extending an offer of

1 employment and/or otherwise impermissibly inquired into criminal history on its employment
2 application in violation of California law, and in violation of Labor code section 432.5.

3 **111. Failure to Provide a Safe and Healthful Workplace.** During the PAGA Period,
4 DEFENDANTS have had a policy and practice of failing, within one business day after
5 DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to
6 COVID-19, to notify PLAINTIFF and other Aggrieved Employees who were on the premises at the
7 same worksite as the qualifying individual within the infectious period, and the employers of
8 subcontracted employees who were on the premises at the same worksite as the qualifying individual
9 within the infectious period and the exclusive representative, if any, of the cleaning and disinfection
10 plan that the employer is implementing per the guidelines of the COVID 10 prevention program per
11 the Cal-OSHA COVID-19 Emergency Temporary Standards, among other things in violation of
12 Labor Code sections 6409.6 and/or 6432. As explained below, DEFENDANTS failed to provide a
13 safe and healthful workplace in violation of California law.

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

18 **FIRST CAUSE OF ACTION**
19 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
20 **2698, ET SEQ.**

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

22 **113.** PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

23 **Failure to Keep Accurate Records**

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

28 **115.** At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
and complete records as required by law, including but not limited to the following records: total

1 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
2 Aggrieved Employees began and ended each work period, time records of meal periods, and
3 accurate itemized wage statements.

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

10 **Failure to Produce Records in Violation of Labor Code §§ 226(b)-(c), 1198.5, and 432**

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

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

25 ¹ Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "[i]n addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid") (emphasis added).

1 the employer. Lab. Code section 226(f).

2 119. Personnel Records. In addition to their right to time and pay records, employees, and
3 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to
4 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
5 section 432 further specifies that employers must furnish copies of all employment records bearing
6 the employee's signature. Labor Code section 1198.5 also requires that the file be made available
7 for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days
8 from the date the employer receives a written request." An employer's failure to comply within this
9 timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar
10 (\$750) penalty from the employer. Lab. Code section 1198.5(k).

11 120. Based on information and belief, DEFENDANTS fail to timely produce or make
12 available Aggrieved Employees' personnel records and/or payroll records when requested pursuant
13 to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. These violations subject
14 DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699.

15 **Meal Period Violations**

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

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

24 123. Employers covered by any and all applicable IWC Wage Orders have an obligation
25 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
26 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
27 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
28 ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing

1 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
2 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
3 provided”).

4 124. Employers must pay employees an additional hour of wages at the employees’
5 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
6 meal period, first meal period provided after five (5) hours, second meal period provided after 10
7 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
8 provide an employee a meal period in accordance with the applicable provision of this Order, the
9 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
10 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

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

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

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

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

27 129. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
28 periods in violation of California law and/or failed to pay the proper meal period premium for failure

1 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
2 differential pay and/or other non-discretionary compensation into the regular rate or compensation
3 for purposes of calculating the owed meal period premium.

4 130. These unlawful meal period policies and practices result in violations of Labor Code
5 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
6 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
7 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
8 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

9 **Rest Period Violations**

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

24 132. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
25 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
26 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
27 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
28 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,

1 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
2 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
3 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
4 “onus is on the employer to clearly communicate the authorization and permission [to take rest
5 periods] to its employees.”).

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

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

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

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

25 137. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
26 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
27 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

28 **Minimum and Overtime Wage Violations**

1 138. California law provides that employees in California must be paid for all hours
2 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
3 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
4 The minimum wage standard applies to each hour employees worked for which they were not paid.
5 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
6 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
7 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

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

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

21 141. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
22 Aggrieved Employees for all hours worked.

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

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

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

12 145. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
13 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
14 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
15 Wage Orders, section 20.

16 **Statutory Wage Violations**

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

28 **Refusal to Make Payment**

1 147. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
2 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
3 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
4 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
5 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
6 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
7 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
8 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

9 **Standard Conditions of Labor Violations**

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

17 **Business Expense Violations**

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

24 150. Among other things, under California law, when employees must use their personal
25 cellphones for work-related purposes, the employer must reimburse them for a reasonable

26 _____
27 ² Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

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

7 151. Further, "any contract or agreement, express or implied, made by any employee to
8 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
9 any employee or his personal representative of any right or remedy to which he is entitled to under
10 the laws of this State." *See* Cal. Lab. Code section 2804.

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

13 153. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
14 full reimbursement for all reasonable expenses associated with carrying out their duties required
15 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
16 expenses in violation of Labor Code section 2802.

17 154. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
18 Employees have suffered injury in that they were not completely reimbursed as mandated by
19 California law.

20 155. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
21 full reimbursement for all reasonable expenses associated with carrying out their duties required
22 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
23 expenses in violation of Labor Code section 2802.

24 156. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
25 Employees have suffered injury in that they were not completely reimbursed as mandated by
26 California law.

27 157. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
28 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor

1 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
2 Code § 2802 and the applicable Wage Order.

3 **Wage Statement Violations**

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

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

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

1 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
2 overtime worked by PLAINTIFF and other Aggrieved Employees.

3 161. As explained above, wage statements issued by DEFENDANTS failed to list the
4 “total hours worked” by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
5 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
6 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
7 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
8 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
9 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

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

21 165. 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 Aggrieved
23 Employees over whether they received all wages owed to them.

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

27 167. 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 Aggrieved Employees have suffered

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

2 168. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
3 Aggrieved Employees with accurate, itemized wage statements.

4 169. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
5 Employees have suffered injury. The absence of accurate information on their wage statements has
6 prevented 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 Aggrieved Employees 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.

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

16 **Seating Violations**

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

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

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

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

27 173. Suitable seating is one of the worker protections covered by California's Wage

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

1 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
2 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker
3 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

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

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

13 176. The Aggrieved Employees worked in various positions, including but not limited to,
14 packers, facility technicians, line operators, line suppliers, maintenance mechanics, mixer leads,
15 production leads, production line leads, wrap operators, palletizers, receivers, warehouse workers,
16 maintenance technicians, operators, material handlers, machine operators, sanitation technicians,
17 among other similar title(s) and/or position(s). The nature of PLAINTIFF's and other Aggrieved
18 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
19 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
20 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
21 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
22 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
23 separate civil penalty.

24 **Sick Leave Violations**

25 177. DEFENDANTS violated California's paid sick leave laws including, Labor Code
26 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
27 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
28 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to

1 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
2 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
3 compensation into the sick leave pay rate calculation.

4 178. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
5 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
6 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
7 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
8 Aggrieved Employees’ intelligent exercise of their paid sick leave.

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

13 180. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
14 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
15 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
16 were entitled to the maximum number of hours accruable.

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

22 182. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

23 183. On information and belief, PLAINTIFF alleges that all of these practices were
24 experienced and continue to be experienced by other Aggrieved Employees.

25 184. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
26 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
27 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

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

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

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

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

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

20 **Untimely Payment of Final Wages**

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

28 189. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages

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

6 190. Based in information and belief, DEFENDANTS failed and continue to fail to timely
7 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
8 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
9 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
10 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
11 sick leave and/or paid time off wages at the properly accrued rates.

12 191. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
13 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
14 256.

15 **Violation of the California Worker Adjustment and Retraining Notification Act**
16 **("WARN" Act) - Labor Code Sections 1400-1408.**

17 192. Mass layoffs, relocations and terminations in California are regulated by the
18 California WARN Act (Labor Code sections 1400-1408). Under the California WARN Act ("Cal-
19 WARN Act"), employers must provide 60 days' notice to affected employees before ordering a
20 "mass layoff." Labor Code section 1400, et seq.

21 193. Section 1401(a) provides as follows: (a) An employer may not order a mass layoff,
22 relocation, or termination at a covered establishment unless, 60 days before the order takes effect,
23 the employer gives written notice of the order to the following: (1) The employees of the covered
24 establishment affected by the order. (2) The Employment Development Department, the local
25 workforce investment board, and the chief elected official of each city and county government
26 within which the termination, relocation, or mass layoff occurs.

27 194. Section 1401(b) provides that "[a]n employer required to give notice of any mass
28 layoff...under this chapter shall include in its notice the elements required by the federal [WARN]

1 Act. (29 U.S.C. Sec. 2101 et seq.).

2 195. Section 1400 defines the terms used to impose the above-described notice duty. A
3 “[c]overed establishment” means any industrial or commercial facility or part thereof that employs,
4 or has employed within the preceding 12 month, 75 or more persons.” Lab. Code section 1400(a).
5 “Employer” means any person...who directly or indirectly owns and operates a covered
6 establishment.” Labor Code section 1400(b). “Mass layoff” means a layoff during any 30-day
7 period of 50 or more employees at a covered establishment.” Labor Code section 1400(d).
8 “Layoff” means a separation from a position for lack of funds or lack of work.” Labor Code section
9 1400(c). “Termination” means the cessation or substantial cessation of industrial or commercial
10 operations in a covered establishment.” Labor Code section 1400(f).

11 196. At all relevant times, DEFENDANTS directly or indirectly owned, operated and/or
12 otherwise managed a covered establishment at which DEFENDANTS ordered a mass layoff of
13 Aggrieved Employees without providing legally compliant written notice at least sixty days in
14 advance to Aggrieved Employees as required under the Cal-WARN Act, thereby denying Aggrieved
15 Employees of the notice and mandated waiting-time period under the Cal-WARN Act prior to the
16 mass layoff, in violation of the Cal WARN Act, section 1401(a).

17 197. For example, DEFENDANTS violated the Cal-WARN act by terminating
18 PLAINTIFF’s employment without cause and the employment of other Aggrieved Employees
19 without cause pursuant to a “mass layoff,” “relocation” and/or “termination” as defined in Labor
20 Code section 1400, on or about March 11, 2022, without giving written notice containing all legally-
21 mandated elements at least sixty (60) days before the order took effect to (1) the employees affected
22 by the order, namely, PLAINTIFF and other Aggrieved Employees and/or (2) the Employment
23 Development Department, the local investment board, and the chief elected official of each city and
24 county government within which the mass layoff, relocation or termination occurred.

25 198. Based on information and belief, DEFENDANTS have a policy and practice of
26 failing to give compliant written notice to Aggrieved Employees within the timing requirements set
27 forth in Labor Code section 1401(a) before ordering a mass layoff, relocation or termination, in
28 violation of, including but not limited to, Labor Code section 1401(a).

1 199. These violations subject DEFENDANTS to civil penalties including but not limited
2 to penalties pursuant to Labor Code 1403 of up to \$500 dollars for each day of DEFENDANTS
3 violation of Labor Code section 1401 for each Aggrieved Employees. Moreover, PLAINTIFF and
4 other Aggrieved Employees are entitled to recover reasonable attorney's fees and costs under Labor
5 Code section 1404.

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

7 200. *Unlawful Agreements.* Labor Code section 432.5 provides that "no employer...shall
8 require any employee or applicant for employment to agree, in writing, to any term or condition
9 which is known by such employer...to be prohibited by law." DEFENDANTS required and
10 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
11 conditions of employment including but not limited to unlawful criminal and/or financial checks as
12 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

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

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

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

9 205. Based on further information and belief, DEFENDANTS knew that requiring
10 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
11 condition of obtaining and/or holding employment was unlawful.

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

14 Unlawful Inquires into Criminal History

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

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

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

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

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

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

7 212. Labor Code section 6401 provides as follows:

8 213. Every employer shall furnish and use safety devices and safeguards, and shall adopt
9 and use practices, means, methods, operations, and processes which are reasonably adequate to
10 render such employment and place of employment safe and healthful. Every employer shall do every
11 other thing reasonably necessary to protect the life, safety, and health of employees.

12 214. Labor Code section 6402 prohibits the following:

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

15 216. Similarly, Labor Code section 6404 provides as follows:

16 217. No employer shall occupy or maintain any place of employment that is not safe and
17 healthful.

18 218. In addition to the above, Labor Code section 6403 requires that employees provide
19 safety devices to its employees. Labor Code section 6403 states:

20 219. No employer shall fail or neglect to do any of the following:

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

23 221. (b) To adopt and use methods and processes reasonably adequate to render the
24 employment and place of employment safe.

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

27 223. Similarly, Labor Code section 6406(d) states the following:

28 224. No person shall do any of the following ... (d) Fail or neglect to do every other thing

1 reasonably necessary to protect the life, safety, and health of employees.

2 225. Finally, Labor Code section 6407 provides:

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

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

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

23 229. PLAINTIFF is informed and believes and thereon alleges that these failures include,
24 without limitation, failing to disinfect time clocks and other surfaces after use by PLAINTIFF and/or
25 other Aggrieved Employees; failing to provide adequate protection equipment (e.g., face masks) to
26 PLAINTIFF, other Aggrieved Employees; and failing to provide adequate distance in working
27 conditions between PLAINTIFF and/or other Aggrieved Employees.

28 230. At all relevant times, DEFENDANTS had a policy and practice of failing to give

1 sufficient, adequate and proper notice to PLAINTIFF and/or other Aggrieved Employees of the
2 COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace
3 exposure from a qualifying individual as required by Labor Code section 6409.6. PLAINTIFF is
4 informed and believes that numerous employees contracted COVID-19 during the relevant time
5 periods, but that DEFENDANTS failed to provide notice to employees. Based on further
6 information and belief, DEFENDANTS do not or did not keep adequate records of written
7 notifications required in subdivision (a) for a period of at least three years.

8 231. At all relevant times, DEFENDANTS had and have a policy and practice of failing
9 within one business day after DEFENDANTS or a representative of DEFENDANTS received notice
10 of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other Aggrieved
11 Employees and/or their exclusive representatives, who were on the premises at the same worksite
12 as a qualifying individual who was within the infectious period that they may have been exposed to
13 COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and
14 practice of failing within one business day after DEFENDANTS or a representative of EMLOYER
15 received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other Aggrieved
16 Employees who were on the premises at the same worksite as the qualifying individual within the
17 infectious period and the exclusive representative, if any, with information regarding COVID-19-
18 related benefits to which the employee may be entitled under applicable federal, state or local laws,
19 including but not limited to, workers' compensation, and options for exposed employees, including
20 COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or
21 negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the
22 employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and
23 6432.

24 232. At all relevant times, DEFENDANTS had and have a policy and practice of failing
25 within one business day after DEFENDANTS or a representative of DEFENDANTS received a
26 notice of potential exposure to COVID-19 to notify PLAINTIFF and other Aggrieved Employees
27 who were on the premises at the same worksite as the qualifying individual within the infectious
28 period, and the employers of the subcontracted employees who were on the premises at the same

1 worksite as the qualifying individual within the infectious period and the exclusive representative,
2 if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of
3 the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per
4 the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, DEFENDANTS violated,
5 without limitation, Labor Code sections 6409.6 and 6432.

6 233. At all relevant times, DEFENDANTS had and have a policy and practice of failing
7 to notify the local public health agency in the jurisdiction of the worksite of the names, number,
8 occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as
9 defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed
10 health care provider; a COVID-19 related order to isolate provided by a public health official; or
11 died due to COVID-19, in the determination of a county public health department or per inclusion
12 in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation,
13 Labor Code sections 6409.6 and 6432.

14 234. PLAINTIFF is informed and believes , and based thereon alleges that
15 DEFENDANTS violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and
16 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule
17 for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and
18 serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or
19 blowers; and a sufficient number of toilets to be used.

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

27 236. Based on information and belief, DEFENDANTS failed to protect Aggrieved
28 Employees from exposure to COVID-19 due to, including but not limited to, failing to

1 maintain/update DEFENDANTS' workplace safety plans and/or procedures to properly address
2 hazards related to the COVID-19 virus.

3 237. As such, DEFENDANTS failed to comply with the occupational safety and health
4 standards, failed to do everything reasonably necessary to protect the health and safety of
5 employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices
6 necessary to maintain a safe and healthful workplace.

7 238. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
8 Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF and Aggrieved Employees and
9 is subject to civil penalties.

10 239. Under the provisions of PAGA and the above mentioned Labor Code sections,
11 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
12 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
13 1199, 2699, 2699.3, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6, 6432 and all applicable Wage
14 Orders as well as all interpretations of these laws by California Courts and administrative bodies, as
15 well as any other law that is enforceable through PAGA, DEFENDANTS are liable for the following
16 penalties:

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

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

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PRAYER FOR RELIEF

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

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

Dated: March 14, 2023

CROSNER LEGAL, PC

By: 
Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Attorneys for Plaintiff
VERONICA TOPETE