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all others similarly situated and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

JAMES QUEEN, on behalf of himself and
all others similarly situated, and on behalf
of the general public,

Plaintiff,

v.

SORENSEN COMMUNICATIONS, LLC;
and DOES 1-100,

Defendants.

Case No. 37-2023-00017408-CU-OE-CTL

**PLAINTIFF JAMES QUEEN'S PAGA
COMPLAINT**

1. Violation of the Private Attorney General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages for All Work Performed (Cal. Lab. Code § 2698, et. seq.)
2. Violation of the PAGA for Failure to Pay All Overtime Wages (Cal. Lab. Code § 2698, et. seq.)
3. Violation of PAGA for Failure to Provide Meal Periods (Cal. Lab. Code § 2698, et. seq.)
4. Violation of PAGA for Failure to Provide Rest Periods (Cal. Lab. Code § 2698, et. seq.)
5. Violation of PAGA for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code § 2698, et. seq.)
6. Violation of PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements (Cal. Lab. Code § 2698, et. seq.)
7. Violation of PAGA for Failure to Pay Employees Two Times Per Month (Cal. Lab. Code § 2698, et. seq.)
8. Violation of PAGA for Failure to Comply with California Worker Adjustment and Retraining Notification Act (Cal. Lab. Code § 2698, et. seq.)
9. Violation of PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties (Cal. Lab. Code § 2698, et. seq.)

DEMAND FOR JURY TRIAL

1 Plaintiff JAMES QUEEN (hereinafter “Plaintiff”), on behalf himself and all other similarly aggrieved
2 employees (hereinafter “aggrieved employees”), files this Complaint against Defendant SORENSON
3 COMMUNICATIONS, LLC (hereinafter “Defendant”) and/or DOES 1-100.

4 **I. INTRODUCTION**

5 1. This is a representative action seeking recovery of penalties under the California Labor Code
6 Private Attorney General Act of 2004 (PAGA), California Labor Code § 2698 *et. seq.*, against
7 Defendant and/or DOES 1-100. The PAGA permits an “aggrieved employee” to bring a
8 lawsuit on behalf of himself and other current and former employees to address an employer’s
9 violations of the *California Labor Code*.

10 2. This action is brought on behalf of Plaintiff and all other aggrieved employees of Defendant
11 and/or DOES who: worked a shift of at least five (5) hours without receiving a meal period;
12 worked four (4) hours, or a major fraction thereof, without receiving a ten (10) minute net rest
13 break; worked qualifying shifts without receiving second meal periods and second and third
14 rest breaks; were not provided accurate itemized wage statements; were not paid all wages
15 owed twice per month; were not paid compensation for all time worked at the straight,
16 overtime, or double time rate; were not paid waiting time penalties; were not reimbursed for
17 business expenses; and were subject to a mass layoff without adequate notice. Plaintiff seeks
18 penalties on behalf of himself and all other aggrieved employees of Defendant and/or DOES
19 as provided herein. This Complaint also seeks attorneys’ fees and costs under the PAGA, Cal.
20 Lab. Code § 2699(g)(1).

21 3. At all times mentioned herein, Plaintiff and the other aggrieved employees were not classified
22 as “Exempt” or primarily employed in an executive, professional, or administrative capacity.
23 Thus, under California law, Plaintiff and the aggrieved employees should be: provided meal
24 periods; authorized and permitted to take rest periods; paid one hour of premium pay for all
25 unprovided meal periods; paid one hour of premium pay for all rest periods that were not
26 authorized and/or permitted; paid penalties for not being provided itemized wage statements;
27 paid compensation for all time worked at the regular, overtime or double time rate; paid all
28 wages owed twice per month; paid penalties for not being paid timely at the time of

1 termination; reimbursed for business expenses; and permitted adequate notice prior to a mass
2 layoff in accordance with the law.

- 3 4. At all times mentioned herein, Defendant and/or DOES controlled the working conditions of
4 Plaintiff and the aggrieved employees including, but not limited to, having the authority to hire
5 and fire Plaintiff and the other aggrieved employees, setting the wages of Plaintiff and the other
6 aggrieved employees, and instructing Plaintiff and the other aggrieved employees when and/or
7 where to work. In addition, Defendant and/or DOES developed, wrote, dictated, approved
8 and/or authorized wage and hour policies and/or practices that Plaintiff and the aggrieved
9 employees labored under. These policies and/or practices included, but were not limited to,
10 policies and/or practices regarding meal periods, straight time, overtime, double time, rest
11 periods, wage statements, paying compensation at time of termination, timing of payment, and
12 business expense reimbursement. Further, Defendant and/or DOES had the ability to prevent
13 Plaintiff and the other aggrieved employees from working.

14 **II. JURISDICTION AND VENUE**

- 15 5. Plaintiff JAMES QUEEN is an individual residing in California. Plaintiff was employed by
16 Defendant and/or DOES in California. Plaintiff, and each of the aggrieved employees, were
17 employees of Defendant and/or DOES, and/or its operating divisions and subsidiaries, within
18 the State of California. Plaintiff and each of the aggrieved employees were subject to the
19 unlawful policies beginning one (1) year prior to the date Plaintiff sent Notice to the State of
20 California Labor and Workforce Development Agency (LWDA).
- 21 6. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
22 and/or DOE operates facilities, employs hourly employees, conducts business, and commits
23 *California Labor Code* violations within San Diego County and California. Each Defendant
24 and/or DOE is within the jurisdiction of this Court for service of process purposes. The
25 unlawful acts alleged herein have a direct effect on Plaintiff and the other aggrieved employees
26 situated within the State of California and within San Diego County. Defendant and/or DOES
27 employ numerous aggrieved employees in California and/or San Diego County.
- 28 7. Plaintiff brings this action on behalf of himself and the other aggrieved employees of

Defendant and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the one (1) year period before Plaintiff filed Notice with the LWDA of his intent to bring this action, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five (75) percent of the penalties recovered being reimbursed to the State of California and the LWDA.

8. There is no federal question at issue as the issues herein are based solely upon California statutes and law, including the *California Labor Code*, *IWC Wage Orders*, *Code of Civil Procedure*, and *Civil Code*.

9. The California Superior Court also has jurisdiction in this matter because the penalties sought exceed the minimum jurisdictional limits of the Superior Court and will be established at trial, according to proof. Defendant and/or DOES either own, maintain offices, transact business, have an agent or agents, have their principal place of business in, and/or otherwise are found within the County of San Diego, California.

III. THE PARTIES

A. Plaintiff

10. Plaintiff JAMES QUEEN, a former employee of Defendant and/or DOES, and similar aggrieved employees were and are entitled to statutory meal periods, statutory rest periods, accurate itemized wage statements, payment of wages owed twice a month, compensation for all time worked at the regular, overtime, and doubletime rate, to be paid timely pursuant to California law, to receive timely wages at the time of termination, to be reimbursed for business expenses, and to be provided with adequate notice prior to being laid off in mass from Defendant and/or DOES.

11. Plaintiff and similar aggrieved employees were and are employed in the State of California by the Defendant and/or DOES as non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, during the relevant time period. Plaintiff was employed in a non-exempt

1 capacity.

2 12. A notice correspondence showing compliance with *Cal. Lab. Code* § 2699.3 was sent to the
3 LWDA and Defendant on February 17, 2023. This notice demonstrates that Plaintiff is an
4 aggrieved employee and has standing to bring a representative action on behalf of the LWDA
5 and as a private attorney general. No notice of cure by Defendant and/or DOES was provided
6 and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-
7 five (65) day period since the mailing of the notice of the action. Accordingly, Plaintiff files
8 this action as a “Representative Action” as authorized by *Cal. Lab. Code* § 2699.3(a)(2)(C).

9 **B. Defendants**

10 13. Defendant and/or DOES operate throughout the State of California and employ non-exempt,
11 hourly employees to implement language services such as interpreting and captioning to the
12 benefit of their clients and customers in the State of California.

13 14. Defendant’s and/or DOES’ principal place of business was/is in the State of California.

14 15. Defendant and/or DOES have numerous offices and/or contracts in the State of California.

15 16. California is the nerve center of Defendant’s and/or DOES’ operations.

16 17. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in
17 the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on
18 information and belief alleges that said Defendants are now, and/or at all times mentioned in
19 this Complaint were doing business in the State of California and/or throughout the United
20 States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is
21 legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this
22 Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

23 18. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects
24 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
25 plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
26 attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized
27 the acts of each of the remaining Defendants.

28 19. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners,

agents, owners, and/or shareholders of Defendant and/or DOES and were acting on behalf of Defendant and/or DOES at all times.

IV. GENERAL ALLEGATIONS

20. During all, or a portion, of the one (1) year period before Plaintiff filed Notice of his claims with the LWDA, Plaintiff and each of the aggrieved employees were employed by Defendant and/or DOES in the State of California. Plaintiff and the other aggrieved employees are composed of all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees of Defendant and/or DOES in the State of California.

21. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be provided legally compliant meal periods in a timely manner or payment of one hour of pay as additional compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.

22. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift of at least five (5) hours worked per day by Plaintiff and all aggrieved employees, and by failing to provide compensation for these unprovided meal periods, Defendant and/or DOES willfully violated the provisions of *Cal. Lab. Code* § 226.7, IWC Wage Order No. 4-2001, and California Code of Regulations, Section 11070(11). In addition, Defendant and/or DOES failed to provide Plaintiff and the other aggrieved employees another duty-free meal period of not less than thirty (30) minutes for every shift of more than ten (10) hours per day.

23. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be authorized and/or permitted to take legally compliant rest periods in a timely manner or payment of one hour of pay as additional compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they were not authorized and/or permitted to take a legally compliant rest period.

24. By failing to provide paid ten (10) minute rest periods for every four (4) hours or major fraction

thereof, worked per day by Plaintiff and all aggrieved employees and by failing to provide compensation for these periods, Defendant and/or DOES willfully violated the provisions of *Cal. Lab. Code* § 226.7, IWC Wage Order No. 4-2001, and California Code of Regulations, Section 11070(12).

25. At all times mentioned herein, Defendant and/or DOES failed to pay all wages owed to Plaintiff and to other terminated or resigned members of the aggrieved employees and failed to timely pay wages during employment.

26. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the aggrieved employees all wages earned twice per month.

27. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to receive complete and accurate pay statements in accordance with California law.

28. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that they were not providing complete and accurate pay statements in accordance with California law to Plaintiff and the aggrieved employees.

29. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that they had a duty to compensate Plaintiff and the other aggrieved employees in accordance with California law, and that Defendant and DOES had the ability to pay such compensation, but willfully and intentionally failed to do so, and Defendant and DOES falsely represented to Plaintiff and the other aggrieved employees that they were properly compensating Plaintiff and the other aggrieved employees.

30. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the other aggrieved employees were entitled to timely wages at the time of termination. Defendant and/or DOES did not pay all timely wages owed, straight-time wages owed, meal period premiums, and/or rest period premiums owed at the time of termination.

31. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the other aggrieved employees a sum certain at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter.

32. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to receive be reimbursed for business expenses in accordance with California law.

33. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that it should have provided the requisite notice under the California Worker Adjustment and Retraining Notification Act prior to ordering a mass layoff of Plaintiff and the aggrieved employees from employment with Defendant and/or DOES.

34. Plaintiff brings this action on behalf of himself and all other aggrieved employees defined as all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other similarly situated non-exempt hourly employees of Defendant and/or DOES in California, employed beginning one year prior to the date Plaintiff sent Notice to the LWDA.

35. Plaintiff reserves the right to amend or modify the definition of aggrieved employees with respect to the issues or in any other way.

FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages for All Work Performed (Cal. Lab. Code §2698 et. seq.).

36. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

37. It is fundamental that an employer must pay its employees for the time worked. Cal. Lab. Code § 222 prohibits the withholding on part of a wage. Cal. Lab. Code § 223 prohibits the pay of less than a statutory or contractual wage scale. Cal. Lab. Code §§ 1194-1197.1 prohibits the payment of less than the minimum wage. Cal. Lab. Code § 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not in effect reduce the agreed upon wage.

38. Section 1197.1 of the California Labor Code states “[a]ny employer or other person acting individually as an officer, agent, or employee of another person, who pays or causes to be paid

1 to any employee a wage less than the minimum fixed by an applicable state or local law, or by
2 an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
3 damages payable to the employee, and any applicable penalties pursuant to Section 203.”

4 39. Defendant and/or DOES have a continuous policy of not paying Plaintiff and the aggrieved
5 employees for all hours worked. Defendant and/or DOES operate under an unlawful piece rate
6 compensation plan that violates California’s “no borrowing rule.” Rest periods are considered
7 hours worked and must be compensated. However, Defendant’s and/or DOES’ piece-rate plan
8 fails to separately compensate for rest periods.

9 40. Under the California minimum wage law, employees must also be compensated for each hour
10 worked at either the legal minimum wage or the contractual hourly rate, and compliance cannot
11 be determined by averaging hourly compensation. Here, Defendant and/or DOES “borrow”
12 from Plaintiff’s and the aggrieved employees’ piece-rate earnings to supplement their hourly
13 pay in order to satisfy their minimum wage obligations. Averaging of all wages paid under a
14 piece rate plan, within a particular pay period, in order to determine whether the employer
15 complied with its minimum wage obligations is not permitted under these circumstances, for
16 to do so would result in the employer paying the employees less than the contract rate for those
17 activities which the piece rate plan requires payment of a specified amount equal to or greater
18 than the minimum wage, in violation of *California Labor Code* sections 221 - 223.

19 41. Further, Defendant and/or DOES have not paid for all the time Plaintiff and the aggrieved
20 employees worked throughout the day, including, but not limited to, rounding, before “shifts”
21 start, after “shifts” end, and/or any other time in the day during which employees were subject
22 to the control of Defendant and/or DOES and/or performing work tasks or otherwise had work
23 duties during periods of time for which Defendant and/or DOES are not paying them.
24 Defendant’s and/or DOES’ failure to pay for all hours worked while under Defendant’s and/or
25 DOES’ control and/or while suffered or permitted to work has resulted in Plaintiff and
26 aggrieved employees being deprived of straight time wages throughout the statutory period.

27 42. Additionally, Defendant and/or DOES have had a continuous and consistent policy of not
28 paying Plaintiff and the aggrieved employees for all hours worked in that Defendant and/or

DOES continuously and consistently clocked Plaintiff and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Plaintiff and the aggrieved employees work through their meal periods and/or were unable to take meal periods. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the aggrieved employees every day they work without a meal period and have time deducted.

43. Likewise, Plaintiff and the aggrieved employees are informed and believe and thereon allege that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff and the aggrieved employees by deducting a portion of the wages earned by Plaintiff and the aggrieved employees when they worked through their meal periods and/or when Defendant and/or DOES recorded a meal period for Plaintiff and the aggrieved employees when no meal period was taken. Specifically, Plaintiff and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the aggrieved employees the right to be completely free from employer control under California law.

44. Defendant and/or DOES committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the aggrieved employees. Defendant and/or DOES acted with malice or in conscious disregard of Plaintiff's and the aggrieved employees' rights.

45. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

46. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees who are presently or formerly employed by Defendant and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of California.

47. Plaintiff, as a former non-exempt employee of Defendant and/or DOES who Defendant and/or DOES failed to pay all wages, is an aggrieved employee with standing to bring an action under

the PAGA. Plaintiff satisfied all prerequisites to serve as representatives of the general public to enforce California's labor laws, and the penalty provisions identified in *Cal. Lab. Code* § 2699.5.

48. Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

49. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Cal. Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

50. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to *Cal. Lab. Code* § 558(a).

SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay All Overtime and Double time Wages Owed

51. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

52. *Cal. Lab. Code* § 510 states that eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

- 1 53. Cal. Lab. Code § 510 dictates that any work in excess of 12 hours in one day shall be
2 compensated at the rate of no less than twice the regular rate of pay for an employee. In
3 addition, any work in excess of eight hours on any seventh day of a workweek shall be
4 compensated at the rate of no less than twice the regular rate of pay of an employee.
- 5 54. Defendant and/or DOES have a continuous policy of failing to pay overtime when employees
6 worked over eight (8) hours per day and when employees worked over forty (40) hours per
7 week. Defendant and/or DOES have a continuous policy of failing to pay Plaintiff and the
8 aggrieved employees for all hours worked, as discussed above, including hours worked over
9 eight (8) hours in a day and forty (40) hours in a week.
- 10 55. Further, Defendant and/or DOES failed to pay Plaintiff and the aggrieved employees at the
11 appropriate rate of pay for all overtime hours worked in violation of *California Labor Code*
12 section 510. For example, Plaintiff and the aggrieved employees were regularly compensated
13 at their regular hourly rate of pay for hours worked over eight (8) hours in a day and forty (40)
14 hours in a week, instead of their overtime hourly rate.
- 15 56. Alternatively, even if Defendant and/or DOES paid Plaintiff and the aggrieved employees at
16 one and one half (1.5) times their hourly rate for overtime hours, Defendant and/or DOES
17 failed to determine Plaintiff's and the aggrieved employees' regular rate of pay for purposes
18 of calculating their correct overtime rate. For example, Plaintiff and the aggrieved employees
19 earn non-discretionary bonuses, commissions, piece-rate pay, and other compensation that
20 Defendant and/or DOES failed to include in Plaintiff's and the aggrieved employees' regular
21 rate of pay when determining the applicable overtime rate.
- 22 57. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid
23 wages, and lost interest on such wages, and expenses.
- 24 58. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery
25 drivers, video relay installers, service technicians, team members, technical support workers,
26 or similar job designations and titles, and all other current and former similarly situated non-
27 exempt, hourly employees who are presently or formerly employed by Defendant and/or
28 DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of

1 California.

2 59. Plaintiff, as a representative of the people of the State of California, will seek any and all
3 penalties otherwise capable of being collected by the Labor commission and/or the Department
4 of Labor Standards Enforcement (DLSE) for violations of Cal. Lab. Code § 510.

5 60. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
6 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
7 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
8 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
9 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

10 61. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
11 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
12 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
13 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
14 pursuant to Cal. Lab. Code § 558(a).

15 **THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the Private**
16 **Attorneys General Act of 2004 (PAGA) for Failure to Provide Meal Periods (Cal. Lab. Code**
17 **§2698 et. seq.).**

18 62. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
19 as if fully plead.

20 63. Under Cal. Lab. Code § 512, and IWC Wage Order 4-2001, no employer shall employ any
21 person for a work period of more than five (5) hours without providing a meal period of not
22 less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the
23 employee is to be completely free of the employer's control and must not perform any work
24 for the employer. If the employee does perform work for the employer during the thirty (30)
25 minute meal period, the employee has not been provided a meal period in accordance with the
26 law. Also, the employee is to be compensated for any work performed during the thirty (30)
27 minute meal period.

28 64. In addition, an employer may not employ an employee for a work period of more than ten (10)

hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

65. Under Cal. Lab. Code § 226.7, if the employer does not provide an employee a meal period in accordance with the above requirements, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

66. Defendant and/or DOES failed to provide thirty (30) minute, uninterrupted meal periods to Plaintiff and the aggrieved employees when they worked for work periods of more than five (5) consecutive hours before the end of the fifth (5th) hour of work. As such, Plaintiff and the aggrieved employees were required to work over five (5) consecutive hours at a time without being provided a thirty (30) minute uninterrupted meal period within that time.

67. Defendant and/or DOES failed to provide a second (2nd) thirty (30) minute, uninterrupted meal periods to the aggrieved employees when they worked for work periods of more than ten (10) consecutive hours before the end of the tenth (10th) hour of work. As such, Plaintiff and the aggrieved employees were required to work over ten (10) consecutive hours at a time without being provided a second thirty (30) minute uninterrupted meal period within that time.

68. Defendant and/or DOES breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy of requiring Plaintiff and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the aggrieved employees of the right to be completely free from employer control under California law.

69. By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Defendant and/or DOES willfully violated the provisions of the Cal. Lab. Code §§ 226.7 and 512.

70. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees who are presently or formerly employed by Defendant and/or

DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of California.

71. Plaintiff, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Cal. Lab. Code* § 2699.5.

72. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that Section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7, and 512.

73. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Cal. Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

74. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to *Cal. Lab. Code* § 558(a).

FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Rest Periods (Cal. Lab. Code §2698 et. seq.).

75. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

76. Industrial Welfare Commission Order No. 4-2001 section 12(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall be based on the

total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

77. At all relevant times, Defendant and/or DOES fail to authorize and/or permit rest period time based upon the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. Specifically, Defendant and/or DOES operate an unlawful piece rate compensation plan. Under Defendant’s and/or DOES’ piece-rate compensation plan, Plaintiff and the aggrieved employees are not separately compensated for their rest periods, which is required under California law.

78. Further, Defendant and/or DOES breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy requiring Plaintiff and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the aggrieved employees of the right to be completely free from employer control under California law.

79. Additionally, Defendant and/or DOES have a continuous policy and practice that fails to provide Plaintiff and the aggrieved employees with rest periods “at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” Specifically, Defendant and/or DOES do not provide Plaintiff and the aggrieved employees with rest periods consisting of ten (10) minutes net rest time, nor do Defendant and/or DOES provide Plaintiff and the aggrieved employees with a rest period per four (4) hours worked or major fraction thereof.

80. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided periods, as alleged above, Defendant and/or DOES willfully violated the provisions of Cal. Lab. Code § 226.7.

81. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees who are presently or formerly employed by Defendant and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of

California.

82. Plaintiff—a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods—is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for violations of Cal. Lab. Code § 226.7.

83. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: section 226.7.

84. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

85. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

FIFTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code §2698 *et. seq.*).

86. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

87. Defendant and/or DOES and/or their officers and/or managing agents willfully failed to pay, in a timely manner, wages owed to Plaintiff and the other aggrieved employees who left Defendant’s and/or DOES’ employ or who were terminated.

1 88. Plaintiff and/or the other aggrieved employees who ended their employment with Defendant
2 and/or DOES during the last year were entitled to be promptly paid all lawful compensation,
3 and other premiums, as required by Cal. Lab. Code §§ 201 through 203.

4 89. At all relevant times, Cal. Lab. Code §§ 201 and 202 provide that if an employer discharges
5 an employee, the wages earned and unpaid at the time of discharge are due and payable
6 immediately, and if an employee quits his or her employment, his or her wages shall become
7 due and payable no later than seventy-two (72) hours thereafter, unless the employee has given
8 seventy-two (72) hours notice of his or her intention to quit, in which case the employee is
9 entitled to his or her wages at the time of quitting.

10 90. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to
11 pay Plaintiff and the other aggrieved employees who are no longer employed by Defendant
12 and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their
13 leaving Defendant's and/or DOES' employ.

14 91. Defendant's and/or DOES' failure to pay Plaintiff and the aggrieved employees who are no
15 longer employed by Defendant and/or DOES their wages, that were earned and unpaid, within
16 seventy-two (72) hours of their leaving Defendant's and/or DOES' employ, is in violation of
17 Cal. Lab. Code §§ 201 and 202.

18 92. Cal. Lab. Code § 203 provides that when an employer willfully fails to pay wages owed, in
19 accordance with sections 201 and 202, the wages of the employee shall continue as a penalty
20 from the due date thereof at the same rate until paid or until action is commenced; but the
21 wages shall not continue for more than thirty (30) days.

22 93. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed to pay all wages due
23 at termination, is an aggrieved employee with standing to bring an action under the
24 PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to
25 enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code §
26 2699.5.

27 94. Plaintiff, as a representative of the people of the State of California, seeks all penalties
28 otherwise capable of being collected by the Labor Commission and/or the Department of Labor

Standards Enforcement (“DLSE”). This includes each of the following, as set forth in Cal. Lab. Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 201 through 203.

95. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees who are presently or formerly employed by Defendant and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of California.

96. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

97. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Cal. Lab. Code § 2698 et. seq.).

98. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

99. Cal. Lab. Code § 226 subdivision (a) requires Defendant and/or DOES to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff and the other aggrieved employees. Cal. Lab. Code § 226(a) requires Defendant and/or DOES, at the time of each payment of wages, to “furnish each of her or her employees,

1 either as an detachable part of the check, draft, or voucher paying the employee's wages, or
2 separately when wages are paid by personal check or cash, an accurate itemized statement in
3 writing showing (1) gross wages earned, (2) total hours worked by the employee...(3) the
4 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
5 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
6 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
7 dates of the period for which the employee is paid, (7) the name of the employee and only the
8 last four digits of his or her social security number or an employee identification number other
9 than the social security number, (8) the name and address of the legal entity that is the
10 employer...(9) all applicable hourly rates in effect during the pay period and the corresponding
11 number of hours worked at each hourly rate and the corresponding number of hours worked at
12 each hourly rate by the employee....”

13 100. Cal. Lab. Code § 226, subdivision (a) also requires that “deductions made from payment of
14 wages shall be recorded in ink or other indelible form, properly dated, showing the month, day
15 and year, and a copy of the statement and the record of the deductions shall be kept on file by
16 the employer for at least three years at the place of employment or at a central location within
17 the State of California.”

18 101. *California Labor Code* section 246(i) also requires that, “[a]n employer shall provide an
19 employee with written notice that sets forth the amount of paid sick leave available, or paid
20 time off leave an employer provides in lieu of sick leave, for use on either the employee's
21 itemized wage statement described in Section 226 or in a separate writing provided on the
22 designated pay date with the employee's payment of wages.”

23 102. Defendant and/or DOES have knowingly and intentionally failed to comply with *Labor Code*
24 section 226(a) on each and every wage statement provided to Plaintiff and the other aggrieved
25 employees.

26 103. Throughout the statutory period, Defendant and/or DOES knowingly and intentionally did not
27 include the gross and net wages earned on wage statements provided to Plaintiff and the other
28 aggrieved employees. Defendant and/or DOES therefore knowingly and intentionally failed to

1 itemize the gross wages earned on Plaintiff's and the aggrieved employees' wage statements.

2 104. In every pay period during the period of the relevant statute of limitations, Defendant and/or

3 DOES knowingly and intentionally did not itemize the total hours worked on wage statements

4 as *Labor Code* section 226, subsection (a), requires. In every pay period during the period of

5 the relevant statute of limitations, Defendant and/or DOES knowingly and intentionally did

6 not include the total hours worked by Plaintiff and the aggrieved employees on their wage

7 statements. For example, Defendant and/or DOES have a continuous policy of not paying

8 Plaintiff and the aggrieved employees for all hours worked. Defendant and/or DOES have not

9 paid for all the time Plaintiff and the aggrieved employees worked throughout the day,

10 including, but not limited to rounding, before "shifts" start, after "shifts" end, and/or any other

11 time in the day when the employees were performing work tasks, subject to the control of

12 Defendant and/or DOES and/or otherwise had work duties. Additionally, Defendant and/or

13 DOES have had a continuous policy of not paying Plaintiff and the aggrieved employees for

14 all hours worked in that Defendant and/or DOES continuously and consistently clocked

15 Plaintiff and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise

16 recorded a meal period, even though Plaintiff and the aggrieved employees work through their

17 meal periods and/or were unable to take meal periods. Thus, Defendant and/or DOES

18 shaves/steals earned wages from Plaintiff and the aggrieved employees every day they work

19 without a meal period and have time deducted. As Defendant and/or DOES knew or had reason

20 to know Plaintiff and the aggrieved employees were working during this time, Defendant

21 and/or DOES knowingly and intentionally failed to comply with *Labor Code* Section 226,

22 subdivision (a).

23 105. Defendant and/or DOES have also failed to itemize all hours worked when Plaintiff and the

24 aggrieved employees worked over eight (8) hours in a day and over forty (40) hours in a week.

25 Further, Defendant and/or DOES have not itemized the correct rate of pay for these hours.

26 Though they should be compensated at the rate of no less than one and one-half (1.5) times the

27 regular rate of pay, employees' wage statements list the same rate of pay for overtime hours as

28 the rate listed for regular hours.

1 106. Defendant and/or DOES has also failed to correctly provide the name of the legal entity that
2 employs Plaintiff and the aggrieved employees on each and every wage statement provided to
3 Plaintiff and the aggrieved employees.

4 107. Additionally, in every pay period during the period of the relevant statute of limitations,
5 Defendant and/or DOES knowingly and intentionally did not accurately itemize the total piece-
6 rate units and the rate at which they were to be paid on wage statements as *Labor Code* section
7 226, subsection (a), requires. In every pay period during the period of the relevant statute of
8 limitations, Defendant and/or DOES, through their unlawful piece-rate policy, knowingly and
9 intentionally would pay Plaintiff and the aggrieved employees less than what they were
10 promised for each piece-rate unit in order to satisfy its own minimum wage obligations.
11 Defendant and/or DOES therefore knowingly and intentionally failed to accurately itemize the
12 total piece-rate units and the rate at which they were to be paid on Plaintiff's and the aggrieved
13 employees' wage statements.

14 108. Throughout the statutory period, because of the knowing and intentional failure by Defendant
15 and/or DOES to comply with itemized employee wage statement provisions, Plaintiff and the
16 aggrieved employees have been able to reconstruct only a reasonable estimate of the hours
17 worked and have, therefore, not received full compensation.

18 109. In addition, Defendant and/or DOES do not provide Plaintiff and the aggrieved employees
19 with written notice that sets forth the amount of sick leave available for use, either in
20 employees' itemized wage statements or in a separate writing provided to employees on the
21 designated pay date.

22 110. Further, in addition to any penalties levied upon Defendant and/or DOES for its failure to
23 comply with *Labor Code* section 226 subdivision (a)'s requirement to provide Plaintiff and the
24 aggrieved employees accurate, itemized wage statements, *Labor Code* section 226.3 assesses
25 additional penalties for the failure to keep the records required in subdivision (a) of Section
26 226. *Labor Code* section 226 subdivision (a) requires Defendant and/or DOES to maintain
27 records that "accurately shows all of the information required by this subdivision." Defendant
28 and/or DOES have violated its statutory duty to maintain records for Plaintiff and the aggrieved

- employees that contain all of the information under *Labor Code* section 226(a)(1) through (9)
111. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees who are presently or formerly employed by Defendant and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of California.
112. Plaintiff, as a non-exempt employee who Defendants and/or DOES failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5.
113. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Cal. Lab. Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226, 1174, 1199.
114. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).
115. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Pay Employees Twice Per Month (Cal. Lab. Code § 2698 et. seq.).

116. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

117. Section 204(a) of the *California Labor Code* requires that all wages earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.

118. *Cal. Lab. Code* § 226 subdivision (a) provides “[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor 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.”

119. Defendant and/or DOES have a consistent policy and/or practice of failing to pay Plaintiff and the aggrieved employees twice per month. By failing to pay employees twice per month, Defendant and/or DOES willfully violated the provisions of *Cal. Lab. Code* § 204(a).

120. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to pay Plaintiff and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

121. Alternatively, Defendant and/or DOES failed to pay wages to Plaintiff and the aggrieved employees earned within seven (7) calendar days of the end of the payroll period in which the wages were earned.

122. Defendant and/or DOES failure to pay Plaintiff and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *Cal. Lab. Code* § 204.

123. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery

1 drivers, video relay installers, service technicians, team members, technical support workers,
2 or similar job designations and titles, and all other current and former similarly situated non-
3 exempt, hourly employees who are presently or formerly employed by Defendant and/or
4 DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of
5 California.

6 124. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed pay all wages owed
7 twice per month, is an aggrieved employee with standing to bring an action under the PAGA.
8 Plaintiff has satisfied all prerequisites to serve as a representative of the general public to
9 enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code §
10 2699.5 for violations of Cal. Lab. Code § 204.

11 125. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
12 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
13 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
14 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
15 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

16 126. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
17 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
18 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
19 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
20 pursuant to Cal. Lab. Code § 558(a).

21 **EIGHTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of PAGA**
22 **for Failure to Comply with California Worker Adjustment and Retraining Notification Act (Cal.**
23 **Lab. Code § 2698 *et. seq.*)**

24 127. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
25 as if fully plead.

26 128. Under the California Worker Adjustment and Retraining Notification Act ("WARN Act"),
27 employers must provide 60 days' notice to affected employees before ordering a "[m]ass
28 layoff." Lab. Code, § 1400 *et seq.* *California Labor Code* Section 1401 imposes this statutory

notice duty. Section 1401, subdivision (a) states: “An employer may not order a mass layoff, relocation or termination at a covered establishment unless, 60 days before the order takes effect, the employer gives written notice of the order to the following: (1) the employees of the covered establishment affected by the order [; and] (2) The Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs.” Section 1401, subdivision (b) provides: “An employer required to give notice of any mass layoff ... under this chapter shall include in its notice the elements required by the federal [WARN] Act. (29 U.S.C. Sec. 2101 et seq.).”

129. Around February of 2023, Defendant and/or DOES mass terminated Plaintiff and aggrieved employees without any advance notice.

130. As an employer who operates a covered establishment employing seventy-five (75) or more persons and who separated fifty (50) or more employees from their positions within a thirty (30) day period, Defendant and/or DOES were required to provide sixty (60) days’ notice to Plaintiff and aggrieved employees prior to separating them from their positions pursuant to the WARN Act. See Cal. Lab. Code § 1400, et seq

131. Defendant and/or DOES were not exempt from complying with the WARN ACT. The mass layoff, relocation, and/or termination was not necessitated by a physical calamity or act of war. Had Defendant and/or DOES conducted a good faith, reasonable investigation, Defendant and/or DOES would not have found reasonable grounds to believe its failure to provide notice under the WARN Act was permissible. And Defendant and/or DOES would not have been precluded from obtaining capital or business that could avoid or postpone the terminations had Defendant and/or DOES have provided notice in compliance with the WARN Act. Therefore, Defendant and/or DOES were obligated to provide sufficient notice to Plaintiff and aggrieved employees.

132. Therefore, Defendant and/or DOES violated the WARN Act by ordering a mass layoff of Plaintiff and aggrieved employees from their positions without sufficient advance notice, let alone the sixty (60) days required under the WARN ACT.

1 133. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery
2 drivers, video relay installers, service technicians, team members, technical support workers,
3 or similar job designations and titles, and all other current and former similarly situated non-
4 exempt, hourly employees who are presently or formerly employed by Defendant and/or
5 DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of
6 California.

7 134. Plaintiff, as a non-exempt employee subject to Defendants' and/or DOES' unlawful conduct,
8 is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has
9 satisfied all prerequisites to serve as a representative of the general public to enforce
10 California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for
11 violations of Cal. Lab. Code §§ 246 and 247.5.

12 135. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
13 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
14 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
15 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
16 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

17 136. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
18 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
19 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
20 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
21 pursuant to Cal. Lab. Code § 558(a).

22 **NINTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
23 **Private Attorneys General Act of 2004 (PAGA) for Failing to Reimburse Employees for Business**
24 **Expenses (California Labor Code §2698 et. seq.)**

25 137. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
26 as if fully plead.

27 138. California Labor Code section 2802 provides: "An employer shall indemnify his or her
28 employees for all necessary expenditures or losses incurred by the employee in direct

consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer...[which includes] all reasonable costs, including, but not limited to, attorneys' fees incurred by the employee enforcing the rights granted by this section."

139. Plaintiff and the aggrieved employees incurred expenses in the discharge of their duties without receiving reimbursement from Defendant and/or DOES include, but are not limited to, cellular phone costs for having to use their personal cell phones, the costs of driving their own personal vehicles, the costs of storage for Defendant's and/or DOES' equipment in their homes, and the costs of maintaining a home office, all of which were necessary for completing their employment duties.

140. For example, Defendant and/or DOES would require Plaintiff and the aggrieved employees to use their personal cell phones for GPS purposes, as well as to field calls from Defendant and/or DOES throughout their shifts, require Plaintiff and the aggrieved employees to travel to and from the location of Defendant's and/or DOES' customers in their personal vehicles, require Plaintiff and the aggrieved employees to store Defendant's and/or DOES' equipment in their own homes so they were able to take it with them directly when travelling to a customer's location, and require Plaintiff and the aggrieved employees to maintain a home office (including a computer, printer, internet, electricity, etc.) in order to adequately perform their job duties. *California Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses..

141. These claims are on behalf of Plaintiff and all non-exempt hourly employees, such as delivery drivers, video relay installers, service technicians, team members, technical support workers, or similar job designations and titles, and all other current and former similarly situated non-exempt, hourly employees who are presently or formerly employed by Defendant and/or DOES and/or its subsidiaries or affiliated companies and/or predecessors within the State of California.

142. Plaintiff, as a non-exempt employee who incurred business expenses which Defendant and/or DOES failed to reimburse, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general

public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802.

143. Pursuant to *Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays for relief and judgment against Defendant and/or DOES, jointly and severally, as follows:

- A. For penalties as provided under Cal. Lab. Code § 558(a)(1) and 558(a)(2).
- B. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to provide compliant meal periods;
- C. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for each pay period during which an employee was underpaid due to failure to provide paid meal periods;
- D. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to provide all rest periods;
- E. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for each pay period during which an employee was underpaid due to failure to provide paid rest periods;
- F. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to timely pay wages at separation;
- G. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to provide compensation at the regular, overtime, and double time rate for all time worked;
- H. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for failure to provide compensation at the minimum wage;

- 1 I. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
2 for failure to provide accurate, itemized wage statements;
- 3 J. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
4 for failure to pay employees all wages owed twice per month;
- 5 K. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
6 for failure to comply with the California WARN Act;
- 7 L. For penalties as provided, per each violation, by the PAGA, *Labor Code* section 2699, *et. seq.*
8 for failure to reimburse business expenses; and
- 9 M. For reasonable attorneys' fees and costs under the PAGA, Cal. Lab. Code § 2699(g)(1).

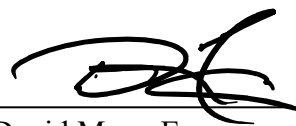
10 **DEMAND FOR JURY TRIAL**

11 Plaintiff demands a jury trial.

12 **MARA LAW FIRM, PC**

13
14 Date: April 25, 2023

Signed:

15 
16 David Mara, Esq.
17 Matthew Crawford, Esq.
18 Taylor O'Donnell, Esq.
19 Attorneys for Plaintiff JAMES QUEEN, on
20 behalf of himself and all others similarly
21 situated, and on behalf of the general public
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