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NELSON BARREIRO and
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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

10/20/2025
Clerk of the Court
BY: MARIVIC VIRAY
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

NELSON BARREIRO, an individual, and TSALTA BAPTISTE, an individual,

Plaintiffs,

vs.

BLUE REVOLVER, INC., a California corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. ___________ **CGC-25-630355**

COMPLAINT

(1) Retaliation
(2) Retaliation
(3) Wrongful Termination In Violation Of Public Policy
(4) Wrongful Termination In Violation Of Public Policy
(5) Unpaid Wages
(6) Meal Period Violations
(7) Rest Break Violations
(8) Inaccurate Wage Statements
(9) Failure To Pay All Wages Due Upon Termination
(10) Unreimbursed Expenses
(11) Recordkeeping Violations
(12) Unlawful Or Unfair Business Practices
(13) Civil Penalties Under PAGA

DEMAND FOR JURY TRIAL

Plaintiffs Nelson Barreiro and Tsalta Baptiste bring this civil action and, on information and belief, allege as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Nelson Barreiro ("Barreiro") is an individual and a resident of California. Plaintiff Tsalta Baptiste ("Baptiste") is an individual and a resident of California. Collectively, Barreiro and Baptiste will be referred to herein as "Plaintiffs."

2. Defendant Blue Revolver, Inc. ("Defendant," "Blue Revolver" or the "Company") does business in the State of California, including in San Francisco County.

3. Plaintiffs are former employees who worked for the Company in California. By way of this Complaint, Plaintiffs seek damages in an amount that renders this matter an "unlimited" civil case within the meaning of California law. Plaintiffs have timely and adequately exhausted their administrative remedies under California's Private Attorneys General Act of 2004 ("PAGA").

4. The true names and capacities of the Doe Defendants (Does 1 through 10, inclusive) are unknown to Plaintiffs at this time and Plaintiffs are informed and believe that they are in some way liable for the illegal conduct, injury, and damages alleged herein. The Doe Defendants are believed to be affiliated entities of the Company, joint employers, responsible executives, supervisors, or managers, or otherwise liable for the conduct complained of herein, whether because of alter-ego status, agency principles, aider and abettor (or co-conspirator) status, statutorily-imposed responsibility, or otherwise.

5. The Court has personal jurisdiction over the Company because it does business in this State on a continuous and regular basis, it has one or more California business locations, and the Company otherwise has minimum contacts with this State. The Court has personal jurisdiction over Plaintiffs because they are citizens of this State, work in this State, and otherwise have minimum contacts with this State. Venue is proper in San Francisco County inasmuch as Plaintiffs were employed by the Company in San Francisco County, the Company conducts business in San Francisco County, and alleged unlawful conduct and/or its effects occurred, in whole or in part, in San Francisco County.

GENERAL ALLEGATIONS

- Civil Rights Violations -

6. The Company offers spatial design, commercial and retail interior design, custom furniture installation, immersive brand activations, live events, and stage design, including in California. The Company provides its services at various venues and locations in California.

7. Barreiro worked for the Company in California as a non-exempt employee, including as a production assistant. He worked at multiple locations, including at least one in San Francisco County. He was discharged.

8. Baptiste worked for the Company in California as a non-exempt employee, including as a production assistant and/or brand ambassador. He worked at multiple locations, including at least one in San Francisco County. He was discharged.

Barreiro

9. Shortly before his separation from employment, Barreiro engaged in protected activity, including, without limitation, the protected activity discussed below, and his protected activity prompted his termination from employment.

10. Approximately 2 days before he was notified of his termination, Barreiro complained to supervisory personnel that multiple days he worked in the prior week were not accounted for in the software the Company utilized to calculate and pay wages, and that he could not add those days to the software. During his employment, Barreiro had raised similar complaints before of unpaid wages and/or days missing from his pay/hours.

11. Approximately 2 days before he was notified of his termination, Barreiro complained to supervisory personnel regarding a deficiency in the Company's ordinary practice of providing daily onsite sustenance and that he had to utilize a meal delivery service instead, at his own expense.

12. Barreiro's complaints were protected activity under the California Labor Code, and Barreiro was discharged because of this protected activity.

13. Barreiro suffered damages as a result of his wrongful termination, including

economic and non-economic damages.

Baptiste

14. Shortly before his separation from employment, Baptiste engaged in protected activity, including, without limitation, the protected activity discussed below, and his protected activity prompted his termination from employment.

15. During his employment, Baptiste raised one or more complaints about obtaining expense reimbursement, including for parking fees. In addition, shortly before he was terminated, Baptiste raised internal complaints to supervisory personnel regarding a verbal altercation and physical assault that he experienced in the workplace and that was perpetrated by another employee of the Company. Finally, shortly before he was terminated, Baptiste raised one or more safety complaints at the Company.

16. Baptiste was forced to engage in unsafe lifting of heavy work-related equipment up a flight of stairs that was covered by a bendable/flimsy ramp. In front of a lead producer and/or other Company personnel, Baptiste complained aloud "this isn't safe" or words to that effect, visibly winced, and exclaimed that his knee had popped.

17. One or more of Baptiste's complaints occurred within approximately 2 days or less of his discharge.

18. Baptiste's complaints were protected activity under the California Labor Code, and Bapsiste was discharged because of this protected activity.

19. Baptiste suffered damages as a result of his wrongful termination, including economic and non-economic damages.

- Wage-And-Hour Violations -

20. At the Company, Plaintiffs worked as non-exempt employees.

21. At the Company, Plaintiffs were not paid for all hours worked, were not paid in a timely manner, did not receive legally-compliant meal periods and rest breaks or the premiums to which they were entitled, they incurred expenses for which they were not reimbursed, and their wage statements were inaccurate.

22. The Company failed to pay Plaintiffs all their wages due on the date of their

discharge.

23. The Company required Plaintiffs to sign illegal agreements, including written agreements containing illegal provisions.

FIRST CAUSE OF ACTION

Retaliation

(Against The Company, And DOES 1 Through 10, Inclusive)

24. Plaintiffs re-allege and incorporate by reference herein the allegations set forth in Paragraphs 1 through 23 inclusive.

25. As used in this cause of action, the term "Plaintiff" means Barreiro.

26. The Company is an "employer" within the meaning of the Labor Code.

27. As alleged above, Barreiro raised internal complaints at the Company, which complaints qualify as protected activity under Labor Code section 98.6(a)-(b), and Labor Code section 1102.5(b)-(d).

28. The Company retaliated against Barreiro for engaging in said protected activity, including, without limitation, by terminating his employment.

29. The Company's retaliatory acts violated Labor Code sections 98.6(a) and (b), and 1102.5(b), (c), and/or (d).

30. The unlawful conduct Plaintiff experienced, including his unlawful termination, caused Plaintiff harm, and the Company's illegal conduct was a substantial factor in causing Plaintiff harm.

31. The Company's unlawful conduct was a substantial factor in causing Plaintiff damages, including, but not limited to, emotional distress, pain and suffering, lost wages, and lost benefits.

32. For the violation of the Labor Code, Plaintiff seeks and is entitled to all available remedies and damages.

33. For the violation of Labor Code § 1102.5, Plaintiff seeks and is entitled to all remedies and damages available by law. Among other things, Plaintiff seeks the civil penalty of $10,000 for each violation of Labor Code § 1102.5 as specified in the statute

itself. (Labor Code, § 1102.5(f) [setting forth a $10,000 civil penalty for each violation].) If these civil penalties can be recovered directly under the statute, Plaintiff seeks those penalties directly under this first cause of action. If these civil penalties can only be recovered via PAGA, Plaintiff seeks such penalties through the separate PAGA cause of action (alleged below).

34. For the violation of Labor Code § 98.6, Plaintiff seeks and is entitled to all remedies and damages available by law, including, without limitation, lost wages and work benefits caused by the violations. In addition, Plaintiff seeks the $10,000 civil penalty specified in Labor Code § 98.6 for each violation. If these civil penalties can be recovered directly under Labor Code § 98.6, Plaintiff seeks these penalties directly through this first cause of action. If these civil penalties can only be recovered via PAGA, Plaintiff seeks such penalties through the separate PAGA cause of action (alleged below).

35. The Company's acts, inactions, and the actions of its personnel of which the Company was aware, including Plaintiff's wrongful termination, were done in callous disregard of the law and Plaintiff's welfare. These actions were such that they were despicable, and subjected Plaintiff to cruel and unjust hardship in knowing disregard of his rights. These actions were designed to cause (and did cause) injury to Plaintiff. These actions constitute malice and/or oppression, and justify the imposition of punitive damages against the Company.

SECOND CAUSE OF ACTION

Retaliation

(Against The Company, And Does 1 Through 10, Inclusive)

36. Plaintiffs re-allege and incorporate by reference herein the allegations set forth in Paragraphs 1 through 23 inclusive.

37. As used in this cause of action, the term "Plaintiff" means Baptiste.

38. The Company is an "employer" within the meaning of the Labor Code.

39. As alleged above, Baptiste raised internal complaints at the Company, which complaints qualify as protected activity under Labor Code section 98.6(a)-(b), Labor Code

section 1102.5(b)-(d), and Labor Code sections 6310(a)-(b) and 6311.

40. The Company retaliated against Baptiste for engaging in said protected activity, including, without limitation, by terminating his employment.

41. The Company's retaliatory acts violated Labor Code sections 98.6(a) and (b), 1102.5(b), (c), and/or (d), and 6310(a) and/or (b).

42. The unlawful conduct Plaintiff experienced, including his unlawful termination, caused Plaintiff harm, and the Company's illegal conduct was a substantial factor in causing Plaintiff harm.

43. The Company's unlawful conduct was a substantial factor in causing Plaintiff damages, including, but not limited to, emotional distress, pain and suffering, lost wages, and lost benefits.

44. For the violation of the Labor Code, Plaintiff seeks and is entitled to all available remedies and damages.

45. For the violation of Labor Code § 1102.5, Plaintiff seeks and is entitled to all remedies and damages available by law. Among other things, Plaintiff seeks the civil penalty of $10,000 for each violation of Labor Code § 1102.5 as specified in the statute itself. (Labor Code, § 1102.5(f) [setting forth a $10,000 civil penalty for each violation].) If these civil penalties can be recovered directly under the statute, Plaintiff seeks those penalties directly under this second cause of action. If these civil penalties can only be recovered via PAGA, Plaintiff seeks such penalties through the separate PAGA cause of action (alleged below).

46. For the violation of Labor Code § 98.6, Plaintiff seeks and is entitled to all remedies and damages available by law, including, without limitation, lost wages and work benefits caused by the violations. In addition, Plaintiff seeks the $10,000 civil penalty specified in Labor Code § 98.6 for each violation. If these civil penalties can be recovered directly under Labor Code § 98.6, Plaintiff seeks these penalties directly through this second cause of action. If these civil penalties can only be recovered via PAGA, Plaintiff seeks such penalties through the separate PAGA cause of action (alleged below).

47. For the violation of Labor Code § 6310, Plaintiff seeks and is entitled to all remedies and damages available by law, including, without limitation, lost wages and work benefits caused by the violations. For the violation of Labor Code § 6311, Plaintiff seeks and is entitled to all remedies available by law.

48. The Company's acts, inactions, and the actions of its personnel of which the Company was aware, including Plaintiff's wrongful termination, were done in callous disregard of the law, Plaintiff's welfare, and the Company's obligation to provide a safe working environment for Plaintiff. These actions were such that they were despicable, and subjected Plaintiff to cruel and unjust hardship in knowing disregard of his rights. These actions were designed to cause (and did cause) injury to Plaintiff. These actions constitute malice and/or oppression, and justify punitive damages against the Company.

THIRD CAUSE OF ACTION

Wrongful Termination In Violation Of Public Policy

(Against The Company, And Does 1 Through 10, Inclusive)

49. Plaintiffs re-allege and incorporate by reference herein the allegations set forth in Paragraphs 1 through 23 inclusive.

50. As used in this cause of action, the term "Plaintiff" means Barreiro.

51. Plaintiff's termination from the Company violated various fundamental and substantial public policies, including, without limitation, the public policies behind Labor Code §§ 1102.5, 98.6, and 232.5(c), and the public policies of California requiring the prompt, full, and timely payment of wages and requiring the reimbursement of employee expenses.

52. The Company's wrongful termination of Plaintiff was a substantial factor in causing Plaintiff harm, including, but not limited to, emotional distress, pain and suffering, lost wages, and lost benefits.

53. The Company's acts, inactions, and wrongful termination of Plaintiff were done in callous disregard of the law, and Plaintiff's welfare, and contravened fundamental public policies of the State of California. These actions were such that they were despicable,

and subjected Plaintiff to cruel and unjust hardship in knowing disregard of his rights. These actions were designed to cause (and did cause) injury to Plaintiff. These actions constitute malice and/or oppression, and justify punitive damages against the Company.

FOURTH CAUSE OF ACTION

Wrongful Termination In Violation Of Public Policy

(Against The Company, And Does 1 Through 10, Inclusive)

54. Plaintiffs re-allege and incorporate by reference herein the allegations set forth in Paragraphs 1 through 23 inclusive.

55. As used in this cause of action, the term "Plaintiff" means Baptiste.

56. Plaintiff's termination from the Company violated various fundamental and substantial public policies, including, without limitation, the public policies behind Labor Code §§ 1102.5, 98.6, 232.5(c), 6310, and 6311, and the public policies of requiring the prompt, full, and timely payment of wages and requiring the reimbursement of employee expenses.

57. Furthermore, California public policy requires employers to provide a safe working environment for their employees.

58. The Company's wrongful termination of Plaintiff was a substantial factor in causing Plaintiff harm, including, but not limited to, emotional distress, pain and suffering, lost wages, and lost benefits.

59. The Company's acts, inactions, and wrongful termination of Plaintiff were done in callous disregard of the law, and Plaintiff's welfare, and contravened fundamental public policies of the State of California. These actions were such that they were despicable, and subjected Plaintiff to cruel and unjust hardship in knowing disregard of his rights. These actions were designed to cause (and did cause) injury to Plaintiff. These actions constitute malice and/or oppression, and justify the imposition of punitive damages against the Company.

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FIFTH CAUSE OF ACTION

Unpaid Wages

(Against The Company, And Does 1 Through 10, Inclusive)

60. Plaintiffs reallege and incorporate by reference paragraphs 1 through 23 inclusive as though fully set forth herein.

61. Labor Code section 1198 makes it unlawful for an employer to employ any person under conditions of employment that violate the Wage Orders.

62. Section 2(K) of the IWC Wage Orders define "hours worked" as the "time during which an employee is subject to the control of the employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

63. Labor Code sections 1194 and 1197, and Section 4 of the IWC Wage Orders, require employers to pay their non-exempt employees at least the California minimum wage for all time worked.

64. Labor Code sections 510 and 1194, and Section 3 of the IWC Wage Orders, require employers to pay overtime wages to their non-exempt employees at no less than one and one-half times their regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in excess of forty hours in one workweek, and for the first eight hours worked on a seventh consecutive workday.

65. Labor Code sections 510 and 1194, and Section 3 of the IWC Wage Orders, also require employers to pay overtime wages to their non-exempt employees at no less than two times their regular rates of pay (i.e., double-time) for all hours worked in excess of twelve hours in one workday, and for all hours worked in excess of eight hours on a seventh consecutive workday.

66. Labor Code sections 204 and 218 require employers to pay the earned wages of their employees on a timely and periodic basis. Labor Code section 1174(d) also requires employees to keep accurate records of hours worked by employees.

67. At the Company, Plaintiffs were not paid for all the time they worked.

68. At the Company, Plaintiffs spent time performing work while off-the-clock.

69. Among other things, the Company lacked a contemporaneous and reliable method of recording the actual time worked of employees. As a result, Plaintiffs were not paid accurately, and were not paid for all hours worked. Plaintiffs were paid according to scheduled hours or supervisory expectations, not for their actual by-the-minute time worked. This dynamic was reinforced in Company offer letters and other materials, which, among other things, provided the Company's expectations regarding shift length and the projected daily amount of pay. Plaintiffs would often text-message supervisory personnel when they arrived to a venue or location, but there was no time-clock or time-punch station at the location at which they worked. The software system the Company purportedly used to track hours worked was an after-the-fact program (not a daily time-punch system), it often had pre-programed time-parameters or other limitations that could not be freely adjusted or overcome, and the software did not regularly and reliably permit by-the-minute accurate recordation. Nor did the Company keep track of, or designate, their first or primary reporting location, such that the Company could track and pay for Plaintiffs' commuting/travel time to farther away venues that were beyond their ordinary commute to and from work

70. In addition to inadequate time-keeping infrastructure and procedures, the Company routinely communicated with Plaintiffs via their personal cell phones about work-related items and tasks, and this was compensable time that was not accounted for in their pay.

71. In addition, and among other things, during purported "meal periods," Plaintiffs were controlled, interrupted, and performing compensable work, for which they did not receive pay. Plaintiffs had compensable work time during "meal periods" that was not accounted for in their time records or pay.

72. Plaintiffs are entitled to the unpaid balance of all forms of unpaid wages they are owed including minimum wages, straight-time wages, and/or overtime/double-time pay. Pursuant to Labor Code section 1194, Plaintiffs are entitled to recover the unpaid balance of the full amount of California minimum wages and overtime wages owed, including interest thereon, reasonable attorney's fees, and costs of suit.

SIXTH CAUSE OF ACTION

Meal Period Violations

(Against The Company, And DOES 1 Through 10, Inclusive)

73. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23, and 61-72, inclusive as though fully set forth herein.

74. Under California law, all non-exempt employees who work more than five (5) hours in a day are entitled to take a full 30-minute duty-free meal period. Any meal period must be started no later than after five (5) hours of work. (Labor Code, § 512, subd. (a); IWC Wage Orders § 11.)

75. Under California law, all non-exempt employees who work more than ten (10) hours in a day are entitled to take a second duty-free meal period of thirty (30) minutes. Any second meal period must be started no later than after ten (10) hours of work. (Labor Code, § 512, subd. (a); IWC Wage Orders, § 11.)

76. Under California law, employers are forbidden from requiring employees to work during a meal period mandated pursuant to California statutory law or mandated by the IWC Wage Orders. (Labor Code, § 226.7(a).)

77. Under California law, employers must provide an employee with an additional hour of pay for each workday that an employee is not provided with a meal period "in accordance with" California statutory law or the IWC Wage Orders. (Labor Code, § 226.7(c).)

78. Plaintiffs regularly worked more than (5) hours in a day for the Company and were entitled to meal periods that conformed with California law. At all relevant times, Plaintiffs did not waive their legally-mandated meal periods.

79. The Company failed to provide Plaintiffs with timely uninterrupted meal periods of at least thirty (30) minutes when Plaintiffs worked more than five (5) hours.

80. The Company failed to provide Plaintiffs with a second timely uninterrupted meal period of at least thirty (30) minutes when Plaintiffs worked more than ten (10) hours.

81. At all material times, the Company did not establish or provide employees with a sufficient break system or break infrastructure, causing Plaintiffs to routinely take interrupted meal periods, delayed or shortened meal periods, or to forgo meal periods altogether. The Company did not maintain a schedule of breaks, a bell system, or electronic notification system for breaks. The Company did not record meal periods. There was no established breakroom or rest areas for employees to have their purported meal periods. The Company often had food catered at the venue or location where work was performed, with the expectation that employees would not leave the premises during purported meal periods and would eat-and-work, rather than stop for an actual 30-minute bona-fide meal period. The Company often operated under strict deadlines to construct and take-down their projects and installations at venues/locations of their customers, which time-constraints influenced management and contributed to non-compliance with California's meal period requirements. Barreiro recalls raising the subject of meal periods to the Company, and the Company's response was that they were "not a priority" or words to that effect.

82. The Company failed to pay Plaintiffs all the required meal period premium pay to which they were entitled as a result of all the meal period violations.

83. The Company's non-provision of compliant meal periods, and its non-payment of the requisite meal period premiums, violated and is actionable under Labor Code section 512, subdivision (a), and Labor Code sections 226.7, subdivisions (b) & (c).

84. As a result of the Company's violation of California's meal period rules, Plaintiffs are entitled to, among other things, one (1) hour of pay at their regular rate of pay for each workday in which a meal period violation occurred.

SEVENTH CAUSE OF ACTION

Rest Break Violations

(Against The Company, And DOES 1 Through 10, Inclusive)

85. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23, and 61 through 84, inclusive as though fully set forth herein.

86. Under California law, employers must authorize and permit all non-exempt

employees to take a "net" 10-minute rest period for every four (4) hours worked, or major fraction thereof. (IWC Wage Orders, § 12(A).) More specifically, employers must authorize and permit non-exempt employees to take one 10-minute rest break for shifts from three and one-half (3 ½) hours to six (6) hours in length, two 10-minute rest breaks for shifts of more than six (6) hours up to ten (10) hours in length, three 10-minute rest breaks for shifts of more than ten (10) hours up to fourteen (14) hours in length, and so on. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.) In terms of the timing of rest breaks, employers must authorize and permit the taking of rest breaks "in the middle of each work period." (IWC Wage Orders, § 12(A).)

87. Employers must provide employees with "suitable resting facilities" (Wage Orders, §13(B)) that are "away from the work station" (DLSE Enforcement Manual, § 45.3.3). An employee's rest period starts the moment when the employee can reach an area of rest away from the work station and be free from employer control. (*Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal.App.5th 98, 112 [a rest period "begins when the employee reaches an area away from the work station that is appropriate for rest"]; *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 273 ["California law requires employers to relieve their employee of all work-related duties and employer control during 10-minute rest periods"].)

88. Under California law, it is illegal for an employer to require an employee to work during a rest period that is mandated by California statutory law or an IWC Wage Order. (Labor Code, § 226.7(b).)

89. Under California law, employers must provide an employee with an additional one (1) hour of pay for each workday that an employee is not provided with a rest period "in accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

90. Plaintiffs regularly worked 3.5 hours or more in a day for the Company and were entitled to rest breaks that conformed with California law. At all relevant times, Plaintiffs did not waive their legally-mandated rest breaks.

91. The Company failed to provide Plaintiffs with timely uninterrupted rest

periods of at least ten (10) minutes for every four (4) hours worked, or major fraction thereof. The Company failed to provide Plaintiffs with first, second, or third rest breaks that complied with California law.

92. At all material times, the Company did not establish or provide employees with a sufficient break system or break infrastructure, causing employees to miss rest breaks altogether, or take them in an untimely or shortened (less than a net 10-minute) manner, if at all. The Company did not maintain a break schedule, a bell system, or an electronic notification system for breaks, and employees were expected to remain on the premises and stay focused on the projects/work at hand. There was no established breakroom or rest areas for employees to have their purported rest breaks, if any. The Company often had food catered at the venue or location where work was performed, with the expectation that employees would not leave the premises during purported rest periods and would snack-and-go, rather than stop for an actual 10-minute bona-fide rest period. The Company often operated under strict deadlines to construct and take-down their projects and installations at venues/locations of their customers, which time-constraints influenced management and contributed to non-compliance with California's rest period requirements. The Company did not account for, or show any regard for, rest breaks in its daily operations.

93. The Company failed to pay Plaintiffs all the required rest period premium pay for all the rest period violations.

94. The Company's non-provision of compliant rest periods, and the Company's non-payment of the requisite rest period premiums, violated and is actionable under Labor Code sections 226.7 subdivisions (b) & (c).

95. As a result of the Company's violation of California's rest period rules, Plaintiffs are entitled to, among other things, one (1) hour of pay at their regular rate of pay for each workday in which a rest period violation occurred.

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EIGHTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Wage Statements

(Against The Company, And DOES 1 Through 10, Inclusive)

96. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23, and 61 through 95, inclusive as though fully set forth herein.

97. Labor Code section 226, subdivision (a), requires that employers furnish to their employees, semi-monthly or at the time of each payment of wages, an accurate itemized statement in writing showing the "(1) gross wages earned, (2) total hours worked by the employee …, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, …, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, … , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee[.]"

98. Labor Code section 226(a) applied to the Company's employment of Plaintiffs. The Company did not issue accurate itemized wage statements to Plaintiffs, and failed to accurately show all the information required by Labor Code section 226(a).

99. Among other things, as a result of the Company's inadequate time-keeping practices and Plaintiffs' off-the-clock work, Plaintiffs' wage statements failed to accurately show their total hours worked and net and gross wages earned.

100. The Company's wage statements also failed to itemize the actual hours worked by Plaintiffs in the pay period, violating Labor Code section 226(a)(2).

101. The Company's wage statements also utilized vague terminology for pay items, including, without limitation, a pay item referred to as "penalties" on wage statements. Usage of the word "penalties" is ambiguous. If, by penalties, the Company meant meal period premiums, rest period premiums, or both, this would be plainly inaccurate as meal period premiums and rest period premiums are wages, not penalties. Because of the vague

pay items, employees (Plaintiffs included) cannot determine if the hours associated with the pay items are for hours worked, or should be regarded as hours worked, and thus cannot promptly and easily determine their total hours worked from the face of the wage statement. Similarly, employees cannot tell whether these vague payments are part of their gross "wages" or net "wages" earned in the pay period. As a result, the wage statements violate Labor Code section 226(a)'s requirements to provide an "accurate" itemized wage statement showing the total hours worked, and net and gross wages earned. (Labor Code, § 226(a)(1), (a)(2), & (a)(5).)

102. The Company's wage statements, at times, lumped payment from multiple pay periods into one wage statement, as opposed to issuing separate wage statements for each discrete pay period. This violated Labor Code section 226(a)'s requirement to issue separate wage statements for "each payment," and to itemize, on a corresponding wage statement, the wages applicable to that pay period (Labor Code, § 226(a)(6)).

103. Moreover, to the extent the Company is covered by Labor Code section 201.3, the inadequate time-keeping practices and off-the-clock work rendered the Company's wage statements non-compliant with Labor Code section 226(a)(9)'s requirement to itemize the "rate of pay and total hours worked for each temporary services assignment."

104. In addition, the Company also failed to fulfill its record-keeping obligations under Labor Code § 226 and has maintained inaccurate records.

105. Plaintiffs have suffered the requisite "injury" as a result of the violations, and the Company's violations were "knowing and intentional," as those terms are used in Labor Code section 226. For the inaccurate wage statements, Plaintiffs are entitled to the greater of (i) all actual damages or (ii) $50 for the initial wage statement violation, and $100 for each subsequent violation, not to exceed an aggregate penalty of $4,000 (Labor Code, § 226(e)(1)) for each of them, in addition to attorney's fees and costs.

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NINTH CAUSE OF ACTION

Failure To Pay All Wages Due Upon Separation From Employment

(Against The Company, And DOES 1 Through 10, Inclusive)

106. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23, and 61 through 105, inclusive as though fully set forth herein.

107. At all relevant times, Labor Code section 201 provided that, if an employer discharges an employee, the employee's wages earned and unpaid at the time of discharge are due and payable immediately. Plaintiffs' employment at the Company ended over thirty (30) days ago and, to this day, they have not received all the wages due to them.

108. The Company has willfully failed to pay Plaintiffs all their wages due in violation of Labor Code section 201. Plaintiffs' final pay from the Company did not include all the wages to which they were entitled, including, among others: (i) pay for off-the-clock work, and (ii) unpaid meal and rest period premiums.

109. At all relevant times, Labor Code section 203 provided that, if employers (such as the Company) willfully fail to pay any wages of an employee who is discharged in the time required by Labor Code section 201, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced, but the wages shall not continue for more than thirty (30) days. Accordingly, Plaintiffs are entitled to receive statutory penalties up to a maximum of thirty (30) days, as well as attorney's fees and costs, under Labor Code section 203.

TENTH CAUSE OF ACTION

Unreimbursed Expenses

(Against The Company, And DOES 1 Through 10, Inclusive)

110. Plaintiffs re-allege and incorporates by reference paragraphs 1 through 23, and 61, through 109, as though fully set forth herein.

111. At all relevant times, Labor Code section 2802 required and continues to require employers to fully reimburse employees for expenses incurred in the discharge of their work-related duties or while carrying out the directions of their employer.

112. Plaintiffs incurred reimbursable expenses in connection with their work for the Company, which expenses were not reimbursed, including (without limitation) those set forth below.

113. Plaintiffs' expenses included the utilization of their personal cell phone for work-related purposes, including, without limitation, to engage in and review work-related communications (e.g., text messages to report their presence or departure from a jobsite) and to perform work-related tasks (e.g., taking pictures for management). Plaintiffs also incurred parking charges/fees and meal expense in connection with the discharge of their duties and/or while carrying out the directions of their employer, and the Company also required employees to engage in non-ordinary commutes (e.g., commuting time beyond their normal commute to and from work) for which they did not receive mileage reimbursement.

114. The Company failed to properly pay the expenses of Plaintiffs that were owed under Labor Code § 2802.

115. In addition to other appropriate relief, Plaintiffs are entitled to full reimbursement of all expenses owed, plus interest, attorney's fees and costs, as provided for in Labor Code section 2802.

ELEVENTH CAUSE OF ACTION

Recordkeeping Violations

(Against The Company, And DOES 1 Through 10, Inclusive)

116. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23 as though fully set forth herein.

117. Through counsel, Plaintiffs submitted records requests to the Company for, among other things, their time records which are required by law to be maintained by the employer. (Labor Code, § 1174(d)). The Company failed to timely and fully produce all the time-punch records for Barreiro and Baptiste, violating Labor Code sections 226(b)-(c). (See also DLSE Enforcement Manual, § 14.1.2.)

118. For that violation, Plaintiffs seeks all available relief under Labor Code section 226, including injunctive relief, the $750 penalty (for each Plaintiff) as specified in

subdivision (f) thereof, and attorney's fees and costs.

TWELFTH CAUSE OF ACTION

Unlawful Or Unfair Business Practices

(Against The Company, And DOES 1 Through 10, Inclusive)

119. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 118 as though fully set forth herein.

120. At all relevant times, the Company practices, as alleged above, have been and continue to be unfair, fraudulent and illegal, and harmful to Plaintiffs, others similarly situated, and the general public. The Company's above-alleged practices constitute violations of Business and Professions Code section 17200 et seq. Specifically, a practice that violates any state law or regulation may constitute the basis of an unlawful business practice prohibited by Business and Professions Code Sections 17200 et seq.

121. Among other things, the following practices of the Company constitute unfair business practices:

(a) The Company's failure to pay all the wages owed to Plaintiffs;

(b) The Company's failure to provide compliant meal periods, as required by Labor Code sections 226.7(b) and 512(a) and the applicable IWC Wage Order;

(c) The Company's failure to provide compliant rest periods, as required by Labor Code sections 226.7(b) and the applicable IWC Wage Order;

(d) The Company's failure to provide accurate wage statements, as required by Labor Code section 226(a);

(e) The Company's failure to keep on file for at least three (3) years at the place of employment or at a central location within the State of California full, complete, and accurate copies of the itemized wage statements furnished to Plaintiffs as required by Labor Code section 226(a) and records of hours worked as required by Labor Code section 1174(d);

(f) The Company's willful failure to pay all unpaid wages to Plaintiffs immediately upon their discharge from employment;

(g) The Company's violation of its record maintenance and/or production responsibilities under California law; and

(h) The Company's failure to fully reimburse the expenses of Plaintiffs.

122. In addition to the above, the Company required employees (Plaintiffs included) to agree to terms or conditions of employment that are prohibited by California law. For example, and among other documents, the Company required employees to sign a document entitled "Non-Disclosure Agreement" which contains broad and illegal restrictive covenants that are prohibited by Business & Professions Code § 16600 and 16600.1(a). The Non-Disclosure Agreement also includes indemnity provisions which conflict with Labor Code § 2802, and the breadth of the Non-Disclosure Agreement captures and prohibits communications that are protected under Labor Code §§ 232(a)-(b) and 232.5(a)-(b). Another document violative of California law, that employees were required to sign, is a terms sheet entitled "Temporary Employee Information," which, among other things, expressly conditions reimbursement of expenses on pre-approval from management, which violates Labor Code § 2802.

123. Accordingly, pursuant to Business and Professions Code Section 17200 et seq., Plaintiffs are entitled to restitution of wages and other property held by the Company and/or other relief requiring the Company (and any other responsible parties) to pay all wages and other sums due to Plaintiffs. Plaintiffs are also entitled to declaratory and/or injunctive relief, including as to the illegal agreements and/or provisions.

124. Plaintiffs meet the standing requirements for seeking relief pursuant to Business and Professions Code section 17203, in that they have suffered injury in fact and have lost money as a result of the Company's actions, as more fully set forth elsewhere in this pleading.

THIRTEENTH CAUSE OF ACTION

Civil Penalties Under PAGA

(Against The Company, And DOES 1 Through 10, Inclusive)

125. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 23, and

61 through 124, inclusive as though fully set forth herein.

126. Pursuant to Labor Code section 2699.3, Plaintiffs, on behalf of themselves and all other aggrieved employees, bring this action as a non-class representative action under PAGA for civil penalties based on violations of the California Labor Code and the applicable IWC Wage Order(s).

127. Plaintiffs submitted their PAGA Notice (incorporated in full herein by reference and attached hereto as **Exhibit 1**) to the LWDA, provided a copy of the same to the Company via certified mail, and waited the requisite time-period before filing this PAGA action in court.

128. Pursuant to PAGA, Plaintiffs assert this action for civil penalties for the violations alleged in **Exhibit 1**, including, without limitation:

a. Civil rights violations, including retaliation and wrongful termination.
b. Off-the-clock work.
c. Delay in payment of all wages owed.
d. Unreimbursed expenses.
e. Meal period violations.
f. Rest period violations.
g. Inaccurate wage statements.
h. Illegal agreements.
i. Recordkeeping violations.

129. For each violation asserted, Plaintiffs seek the maximum available civil penalties under PAGA, including those specified by statute or, if applicable, the default civil penalties under PAGA.

130. If, at trial in this case, (i) civil penalties are available on Plaintiffs' claims under a Labor Code provision (e.g., Labor Code § 1102.5 and/or 98.6), and (ii) if those civil penalties are recoverable directly under the applicable statute regardless of PAGA (meaning those civil penalties can be recovered by Plaintiffs by a private right of action directly under the applicable statute without the necessity of invoking PAGA), and (iii) if, for the same

underlying violation, awarding both those civil penalties directly recoverable under the applicable statute and civil penalties under PAGA would result in an impermissible double recovery, then (iv) Plaintiffs will make an election of remedies to avoid the impermissible double recovery.

131. If, at trial in this case, (i) civil penalties are available on Plaintiffs' claims under a Labor Code provision (e.g., Labor Code § 1102.5 and/or 98.6), and (ii) if those civil penalties are recoverable directly under the applicable statute regardless of PAGA, and (iii) if, for the same underlying violation, awarding both those civil penalties directly recoverable under the applicable statute and civil penalties under PAGA would not result in an impermissible double recovery, then (iv) Plaintiffs will elect to recover both those civil penalties directly under the applicable statute and the civil penalties recoverable under PAGA.

132. For the violations asserted, Plaintiffs also seeks injunctive relief, attorney's fees and costs as provided under PAGA.

Future Amendment

133. Plaintiffs reserve the right to amend this Complaint to name additional parties, to add additional parties to already pleaded causes of action, and to include additional causes of action/claims which are presently unknown but which are uncovered in the discovery process.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request judgment as follows on the above causes of action:

On The First Cause Of Action

1. For all recoverable damages (including economic and non-economic damages) according to proof;

2. For any civil penalties directly recoverable under Labor Code § 1102.5 and 98.6;

3. For punitive damages according to proof;

4. For attorney's fees and costs as authorized by Labor Code § 1102.5(j), and all

other applicable law;

On The Second Cause Of Action

5. For all recoverable damages (including economic and non-economic damages) according to proof;

6. For any civil penalties directly recoverable under Labor Code § 1102.5 and 98.6;

7. For any other statutory remedies available under Labor Code §§ 6310-6311;

8. For punitive damages according to proof;

9. For attorney's fees and costs as authorized by Labor Code § 1102.5(j), and all other applicable law;

On The Third And Fourth Causes Of Action

10. For all recoverable damages (including economic and non-economic damages) according to proof;

11. For punitive damages according to proof;

On The Fifth Cause Of Action

12. For all recoverable damages and unpaid wages, whether arising from unpaid or underpaid minimum wages, overtime wages, double-time wages, or otherwise ;

13. For all liquidated damages owed on any minimum wage violations (Labor Code, § 1194.2);

14. For attorney's fees and costs pursuant to applicable law, including Labor Code sections 1194 and 218.5;

On The Sixth Cause Of Action

15. For premium pay under Labor Code § 226.7, including (i) premiums owed for meal period violations and (ii) any underpaid amounts for meal period premiums that resulted from the incorrect calculation of the regular rate.

On The Seventh Cause Of Action

16. For premium pay under Labor Code § 226.7, including (i) premiums owed for rest period violations and (ii) any underpaid amounts of rest period premiums that resulted

from the incorrect calculation of the regular rate.

On The Eighth Cause Of Action

17. For statutory penalties under Labor Code § 226, or actual damages incurred as a result of the Company issuing inaccurate wage statements, according to proof;

18. For attorney's fees and costs under Labor Code § 226;

On The Ninth Cause Of Action

19. For statutory penalties under Labor Code § 203, up to the statutory maximum;

20. For attorney's fees and costs pursuant to applicable law, including Labor Code § 218.5;

On The Tenth Cause Of Action

21. For the full reimbursement of expenses owed, including interest thereon, under Labor Code § 2802;

22. For attorney's fees and costs as authorized by law (see Labor Code § 2802(c);)

On The Eleventh Cause Of Action

23. For all penalties available directly under Labor Code § 226(f));

24. For injunctive relief to ensure compliance with the Company's record maintenance and production obligations under Labor Code section 226;

25. For attorney's fees and costs (Labor Code § 226(h));

On The Twelfth Cause Of Action

26. For restitution of all unpaid wages (including, without limitation, unpaid overtime/double-time, meal period premiums, rest period premiums, and sick leave pay), unpaid interest, unreimbursed expenses, and other monies withheld from Plaintiffs together with the disgorgement of any profits received as a result of the Company unlawful or unfair business practices;

27. For declaratory and injunctive relief, to declare the Company's practices, policies, and/or wrongful agreements unlawful and curb further unfairness and illegality;

On The Thirteenth Cause Of Action

28. For all forms of civil penalties recoverable under PAGA, and for entry of

judgment in favor of Plaintiffs and other aggrieved employees;

29. For attorney's fees and costs pursuant to PAGA;

On All Causes Of Action

30. For all available interest, including prejudgment and post-judgment interest;

31. For costs as authorized by law;

32. For any recoverable attorney's fees under any applicable law or doctrine; and

33. For all such other relief as the Court deems just and proper.

Dated: October 20, 2025

SCHEPPACH BAUER PC

By: ______________________

JOHN M. SCHEPPACH
Attorneys for Plaintiffs
NELSON BARREIRO and
TSALTA BAPTISTE

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all claims and causes of action so triable.

Dated: October 20, 2025

SCHEPPACH BAUER PC

By: ______________________

JOHN M. SCHEPPACH
Attorneys for Plaintiffs
NELSON BARREIRO and
TSATLA BAPTISTE

EXHIBIT 1

SCHEPPACH | BAUER PC

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PAGA NOTICE

August 13, 2025

VIA CERTIFIED MAIL TO:	**VIA ONLINE SUBMISSION TO:**
Employer **Blue Revolver, Inc.** Registered Agent For Service Of Process W. Eric Fulton, CPA 16030 Ventura Blvd, #240 Encino, CA 91436	**The State Of California,** **Labor & Workforce Development Agency** Current Website Address: http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html

Re: *Barreiro, et al. v. Blue Revolver, Inc., et al.*
PAGA Notice

Dear Employer And The LWDA:

Nelson Barreiro ("Barreiro") and Tsalta Baptiste ("Baptiste") on behalf of themselves and all other aggrieved employees, and through their undersigned representative, hereby provide notice pursuant to the California Private Attorneys General Act of 2004, Labor Code sections 2698 – 2699.8 ("PAGA"), of alleged violations of the California Labor Code committed by Blue Revolver, Inc. (the "Company"). Pursuant to the requirements of PAGA, the Labor Code provisions allegedly violated, including the alleged facts and theories in support thereof, are set forth in the paragraphs below. All citations herein are to the California Labor Code as it is presently constituted. The Labor Code may be amended in one or more respects after the date of this PAGA Notice. This PAGA Notice invokes all available forms of tolling.

This PAGA Notice is also alleged against DOES 1 through 10, inclusive, as additional responsible parties, which includes any predecessor, successor, or affiliate entity who was the joint employer of Barreiro/Baptiste or who was otherwise responsible for the Labor Code violations herein asserted, and any owner, director, officer, or managing agent who caused one or more of the Labor Code violations herein asserted. If and when such additional responsible parties are ascertained and identified, this PAGA Notice may be amended to name such additional responsible parties, and any such amendment shall relate back to this PAGA Notice.

I. BACKGROUND

The Company offers spatial design, commercial and retail interior design, custom furniture installation, immersive brand activations, live events, and stage design, including in California. The Company provides its services at various venues and locations throughout California.

Barreiro worked for the Company in California as a non-exempt employee, including as a production assistant.

Baptiste worked for the Company in California as a non-exempt employee, including as a production assistant and/or brand ambassador.

During their employment at the Company, Barreiro and Baptiste experienced civil rights violations, and wage-and-hour violations.

II. CIVIL RIGHTS VIOLATIONS

A. Barreiro

Shortly before his separation from employment, Barreiro engaged in protected activity, including, without limitation, the protected activity discussed below, and his protected activity prompted his termination from employment.

Approximately 2 days before he was notified of his termination, Barreiro complained to supervisory personnel that multiple days he worked in the prior week were not accounted for in the software the Company utilized to calculate and pay wages, and that he could not add those days to the software. During his employment, Barreiro had raised similar complaints before of unpaid wages and/or days missing from his pay/hours. Approximately 2 days before he was notified of his termination, Barreiro complained to supervisory personnel regarding a deficiency in the Company's ordinary practice of providing daily onsite sustenance and that he had to utilize a meal delivery service instead, at his own expense. Barreiro's complaints were protected activity under Labor Code sections 98.6(a)-(b), 232.5(c), and 1102.5(b)-(d), Barreiro was discharged because of this protected activity, and his discharge violated these Labor Code provisions.

B. Baptiste

Shortly before his separation from employment, Baptiste engaged in protected activity, including, without limitation, the protected activity discussed below, and his protected activity prompted his termination from employment.

During his employment, Baptiste raised one or more complaints about obtaining expense reimbursement, including for parking fees. In addition, shortly before he was terminated, Baptiste raised internal complaints to supervisory personnel regarding a verbal altercation and physical assault that he experienced in the workplace and that was perpetrated by another employee of the Company. Finally, shortly before he was terminated, Baptiste raised one or more safety complaints at the Company. Baptiste was forced to engage in unsafe lifting of heavy work-related equipment up a flight of stairs that was covered by a bendable/flimsy ramp. In front of a lead producer and/or other Company personnel, Baptiste complained aloud "this isn't safe" or words to that effect, visibly winced, and exclaimed that his knee had popped. Under Labor Code section 6400 "[e]very employer shall furnish employment and a place of employment that is safe and healthful for the employees therein." One or more of Baptiste's complaints occurred within approximately 2 days or less of his discharge. Baptiste's complaints were protected activity under Labor Code sections 98.6(a)-(b), 232.5(c), 1102.5(b)-(d), 6310(a)-(b), and 6311, Bapsiste was discharged because of this protected activity, and his discharge violated these Labor Code provisions.

III. ALLEGED LABOR CODE VIOLATIONS

The wage-and-hour violations asserted in this section III apply to, and are alleged on behalf of, all current and former non-exempt employees of the Company who were employed by the Company in California at any time during the applicable limitations period ("aggrieved employees"). These aggrieved employees include, without limitation, Barreiro and Baptiste. These aggrieved employees include any non-exempt employee of the Company who worked at any venue or location within California.

A. Off-The-Clock Work

During the limitations period, Barreiro, Baptiste, and other aggrieved employees were not paid for all hours worked. Indeed, employees routinely worked off-the-clock for the Company.

Among other things, the Company lacked a contemporaneous and reliable method of recording the actual time worked of employees. As a result, employees were not paid accurately, and were not paid for all hours worked. Employees were paid according to scheduled hours or supervisory expectations, not for their actual by-the-minute time worked. This dynamic was reinforced in Company offer letters and other materials, which, among other things, provided the Company's expectations regarding shift length and the projected daily amount of pay. Employees would often text-message supervisory personnel when they arrived to a venue or location, but there was no time-clock or time-punch station at the location at which they worked. The software system the Company purportedly used to track hours worked was an after-the-fact program (not a daily time-punch system), it often had pre-programed time-parameters or other limitations that could not be freely adjusted or overcome, and the software did not regularly and reliably permit by-the-minute accurate recordation. Nor did the Company keep track of, or designate, an employee's first or primary reporting location, such that the Company could track and pay for commuting/travel time to farther away venues that were beyond an employee's ordinary commute to and from work.[1]

[1] The lack of an accurate and reliable method of recording time worked not only caused employees to work off-the-clock, but it also created a scenario where the Company did not track whether, during their hours worked, employees worked in different positions that would have entitled them to a higher or different hourly wage.

In addition to inadequate time-keeping infrastructure and procedures, the Company routinely communicated with employees via their personal cell phones about work-related items and tasks, and this was compensable time that was not accounted for in their pay.

In addition, and among other things, during purported “meal periods,” employees were controlled, interrupted, and performing compensable work, for which they did not receive pay. Employees had compensable work time during "meal periods" that was not accounted for in their time records or pay.

The Company's failure to compensate Barreiro, Baptiste, and other aggrieved employees for their off-the-clock work caused them to not be paid the applicable California minimum wage for compensable work (in violation of, and actionable under, Labor Code §§ 204, 1194, 1194.2, 1197, 1197.1 & 1199), to not be paid their regular hourly rate for all hours worked (in violation of, and actionable under, Labor Code §§ 204 & 218), and to not receive proper overtime and/or double-time compensation (in violation of, and actionable under, Labor Code §§ 204, 510 & 1198). The Company's failure to pay Barreiro, Baptiste, and the other aggrieved employees the overtime, double-time, and/or minimum wages they were due also violates regulatory law. (IWC Wage Orders, § 3 [overtime and double-time requirements], and § 4 [minimum wage requirements].)

As a result of the inadequate time-keeping and the off-the-clock work, the Company failed to properly calculate the accrued sick leave of aggrieved employees (as the Company ostensibly provided employees with 1 hour of paid sick leave for every “30 hours worked” but did not give employees credit for all the hours they worked as a result of the off-the-clock work), leading to an under-accrual and under-payment of sick leave, in violation of Labor Code section 246, including subdivisions (a), (b), and (c) thereof.

As a result of the inadequate time-keeping and the off-the-clock work, the Company failed to provide aggrieved employees with wage statements that accurately reflected their total hours worked (violating Labor Code § 226(a)(2)), their gross wages earned (violating Labor Code § 226(a)(1)), their net wages earned (violating Labor Code § 226(a)(5)), and their applicable rates of pay and hours worked at those rates (violating Labor Code § 226(a)(9)). The Company's non-compliance with California's wage statement requirements violated and is actionable under Labor Code §§ 226(a) and 226.3.

The Company was required to keep, in a centralized location, three years' worth of accurate records showing the hours worked by, and wages paid to, its employees; however, the Company failed to do so in violation of Labor Code § 1174(d). The inadequate time-keeping methods and practices, as well as the off-the-clock work, rendered the Company’s records inaccurate.

As a result of off-the-clock work, the Company did not provide separated employees (Barreiro and Baptiste included) with final pay that contained all wages due to them under California law. This deficiency in final pay was willful within the meaning of Labor Code § 203. The Company's non-provision of timely and sufficient final pay to separated employees violated, and is actionable under, Labor Code §§ 201, 202, 203, 208, 226(a), and 226.3.

B. Delay In Payment Of All Wages Owed

The Company did not timely and fully pay all wages owed to aggrieved employees each pay period, in violation of Labor Code section 204. The Company's periodic wage payments did not include all hours worked, and sometimes combined multiple pay periods together in one payment, all in violation of Labor Code section 204.

The extent the Company qualifies as a "temporary services employer" covered by Labor Code section 201.3, the payment of wages to aggrieved employees must occur "no less frequently than weekly." (Labor Code, § 201.3(b).) The Company's payment of wages to aggrieved employees did not comply with the timing requirements of Labor Code section 201.3(b).

C. Unreimbursed Expenses

Labor Code section 2802 requires employers to reimburse employees for expenses incurred in the discharge of their work-related duties or while carrying out the directions of their employer. Aggrieved employees incurred expenses for which they were not reimbursed, including (without limitation) those set forth below, in violation of Labor Code section 2802.

Among other things, the Company required Barreiro, Baptiste, and other aggrieved employees to utilize their personal cell-phones or other personal devices for work-related purposes, including, without limitation, to engage in and review work-related communications (e.g., text messages to report their presence or departure from a jobsite) and to perform work-related tasks (e.g., taking pictures for management). Employees also incurred parking charges/fees in connection with the discharge of their duties and/or while carrying out the directions of their employer, and the Company also required employees to engage in non-ordinary commutes (e.g., commuting time beyond their normal commute to and from work) for which they did not receive mileage reimbursement. Employees did not receive reimbursement, or adequate reimbursement, for these expenses.

The Company's failure to properly pay the expenses of Barreiro, Baptiste, and the other aggrieved employees violates and is actionable under Labor Code § 2802(a)-(c). (*Cochran v. Schwan's Home Service, Inc*. (2014) 228 Cal.App.4th 1137.)

D. Meal Period Violations

At all material times, the Company maintained policies and/or practices that prevented aggrieved employees from receiving legally-compliant first and second meal periods. The Company's policies and/or practices have caused employees to not be provided with the legally-compliant meal periods to which they were and are entitled.

Under California law, all non-exempt employees who work more than five (5) hours in a shift are entitled to take an uncontrolled, duty-free meal period of at least thirty (30) minutes. Meal periods must start after no more than five (5) hours of work. (Labor Code, § 512(a); IWC Wage Orders, § 11.) Under California law, all non-exempt employees who work more than ten (10) hours in a shift are entitled to take a second uncontrolled, duty-free meal period of at least thirty

(30) minutes. Second meal periods must start after no more than ten (10) hours of work. (Labor Code, § 512(a); IWC Wage Orders, § 11.) Employers are forbidden from requiring employees to work during a meal period that is mandated by California statutory law or by an IWC Wage Order. (Labor Code, § 226.7(b).) Under California law, employers must provide an employee with an additional hour of pay for each workday that an employee is not provided with a meal period "in accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

At all material times, the Company did not establish or provide employees with a sufficient break system or break infrastructure, causing employees to routinely take interrupted meal periods, delayed or shortened meal periods, or to forgo meal periods altogether. The Company did not maintain a schedule of breaks, a bell system, or electronic notification system for breaks. The Company did not record meal periods. There was no established breakroom or rest areas for employees to have their purported meal periods. The Company often had food catered at the venue or location where work was performed, with the expectation that employees would not leave the premises during purported meal periods and would eat-and-work, rather than stop for an actual 30-minute bona-fide meal period. The Company often operated under strict deadlines to construct and take-down their projects and installations at venues/locations of their customers, which time-constraints influenced management and contributed to non-compliance with California's meal period requirements. Barreiro recalls raising the subject of meal periods to the Company, and the Company's response was that they were "not a priority" or words to that effect.

Barreiro, Baptiste, and other aggrieved employees routinely worked the requisite hours to be entitled to a first meal period under California law. The Company was required to provide a first meal period to aggrieved employees in accordance with law, and the Company failed to do so. Specifically, and without limitation, the Company failed to provide aggrieved employees with first meal periods that were timely, duty and control-free, and/or a full 30 minutes. Likewise, and for the same reasons, the Company has also routinely failed to provide aggrieved with legally-compliant second meal periods on shifts they worked more than ten (10) hours. The Company failed to provide aggrieved employees with second meal periods that were timely, duty and control-free, and/or a full 30 minutes.

No valid waiver exists to excuse the meal period violations. The Company did not properly pay aggrieved employees the required premium wages owed for the first and second meal period violations. The Company's non-provision of compliant meal periods, and the Company's non-payment of the required meal period premiums, violated and is actionable under Labor Code § 512(a), and Labor Code §§ 226.7(b) & (c).

As meal period premiums are wages subject to Labor Code section 226(a), the Company's failure to pay at all and list on its wage statements, and/or the Company's failure to properly pay and list on its wage statements, the meal period premiums to which aggrieved employees were entitled caused the Company's wage statements to inaccurately list the gross and net wages earned, in violation of Labor Code section 226(a)(1) and (a)(5). Moreover, when meal periods were interrupted and/or controlled, yet the aggrieved employees were treated as being clocked out, their corresponding wage statements for the pay period did not accurately reflect their total hours worked or their gross or net wages earned, in violation of Labor Code section 226(a)(2), (a)(1) and (a)(5). The Company's non-compliance with California's wage statement requirements violated and is actionable under Labor Code §§ 226(a) and 226.3.

As meal period premiums are wages subject to Labor Code sections 201-203, the Company also failed to include in the final pay of separated aggrieved employees (Barreiro and Baptiste included) all the meal period premiums to which they were entitled. These deficiencies in final pay were willful within the meaning of Labor Code section 203, and are actionable under Labor Code sections 201, 202, 203, 208, and 256.

E. Rest Period Violations

At all material times, the Company maintained policies and/or practices that prevented aggrieved employees from receiving legally-compliant rest periods. The Company's policies and/or practices have caused employees to not be provided with the legally-compliant rest periods to which they were and are entitled.

Under California law, all non-exempt employees must be authorized and permitted to take a "net" 10-minute rest break for every four (4) hours worked, or major fraction thereof. (IWC Wage Orders, § 12(A).) Non-exempt employees must be authorized and permitted to take one 10-minute rest break for shifts from three and one-half (3 ½) hours to six (6) hours in length, two 10-minute rest breaks for shifts of more than six (6) hours up to ten (10) hours in length, three 10-minute rest breaks for shifts of more than ten (10) hours up to fourteen (14) hours in length, and so on. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.)

In terms of rest break timing, the employer must authorize and permit the taking of rest breaks "in the middle of each work period." (IWC Wage Orders, § 12(A); see also *Rodriguez v. E.M.E., Inc.* (2016) 246 Cal.App.4th 1027, 1040 [analyzing the rest break timing rule].) In terms of rest break duration, California law requires employers to provide employees with a "net" rest time of 10 minutes. (IWC Wage Orders, § 12.) An employee's 10 minutes of rest begins the moment the employee can reach an appropriate area of rest and be free from employer control. (*Vaquero v. Stoneledge Furniture, LLC* (2017) 9 Cal.App.5th 98, 112 [a rest period "begins when the employee reaches an area away from the work station that is appropriate for rest"]; *Augustus v. ABM Security Services, Inc*. (2016) 2 Cal.5th 257, 273 [rest periods must be control-free].)

Under California law, it is illegal for an employer to require an employee to work during a rest period that is mandated by California statutory law or an IWC Wage Order. (Labor Code, § 226.7(b).) Under California law, employers must provide an employee with an additional hour of pay for each workday that an employee is not provided with a rest period "in accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

Barreiro, Baptiste, and the other aggrieved employees worked the requisite hours to be entitled to first, second, and third rest periods under California law. The Company was required to authorize and permit them to take rest periods in accordance with California law, and the Company failed to do so.

At all material times, the Company did not establish or provide employees with a sufficient break system or break infrastructure, causing employees to miss rest breaks altogether, or take them in an untimely or shortened (less than a net 10-minute) manner, if at all. The Company did not maintain a break schedule, a bell system, or an electronic notification system for breaks, and employees were expected to remain on the premises and stay focused on the projects/work at hand. There was no established breakroom or rest areas for employees to have their purported rest breaks, if any. The Company often had food catered at the venue or location where work was performed, with the expectation that employees would not leave the premises during purported rest periods and would snack-and-go, rather than stop for an actual 10-minute bona-fide rest period. The Company often operated under strict deadlines to construct and take-down their projects and installations at venues/locations of their customers, which time-constraints influenced management and contributed to non-compliance with California's rest period requirements.

The Company failed to provide legally-compliant first, second, and third rest breaks to aggrieved employees. The Company did not account for, or show any regard for, rest breaks in its daily operations.

No valid waiver exists to excuse the rest period violations. The Company did not properly pay Barreiro, Baptiste, or the other aggrieved employees the required premium wages owed for the rest period violations. The Company did not have a system in place for flagging and paying for rest period violations. The Company's non-provision of compliant rest periods, and the Company's non-payment of rest period premiums, violated and is actionable under Labor Code sections 226.7(b) and (c). The Company's failure to provide legally-compliant rest periods also violated regulatory law. (IWC Wage Orders, § 12 [rest period requirements].)

As rest period premiums are wages subject to Labor Code § 226(a), the Company's failure to pay and list on its wage statements the rest period premiums to aggrieved employees were entitled caused the Company's wage statements to inaccurately list the gross and net wages earned, in violation of Labor Code § 226(a)(1) and (a)(5). The Company's non-compliance with wage statement requirements violated and is actionable under Labor Code §§ 226(a) and 226.3.

As rest period premiums are wages subject to Labor Code sections 201-203, the Company has also failed to include in the final pay of separated aggrieved employees (Barreiro and Baptiste include) all the rest period premiums to which they were entitled. These deficiencies in final pay were willful within the meaning of Labor Code section 203, and are actionable under Labor Code sections 201, 202, 203, 208, and 256.

F. <u>Inaccurate Wage Statements</u>

Labor Code section 226, subdivision (a), requires that employers (such as FSH) furnish to their employees, semi-monthly or at the time of each payment of wages, an accurate itemized statement in writing showing the "(1) gross wages earned, (2) total hours worked by the employee …, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, …, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, … , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee[.]"

As discussed throughout this PAGA Notice, the Company violated Labor Code section 226 in numerous respects. The above-mentioned violations were knowingly and intentionally committed, and resulted in injury to the employees.

In addition to the foregoing, the Company's wage statements, at times, lumped payment from multiple pay periods into one wage statement, as opposed to issuing separate wage statements for each discrete pay period. This violated Labor Code section 226(a)'s requirement to issue separate wage statements for "each payment," and to itemize, on a corresponding wage statement, the wages applicable to that pay period (Labor Code, § 226(a)(6)).

The Company's wage statements fail to itemize the actual hours worked by the employee in the pay period, violating Labor Code section 226(a)(2).

The Company's wage statements also utilize vague terminology for pay items, including, without limitation, a pay item referred to as "penalties" on wage statements. Usage of the word "penalties" is ambiguous. If, by penalties, the Company meant meal period premiums, rest period premiums, or both, this would be plainly inaccurate as meal period premiums and rest period premiums are wages, not penalties, under longstanding law. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094.) Because of the vague pay items, employees cannot determine if the hours associated with the pay items are for hours worked, or should be regarded as hours worked, and thus cannot promptly and easily determine their total hours worked from the face of the wage statement. Similarly, employees cannot tell whether these vague payments are part of their gross "wages" or net "wages" earned in the pay period. As a result, the wage statements violate Labor Code section 226(a)'s requirements to provide an "accurate" itemized wage statement showing the total hours worked, and net and gross wages earned. (Labor Code, § 226(a)(1), (a)(2), & (a)(5).)

As mentioned above, the inadequate time-keeping practices and off-the-clock work rendered the Company's wage statements inaccurate. Moreover, to the extent the Company is covered by Labor Code section 201.3, the inadequate time-keeping practices and off-the-clock work rendered the Company's wage statements non-compliant with Labor Code section 226(a)(9)'s requirement to itemize the "rate of pay and total hours worked for each temporary services assignment."

The above-mentioned violations were knowingly and intentionally committed, and resulted in injury to aggrieved employees.

G. <u>Illegal Agreements</u>

The Company required aggrieved employees to agree to terms or conditions of employment that are prohibited by California law and which the Company knew were prohibited by California law. (Labor Code § 432.5.) For example, and among other documents, the Company required employees to sign a document entitled "Non-Disclosure Agreement" which contains broad and illegal restrictive covenants that are prohibited by Business & Professions Code § 16600 and 16600.1(a), and which the Company knew were prohibited by Business & Professions Code § 16600 and 16600.1(a), thus violating Labor Code § 432.5. The Non-Disclosure Agreement also includes indemnity provisions which conflict with Labor Code § 2802, and the breadth of the Non-Disclosure Agreement captures and prohibits communications that are protected under Labor Code §§ 232(a)-(b) and 232.5(a)-(b), and the Company knew the Non-Disclosure Agreement conflicted with these Labor Code provisions. Another document violative of California law, that employees were required to sign, is a terms sheet entitled "Temporary Employee Information," which, among other things, expressly conditions reimbursement of expenses on *pre-approval* from management, which violates Labor Code § 2802 and which the Company knew was violative of Labor Code § 2802.

H. Recordkeeping Violations

In addition to the recordkeeping violations discussed above in this PAGA Notice, the Company received a written request from Barreiro and Baptiste, through counsel, to produce time-punch records that are required by law to be maintained by the employer (Labor Code, § 1174(d)). The Company refused to produce the time-punch records for Barreiro and Baptiste, violating Labor Code § 247.5(a) and 226(b)-(c).) (See also DLSE Enforcement Manual, § 14.1.2.) To the extent the Company has refused such requests from other aggrieved employees, those refusals were also violative of the same Labor Code provisions.

IV. CIVIL PENALTIES SOUGHT

For all the above-specified Labor Code violations, Barreiro and Baptiste, on behalf of themselves and all other aggrieved employees, seeks all available civil penalties against the Company that the law allows, including the default civil penalties provided by PAGA, and any civil penalties specifically provided by statute for the alleged Labor Code violations which are recoverable under PAGA.

To the extent any other entity under the control of or acting in concert with the Company, or to the extent any executive of the Company, caused or contributed to the Labor Code violations, civil penalties are also sought as to such entities or responsible parties, including DOES 1 through 10, inclusive. Barreiro and Baptiste, on behalf of themselves and all other aggrieved employees, reserve the right to assert claims and theories for Labor Code violations and associated civil penalties that are uncovered in the discovery process but which are presently unknown.

To the extent any violations described herein give rise to civil penalties that can be obtained directly under the applicable statutes without invoking or seeking relief under PAGA, nothing herein is intended to preclude Barreiro and/or Baptiste from seeking those civil penalties directly under those statutes.

Very truly yours,

John M. Scheppach
Scheppach Bauer PC

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