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on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

EARL SMITH, an individual and on behalf of all others similarly situated,

Plaintiff,

v.

G. I. TRUCKING COMPANY, a California stock corporation doing business as ESTES WEST; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: CVRI2505033)

[Consolidated with Riverside County Superior Court Case No. CVRI2601021)

CONSOLIDATED AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR:

1. FAILURE TO PAY MINIMUM WAGES;
2. WAITING TIME PENALTIES;
3. WAGE STATEMENT VIOLATIONS;
4. FAILURE TO TIMELY PAY WAGES;
5. FAILURE TO INDEMNIFY;
6. VIOLATION OF LABOR CODE § 227.3;
7. UNFAIR COMPETITION; and
8. CIVIL PENALTIES UNDER THE LABOR CODE PRIVATE ATTORNEYS' GENERAL ACT (2004) FOR VIOLATIONS OF LABOR CODE SECTIONS 210, 226.3, 1174.5, 1197.1, AND 2699, *et seq.*

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds $35,000.00]

Plaintiff EARL SMITH, on behalf of Plaintiff and all others similarly situated, alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, commenced on August 19, 2025 (the "Action"), pursuant to Code of Civil Procedure section 382, against G. I. TRUCKING COMPANY, doing business as ESTES WEST, and any of its respective subsidiaries or affiliated companies within the State of California ("ESTES WEST" and collectively, with DOES 1 through 100, as further defined below, "Defendants") on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendants who were compensated on a piece-rate basis ("Class Members").

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. ("PAGA"), against G. I. Trucking Company, a California corporation doing business as Estes West, and any of its respective subsidiaries or affiliated companies within the State of California ("G. I. Trucking") (hereinafter, G. I. Trucking, collectively, with DOES 1 through 100, as further defined below, "Defendants") as a proxy of the Labor and Workforce Development Agency of the State of California ("LWDA"), on behalf of Plaintiff and all Aggrieved Employees who worked for Defendants during the PAGA Period. Specifically, Plaintiff seeks to represent current and former non-exempt employees of Defendants in California who were compensated on a piece-rate basis during the PAGA Period and who suffered one or more of the same Labor Code violations alleged as to Plaintiff. Collectively, these employees are herein referred to as "Aggrieved Employees." The "PAGA Period" refers to one year preceding the date notice was submitted to the LWDA, continuing past the date of notice to the LWDA until judgment is entered.

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PARTIES

A. Plaintiff

3. Plaintiff EARL SMITH is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed Plaintiff as a non-exempt employee who was compensated on a piece-rate basis, with duties that included, but were not limited to, driving to terminals, dropping off trailers, and hooking up to other terminals' trailers before returning. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff EARL SMITH worked for Defendants from approximately December of 2024 through approximately March of 2025.

B. Defendants

4. Plaintiff is informed and believes and based thereon alleges that defendant ESTES WEST is, and at all times relevant hereto was, a stock corporation organized and existing under and by virtue of the laws of the State of California and doing business in the County of Riverside, State of California.

5. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall include ESTES WEST, and any of their parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1 through 100 identified herein.

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JOINT LIABILITY ALLEGATIONS

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

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

8. Plaintiff is further informed and believes and based thereon alleges that DOES 51 through 100 violated, or caused to be violated, the above-referenced and below-referenced Labor Code provisions in violation of Labor Code section 558.1.

9. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between Defendants, and each of them, that their individuality and separateness have ceased to exist.

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

JURISDICTION

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

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

FACTUAL BACKGROUND

13. Since October 14, 2023, and continuing to the present, Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of them, in violation of California state wage and hour laws as a result of, among other things, failing to separately and adequately compensate piece-rate employees for nonproductive time and failing to accurately track and/or pay for all compensable time worked, including, without limitation, work-related phone calls performed off the clock.

14. Since October 14, 2023, and continuing to the present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount of their wages owed to them upon termination and/or resignation as required by Labor Code sections 201 and 202, including, without limitation, unpaid minimum wages, compensation owed for nonproductive time, underpaid sick pay, and vacation pay pursuant to Labor Code section 227.3.

15. For at least one (1) year prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to furnish Plaintiff and Class Members, or some of them, with itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and other such information as required by Labor Code section 226(a). As a result thereof, Defendants have further failed to furnish Plaintiff and Class Members with an accurate accounting of wages earned and paid.

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16. For at least one (1) year prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount of their wages for labor performed in a timely fashion as required under Labor Code section 204.

17. Since October 14, 2023, and continuing to the present, Defendants have, at times, failed to indemnify Plaintiff and Class Members, or some of them, for costs incurred in using cellular phones for work-related purposes.

18. Since October 14, 2023, and continuing to the present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, with compensation at their final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

19. Since October 14, 2023, and continuing to the present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, with the rights provided under the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*, including by failing to compensate paid sick leave at the rate required by law.

20. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.2, 227.3, 245, *et seq.*, 246, 558.1, 1194, 1194.2, 1197, and 2802, and California Code of Regulations, Title 8, section 11090, seeking unpaid minimum wages and other compensation, failure to pay timely wages, waiting time penalties, wage statement penalties, failure to indemnify work-related expenses, failure to pay vested vacation time at the proper rate of pay, and other relief available under California law, as well as reasonable attorneys' fees and costs.

21. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to Business and Professions Code sections 17200 through 17208, also seeks injunctions prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as all monies owed but withheld and retained by Defendants to which Plaintiff and Class Members are entitled, and restitution of amounts owed.

22. Since October 14, 2023, and continuing to the present, Plaintiff is informed and believes, and based thereon alleges, that Defendants maintain policies or practices of failing to separately and adequately compensate piece-rate employees for nonproductive time as required under

Labor Code section 226.2. Plaintiff further alleges that, during that same period, Defendants failed to provide piece-rate employees with wage statements containing the information required by Labor Code section 226.2, including, without limitation, the number of piece-rate units earned and the applicable piece rates, and separately itemized nonproductive time and compensation paid for such time.

23. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor Code sections 210, 226.3, 1174.5, 1197.1, and 2699 for the herein-described violations of the California Labor Code, including on behalf of Plaintiff and other Aggrieved Employees pursuant to PAGA.

CLASS ACTION ALLEGATIONS

24. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendants within the State of California who were compensated on a piece-rate basis from October 14, 2023, up until the time that notice of the class action is provided to the class (collectively referred to as "Class Members").

25. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b) to amend or modify the class description with greater specificity, further divide the defined class into subclasses, and to further specify or limit the issues for which certification is sought.

26. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure section 382 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

27. The potential Class Members as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendants within the State of California.

28. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not

practicable.

B. Commonality

29. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

A. Did Defendants violate Labor Code sections 1194 and 1197 by failing to pay Class Members for all compensable time at no less than the applicable minimum wage?

B. Did Defendants violate Labor Code section 226.2 by failing to separately and adequately compensate Class Members for nonproductive time?

C. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class Members upon termination or resignation all wages earned?

D. Are Defendants liable to Class Members for waiting time penalties under Labor Code section 203?

E. Did Defendants violate Labor Code sections 226 and 226.2 by failing to furnish Class Members with accurate wage statements, including the information required for piece-rate compensation and nonproductive time?

F. Did Defendants fail to pay Class Members in a timely fashion as required under Labor Code section 204?

G. Did Defendants fail to indemnify Class Members for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties or by obedience to the directions of Defendants as required under Labor Code section 2802?

H. Did Defendants violate Labor Code section 227.3 by not providing Class Members with compensation at their final rate of pay for vested paid vacation time?

I. Did Defendants fail to compensate Class Members for paid sick leave at the rate required under Labor Code section 245, et seq.?

J. Did Defendants violate the Unfair Competition Law, Business and Professions Code section 17200, et seq., by their unlawful practices as alleged herein?

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K. Are Class Members entitled to restitution of wages under Business and Professions Code section 17203?

L. Are Class Members entitled to costs and attorneys' fees?

M. Are Class Members entitled to interest?

C. Typicality

30. The claims of Plaintiff herein alleged are typical of those claims which could be alleged by any Class Members, and the relief sought is typical of the relief which would be sought by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged herein.

D. Adequacy of Representation

31. Plaintiff will fairly and adequately represent and protect the interest of Class Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class actions.

E. Superiority of Class Action

32. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to Class Members predominate over any questions affecting only individual Class Members. Class Members, as further described therein, have been damaged and are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the Labor Code at times, as set out herein.

33. Class action treatment will allow Class Members to litigate their claims in a manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

PAGA REPRESENTATIVE ALLEGATIONS

34. Plaintiff is an "Aggrieved Employee" under PAGA, as Plaintiff was employed by Defendants during the PAGA Period and personally suffered the Labor Code violations for which

Plaintiff seeks civil penalties herein. Accordingly, Plaintiff seeks to recover civil penalties under PAGA, plus reasonable attorneys' fees and costs, for Plaintiff and all other Aggrieved Employees, as defined herein, during the PAGA Period.

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

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

37. Pursuant to Labor Code section 2699.3, on or around August 15, 2025, Plaintiff provided written notice of Defendants' violation of various provisions of the Labor Code to the LWDA online and by certified mail, with return receipt requested, to Defendants ("PAGA Notice").

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

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

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

41. In the event that Defendants, or either of them, is/are determined to have, prior to this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff

and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to section 2699(g)(1)-(3).

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

43. In the event, the LWDA and/or a court issued a finding or determination to the Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or any of them, would be subject to heightened penalties pursuant to Labor Code sections 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations as detailed herein was and is malicious, fraudulent, and/or oppressive, particularly given, among other reasons, Defendants have previously been sued for alleged similar violations. Thus, Defendants, or any of them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

FIRST CAUSE OF ACTION

(Failure to Pay Minimum Wages – Against All Defendants)

44. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

45. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

46. Pursuant to Labor Code sections 1197 and 226.2 and applicable Wage Orders, Plaintiff and Class Members were entitled to receive at least the applicable minimum wage for all compensable time and to be separately compensated for other nonproductive time as required by Labor Code section 226.2.

47. Since October 14, 2023, through the present, Defendants have, at times, failed to separately and adequately compensate Plaintiff and Class Members for nonproductive time and failed to accurately track and/or pay for all compensable time worked, including, without limitation, work-related phone calls performed off the clock.

48. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked or otherwise due.

49. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys' fees and costs of suit.

SECOND CAUSE OF ACTION

(Failure to Pay All Wages Due Upon Termination – Against All Defendants)

50. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

51. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable Wage Orders.

52. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were entitled upon termination to timely payment of all wages earned and unpaid prior to termination. Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge immediately upon termination. Class Members who resigned were entitled to payment of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation.

53. Since October 14, 2023, and continuing to the present, Plaintiff is informed and believes, and based thereon alleges, that Defendants failed, at times, to pay Plaintiff and Class Members all wages earned prior to resignation or termination in accordance with Labor Code sections

201 and 202, including, without limitation, unpaid minimum wages, compensation owed for nonproductive time, underpaid sick pay, and vacation pay pursuant to Labor Code section 227.3.

54. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and Class Members all wages earned prior to termination or resignation in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or resignation.

55. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to waiting time penalties from the date their earned and unpaid wages were due, upon termination or resignation, until paid, up to a maximum of thirty (30) days.

56. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned prior to termination or resignation.

57. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover waiting time penalties, interest, and their costs of suit, as well.

THIRD CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements – Against All Defendants)

58. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

59. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

60. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement that accurately reflects, among other things, gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number

of hours worked at each hourly rate; among other things.

61. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year before the filing of this Action through the present, Defendants failed to comply with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; among other things.

62. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully provided wage statements that Defendants knew were not accurate.

63. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered injury. The absence of accurate information on Class Members' wage statements at times has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and mathematical computations to determine the amount of wages owed; causes difficulty and expense in attempting to reconstruct time and pay records; and led to submission of inaccurate information about wages and amounts deducted from wages to state and federal governmental agencies, among other things.

64. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are entitled to recover $50 for the initial pay period during the period in which violation of Labor Code section 226 occurred and $100 for each violation of Labor Code section 226 in a subsequent pay period, not to exceed an aggregate $4,000.00 per employee.

65. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees, and costs of suit.

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FOURTH CAUSE OF ACTION

(Failure to Timely Pay Wages During Employment – Against All Defendants)

66. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and incorporates each by reference as though fully set forth hereat.

67. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

68. Labor Code section 204 provides that "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month."

69. Labor Code section 210, subdivision (a) states that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee" and "(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

70. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year before the filing of this Action through the present, Defendants employed policies and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with Labor Code section 204.

71. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to recover penalties for Defendants' violations of Labor Code section 204, in the amount of one hundred dollars ($100) for each initial violation per Class Member, and two hundred dollars ($200) for each subsequent violation in connection with each payment that was made in violation of Labor Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

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72. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties, interest, and their costs of suit, as well.

FIFTH CAUSE OF ACTION

(Violation of Labor Code § 2802 – Against All Defendants)

73. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

74. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

75. Labor Code section 2802, subdivision (a) provides that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties . . ."

76. Since October 14, 2023, through the present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times, necessary expenditures or losses in direct consequence of the discharge of their duties or at the obedience to the directions of Defendants that included, without limitation: using cellular phones for work-related purposes.

77. During that time period, Plaintiff is informed and believes, and based thereon alleges that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and Class Members for those losses and/or expenditures.

78. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount subject to proof, to the extent they were not reimbursed for the herein-described losses and/or expenditures.

79. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees and costs of suit.

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SIXTH CAUSE OF ACTION

(Violation of Labor Code § 227.3 – Against All Defendants)

80. Plaintiff re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint as though fully set forth hereon.

81. According to Labor Code section 227.3, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served.

82. Plaintiff is informed and believes, and based thereon alleges that, at all times relevant hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and that Plaintiff's employment contract with Defendants included paid vacations.

83. Since October 14, 2023, and continuing to the present, Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, with compensation at their final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

84. As a proximate result of Defendants' failure to pay vested vacation at the final rate of Plaintiff and Class Members upon their resignation or termination, Defendants violated Labor Code section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at their final rate of pay, as set out in Defendants' policy or the contract of employment between Plaintiff and Class Members, on the one hand, and Defendants, on the other hand.

85. As a further proximate result of Defendants' above-described acts and/or omissions, Plaintiff and Class Members are entitled to recover reasonable attorneys' fees, costs of suit and prejudgment interest.

SEVENTH CAUSE OF ACTION

(Unfair Competition – Against All Defendants)

86. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

87. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and

Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, since October 14, 2023, and continuing to the present, Defendants have, at times, failed to provide Plaintiff and Class Members with the rights provided to them under the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to compensate employees in accordance with the Labor Code.

88. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class Members have suffered injury in fact and lost money or property.

89. Moreover, as a result of Defendants' unfair competition, as alleged herein, the public has suffered injury. Defendants' Labor Code violations provide them with an unfair competitive advantage against other California employers. Pursuant to Business and Professions Code sections 17203 and 17204, Plaintiff seeks public injunctive relief for the benefit of the general public that prohibits Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations. This relief benefits Plaintiff only incidentally and as a member of the general public. The primary purpose and effect of this prohibition is to prohibit unlawful acts that threaten future injury to the general public by means of Defendants' unlawful competition with other California employers. (*McGill v. CitiBank, N.A.* (2017) 2 Cal.5th 945, 954; *accord* at 957.)

90. As a distinct ground, Plaintiff seeks under Business and Professions Code section 17203 restitution of all wages and other monies owed to Plaintiff and Class Members under the Labor Code, including interest thereon, in which Plaintiff and Class Members had a property interest and which Defendants nevertheless failed to pay and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor Code.

91. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure section 1032 and interest under Civil Code section 3287.

EIGHTH CAUSE OF ACTION

(Civil Penalties Under the Private Attorneys General Act of 2004 – Against All Defendants)

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

Civil Penalties Under Labor Code § 210

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

94. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee" and "(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

95. At all relevant times herein, Defendants have had a consistent policy or practice of failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as required by Labor Code section 204, including, without limitation, for the reasons and in the manner set forth in the preceding paragraphs. Pursuant to Labor Code section 210 and PAGA, and subject to Labor Code section 210(c), Plaintiff and other Aggrieved Employees seek the applicable civil penalties for violations of Labor Code section 204 to the extent such penalties are not recovered as statutory penalties for the same violations.

Civil Penalties Under Labor Code § 226.3

96. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each

violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226."

97. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in this section are in addition to any other penalty provided by law."

98. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and other such information as required by Labor Code section 226, subdivision (a).

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

Violation of Labor Code § 1174.5

100. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to "[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person."

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

102. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to "[k]eep, at a central location in the state or at the plants

or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned."

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

104. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed to maintain accurate and complete payroll and time records required under Labor Code section 1174, including records reflecting hours worked, wages paid, and piece-rate units earned and applicable piece rates.

105. As a result of the herein-described violations, Plaintiff and other Aggrieved Employees seek recovery of the civil penalties provided under Labor Code section 1174.5.

Violation of Labor Code § 1197.1

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

107. For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

108. For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

109. Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

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

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

Civil Penalties Under Labor Code § 2699

112. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies, or employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an Aggrieved Employee on behalf of the employee and other current or former employees against whom a violation of the same provision was committed pursuant to the procedures specified in Labor Code section 2699.3.

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

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114. To the extent Defendants violated Labor Code provisions for which a civil penalty is not otherwise specifically provided, Plaintiff and other Aggrieved Employees seek the civil penalties and other relief available under Labor Code section 2699, including subdivision (f).

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

DEMAND FOR JURY TRIAL

116. Plaintiff demands a trial by jury on all causes of action contained herein.

PRAYER

WHEREFORE, on behalf of Plaintiff, Class Members, and Aggrieved Employees, Plaintiff prays for judgment against Defendants as follows:

A. An order certifying this case as a Class Action;

B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's counsel as class counsel;

C. Damages for all wages earned and owed, including minimum wages, compensation owed under Labor Code section 226.2, underpaid sick pay, and unpaid vested vacation time, pursuant to Labor Code sections 226.2, 227.3, 245, *et seq.*, 246, 1194, 1197, and 1199;

D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;

E. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision (e) and 558.1;

F. Waiting time penalties under Labor Code sections 203 and 558.1;

G. Penalties for failure to timely pay wages under Labor Code section 210;

H. Damages under Labor Code sections 2802 and 558.1;

I. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 1174.5, 1197.1, and 2699;

J. An award of reasonable attorneys' fees and costs pursuant to applicable law, including Labor Code section 2699;

K. Preliminary and permanent public injunctions under Business and Professions Code section 17200, *et seq.*, imposed for the benefit of the public prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations, thus permitting proper competition by other California employers;

L. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;

M. Prejudgment and post-judgment interest at the maximum rate allowed by law;

N. For attorneys' fees in prosecuting this action;

O. For costs of suit incurred herein; and

P. For such other and further relief as the Court deems just and proper.

Dated: October 30, 2026

BIBIYAN LAW GROUP, P.C.

BY: _____
Bevin Allen Pike
Trisha K. Monesi
Attorneys for Plaintiff EARL SMITH and on behalf of all others similarly situated