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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

ERIC CALDERON on behalf of
himself, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

CELS ENTERPRISES, INC. DBA
CHINESE LAUNDRY; and DOES 1-
100,

Defendants.

Case No.

CIV SB 2312110

**PLAINTIFF ERIC CALDERON'S PRIVATE
ATTORNEYS GENERAL ACT OF 2004 ("PAGA")
COMPLAINT FILED PURSUANT TO
CALIFORNIA LABOR CODE § 2698, ET. SEQ.**

1. Violation of the PAGA for Failure to Pay Straight Time Wages;
2. Violation of the PAGA for Failure to Pay All Overtime Wages;
3. Violation of PAGA for Failure to Provide Meal Periods;
4. Violation of PAGA for Failure to Provide Rest Periods;
5. Violation of PAGA for Failure to Pay Wages Due at Termination of Employment;
6. Violation of PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; and
7. Violation of PAGA for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy and Failure to Provide Written Notice Setting Forth Amount of Sick Leave Available.

DEMAND FOR JURY TRIAL



1 Plaintiff ERIC CALDERON (hereinafter referred to as “Plaintiff”), on behalf himself and all
2 other non-exempt, hourly employees who worked in Defendant’s and/or DOES’ warehouses in
3 California (hereinafter referred to as the “Aggrieved Employees”), files this Complaint against
4 Defendant Cels Enterprises, Inc. DBA Chinese Laundry (hereinafter referred to as “Defendant” or
5 “CHINESE LAUNDRY”) and/or DOES 1-100.

6 **I. INTRODUCTION**

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

12 2. CHINESE LAUNDRY designs, manufactures, and retails women’s apparel.

13 3. CHINESE LAUNDRY and/or DOES operate out of warehouses in California.

14 4. Plaintiff and the Aggrieved Employees were employed by CHINESE LAUNDRY to work at
15 CHINESE LAUNDRY’s and/or DOES’ warehouses in California.

16 5. CHINESE LAUNDRY has warehouses throughout California, including in San Bernardino
17 County.

18 6. Defendant and/or DOES have maintained uniform policies that violate the wage and hour
19 rights of Plaintiff and similarly situated non-exempt, hourly employees in the manner
20 complained of herein.

21 7. This action is brought on behalf of Plaintiff and all other Aggrieved Employees of Defendant
22 and/or DOES who: worked a shift of at least five (5) hours without receiving a meal period;
23 worked four (4) hours, or a major fraction thereof, without receiving a ten (10) minute net rest
24 break; were not provided accurate itemized wage statements; were not paid compensation for
25 all time worked at the straight or overtime rate; were not paid waiting time penalties; and were
26 not provided with paid sick leave / paid time off and/or a written notice setting forth the amount
27 of sick leave available. Plaintiff seeks penalties on behalf of himself and all other Aggrieved
28 Employees of Defendant and/or DOES as provided herein. This Complaint also seeks

attorneys' fees and costs under the PAGA, *California Labor Code* section 2699(g)(1).

8. At all times mentioned herein, Plaintiff and the other Aggrieved Employees were not classified as "exempt" or primarily employed in an executive, professional, or administrative capacity. Thus, under California law, Plaintiff and the Aggrieved Employees should be: paid compensation for all time worked at the regular or overtime rate; provided meal periods; authorized and permitted to take rest periods; paid one hour of premium pay for all unprovided meal periods; paid one hour of premium pay for all rest periods that were not authorized and/or permitted; paid penalties for not being provided itemized wage statements; paid compensation for all time worked at the regular or overtime rate; paid penalties for not being paid timely at the time of termination; and provided with sick pay in compliance with California law.

9. At all times mentioned herein, Defendant and/or DOES control the working conditions of Plaintiff and the Aggrieved Employees including, but not limited to, having the authority to hire and fire Plaintiff and the Aggrieved Employees, setting the wages of Plaintiff and the Aggrieved Employees, and instructing Plaintiff and the Aggrieved Employees when and/or where to work. In addition, Defendant and/or DOES developed, wrote, dictated, approved and/or authorized wage and hour policies and/or practices that Plaintiff and the Aggrieved Employees labored under. These policies and/or practices included, but were not limited to, policies and/or practices regarding meal periods, straight-time, rest periods, wage statements, paying compensation at time of termination, timing of payment, and sick pay/paid time off. Further, Defendant and/or DOES had the ability to prevent Plaintiff and the Aggrieved Employees from working.

II. JURISDICTION AND VENUE

10. Plaintiff is an individual residing in California. At all times relevant to this action, Plaintiff was employed by Defendant and/or DOES in California. Plaintiff, and each of the Aggrieved Employees, were employees of Defendant and/or DOES, and/or its operating divisions and subsidiaries, within the State of California. Plaintiff and each of the Aggrieved Employees were subject to the unlawful policies beginning one (1) year prior to the date Plaintiff sent Notice to the State of California Labor and Workforce Development Agency (LWDA).

1 11. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
2 and/or DOE operate industrial facilities, employ hourly employees, conduct business, and
3 commit *California Labor Code* violations within San Bernardino County and California. Each
4 Defendant and/or DOE is within the jurisdiction of this Court for service of process purposes.
5 The unlawful acts alleged herein have a direct effect on Plaintiff and the other aggrieved
6 employees situated within the State of California and within San Bernardino County.
7 Defendant and/or DOES employ numerous aggrieved employees in California and/or San
8 Bernardino County.

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

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

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

25 **III. THE PARTIES**

26 **A. Plaintiff**

27 15. Throughout the relevant time period, Plaintiff is and was a resident of California. During the
28 relevant time period, Plaintiff was employed by Defendant and/or DOES in California and

performed work in San Bernardino County. Plaintiff was employed by Defendant and/or DOES until on or about October 18, 2022.

16. Plaintiff and the Aggrieved Employees were and are employed in the State of California by the Defendant and/or DOES as non-exempt, hourly employees to work in Defendant's and/or DOES' warehouses.

17. A notice correspondence showing compliance with *Labor Code* Section 2699.3 was sent to the LWDA and Defendant on February 15, 2023. This notice demonstrates that Plaintiff is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. The violations alleged in this notice also forms the basis for the allegations herein. No notice of cure by Defendant and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notices of the action. Accordingly, Plaintiff files this action as a "Representative Action" as authorized by *Labor Code* section 2699.3(a)(2)(C).

B. Defendants

18. CHINESE LAUNDRY designs, manufactures, and retails women's apparel.

19. CHINESE LAUNDRY operates out of warehouses in California.

20. CHINESE LAUNDRY employs hourly, non-exempt employees to work at its warehouses.

21. CHINESE LAUNDRY employed Plaintiff and similarly situated hourly non-exempt warehouse employees in California.

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

23. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business

plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

24. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners, agents, owners, and/or shareholders of Defendants and/or DOES and were acting on behalf of Defendants and/or DOES at all times.

IV. GENERAL ALLEGATIONS

25. 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 Aggrieved Employees are composed of all current and former non-exempt, hourly employees of Defendant and/or DOES, or any of its operating divisions and/or subsidiaries, who worked in Defendant's and/or DOES' warehouses in California.

26. At all times mentioned herein, Defendant and/or DOES knowingly and intentionally fail to pay all wages owed to non-exempt, hourly warehouse employees in a timely manner at the time non-exempt, hourly warehouse employees terminated their employment – either voluntarily or involuntarily – with Defendant and/or DOES. Defendant and/or DOES have a policy and practice of willfully failing to pay final wages to terminated employees in a timely manner because Defendant and/or DOES have a policy and practice of paying employees their final wages on the next regularly scheduled pay date and not within the timeframes outlined in *California Labor Code* sections 201 and 202.

27. At all times mentioned herein, Defendant and/or DOES have not paid Plaintiff and the Aggrieved Employees for all time they were performing work and/or are subject to Defendant's and/or DOES' control. Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly situated Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring warehouse employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not paid for this time. For example, Plaintiff and

the Aggrieved Employees would have to work through their meal periods but would nonetheless be required to clock out for thirty (30) minutes to create the appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then Defendant and/or DOES would alter their time records to create the appearance of a lawful meal period. Further, Defendant and/or DOES fail to pay Plaintiff and the Aggrieved Employees for meal period time when Plaintiff and the Aggrieved Employees were not relieved of all duties and/or employer control. Thus, Plaintiff and the Aggrieved Employees are owed wages for the unpaid time during which they are subject to Defendant's and/or DOES' control and/or during which they are not free from all work duties.

28. 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 (1) 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.

29. 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 violate the provisions of *California Labor Code* section 226.7, IWC Wage Order No. 7-2001, and California Code of Regulations, Section 11070(11). In addition, Defendant and/or DOES fail to provide Plaintiff and the Aggrieved Employees with another duty-free meal period of not less than thirty (30) minutes for every shift of more than ten (10) hours per day.

30. 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 (1) 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.

31. 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

1 compensation for these periods, Defendant and/or DOES willfully violate the provisions of
2 *California Labor Code* section 226.7, IWC Wage Order No. 7-2001, and California Code of
3 Regulations, Section 11070(12).

4 32. At all times mentioned herein, Defendant and/or DOES failed to pay all wages owed to Plaintiff
5 and to other terminated or resigned Aggrieved Employees and failed to timely pay wages
6 during employment.

7 33. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
8 Plaintiff and the Aggrieved Employees were entitled to receive complete and accurate pay
9 statements in accordance with California law.

10 34. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
11 they were not providing complete and accurate pay statements in accordance with California
12 law to Plaintiff and the Aggrieved Employees.

13 35. At all times mentioned herein, Defendant and/or DOES have had a consistent policy and/or
14 practice of failing to itemize the amount of accrued/available sick leave hourly, non-exempt
15 warehouse employees have on wage statements each pay period.

16 36. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
17 they had a duty to compensate Plaintiff and the Aggrieved Employees in accordance with
18 California law, and that Defendant and DOES had the ability to pay such compensation, but
19 willfully and intentionally failed to do so, and Defendant and DOES falsely represented to
20 Plaintiff and the Aggrieved Employees that they were properly compensating Plaintiff and the
21 Aggrieved Employees.

22 37. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
23 Plaintiff and the Aggrieved Employees were entitled to timely wages at the time of termination.
24 Defendant and/or DOES did not pay all timely wages owed, straight-time wages owed, meal
25 period premiums, and/or rest period premiums owed at the time of termination.

26 38. At all times mentioned herein, Defendant and/or DOES fail to pay Plaintiff and the Aggrieved
27 Employees a sum certain at the time of termination or within seventy-two (72) hours of their
28 resignation and have failed to pay those sums for thirty (30) days thereafter.

1 39. Plaintiff brings this action on behalf of himself and all Aggrieved Employees defined as all
2 Defendant's non-exempt, hourly employees who worked in Defendant's and/or DOES
3 warehouses in California beginning one year prior to the date Plaintiff sent notice to the
4 LWDA.

5 40. Plaintiff reserves the right to amend or modify the definition of Aggrieved Employees with
6 respect to the issues or in any other way.

7 **FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
8 **PAGA for Failure to Pay Straight Time Wages (California Labor Code §2698 et. seq.).**

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

11 42. Defendant and/or DOES have had a continuous policy of not paying Plaintiff and the
12 Aggrieved Employees for all hours worked.

13 43. It is fundamental that an employer must pay its employees for the time worked. *California*
14 *Labor Code* section 222 prohibits the withholding on part of a wage. *California Labor Code*
15 section 223 prohibits the payment of less than a statutory or contractual wage scale. *California*
16 *Labor Code* sections 1194-1197.1 prohibit the payment of less than the minimum wage.
17 *California Labor Code* section 224 only permits deductions from wages when the employer is
18 required or empowered to do so by state or federal law or when the deduction is expressly
19 authorized in writing by the employee for specified purposes that do not in effect reduce the
20 agreed upon wage.

21 44. Section 1197.1 of the *California Labor Code* states "[a]ny employer or other person acting
22 individually as an officer, agent, or employee of another person, who pays or causes to be paid
23 to any employee a wage less than the minimum fixed by an applicable state or local law, or by
24 an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
25 damages payable to the employee, and any applicable penalties pursuant to Section 203."

26 45. Plaintiff and those similarly situated Aggrieved Employees were employed by Defendant
27 and/or DOES at all relevant times. Defendant and/or DOES were required to compensate
28 Plaintiff for all hours worked and were prohibited from making deductions that had the effect

- 1 of reducing the agreed upon wage.
- 2 46. Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly
3 situated Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES
4 have a continuous and consistent policy of requiring employees to work before clocking in,
5 after clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not
6 paid for this time. For example, Plaintiff and the Aggrieved Employees would have to work
7 through their meal periods but would nonetheless be required to clock out for thirty (30)
8 minutes to create the appearance of lawful meal periods. If employees did not clock out for
9 thirty minutes while they continued to work, then Defendant and/or DOES would alter their
10 time records to create the appearance of a lawful meal period. Further, Defendant and/or DOES
11 fail to pay Plaintiff and the Aggrieved Employees for meal period time when Plaintiff and the
12 Aggrieved Employees were not relieved of all duties and/or employer control. Thus, Plaintiff
13 and the Aggrieved Employees are owed wages for the unpaid time during with they are subject
14 to Defendant's and/or DOES' control and/or during which they are not free from all work
15 duties.
- 16 47. Further, Defendant and/or DOES have a continuous and consistent policy of failing to pay full
17 wages to Plaintiff and the Aggrieved Employees by deducting a portion of the wages earned
18 by Plaintiff and the Aggrieved Employees when they worked through their meal periods, are
19 not relieved of all work duties during their meal periods and/or when Defendant recorded a
20 meal period for Plaintiff and the Aggrieved Employees when no meal period was taken.
- 21 48. Defendant and/or DOES have a continuous and consistent policy of clocking-out Plaintiff and
22 those similarly situated for a thirty (30) minute meal period and/or otherwise recording a meal
23 period, even though Plaintiff and all members of the Class work through their meal periods
24 and/or were subject to Defendant's control during meal periods. Thus, Defendant and/or DOES
25 do not pay Plaintiff and each and every member of the Class for all time worked each and
26 every day they work without a meal period and have time deducted.
- 27 49. Failing to pay for all hours worked while under Defendant's and/or DOES' control and/or
28 while suffered or permitted to work has resulted in Plaintiff and the Aggrieved Employees

being deprived of straight time wages.

50. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

51. Plaintiff and the Aggrieved Employees were employed by Defendant and/or DOES at all relevant times. Defendant and/or DOES were required to compensate Plaintiff and the Aggrieved Employees for all hours worked and were prohibited from making deductions that had the effect of reducing the agreed upon wage.

52. Defendant and/or DOES commit the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the Aggrieved Employees. Defendant and/or DOES act with malice or in conscious disregard of Plaintiff's and the Aggrieved Employees' rights.

53. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant's and/or DOES' warehouses in California.

54. Plaintiff, as a former "non-exempt" employee of Defendant and/or DOES who Defendant and/or DOES fail to pay all wages, 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 *California Labor Code* section 2699.5.

55. Plaintiff, as a representative of the people of the State of California, seeks 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 *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

56. Pursuant to *California Labor Code* section 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 *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per

1 *California Labor Code* section 2699(f)(2).

2 57. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other
3 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for
4 violations pursuant to this chapter or any provisions regulating hours and days of the week of
5 the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and
6 558(a)(2).

7 **SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the PAGA**
8 **for Failure to Pay All Overtime Wages Owed**

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

11 59. *California Labor Code* section 510 states that eight hours of labor constitutes a day's work.
12 Any work in excess of eight hours in one workday and any work in excess of 40 hours in any
13 one workweek and the first eight hours worked on the seventh day of work in any one
14 workweek shall be compensated at the rate of no less than one and one-half times the regular
15 rate of pay for an employee.

16 60. *California Labor Code* section 510 dictates that any work in excess of 12 hours in one day
17 shall be compensated at the rate of no less than twice the regular rate of pay for an employee.
18 In addition, any work in excess of eight hours on any seventh day of a workweek shall be
19 compensated at the rate of no less than twice the regular rate of pay of an employee.

20 61. Defendant and/or DOES fail to pay overtime when employees worked over eight (8) hours per
21 day and when employees worked over forty (40) hours per week. Defendant and/or DOES fail
22 to pay Plaintiff and the Aggrieved Employees for all hours worked, including hours worked
23 over eight (8) hours in a day and forty (40) hours in a week.

24 62. Plaintiff and the Aggrieved Employees were deprived of wages for all overtime hours worked
25 because Defendant and/or DOES fail to pay them overtime wages for all overtime hours
26 worked. This resulted in Plaintiff and the Aggrieved Employees not being paid all overtime
27 wages owed to them.

28 63. Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly

1 situated Aggrieved Employees for all overtime hours worked because Defendant and/or DOES
2 have a continuous policy of not paying Plaintiff and those similarly situated Aggrieved
3 Employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and
4 consistent policy of requiring employees to work before clocking in, after clocking out, and
5 during meal periods. Plaintiff and the Aggrieved Employees are not paid for this time. For
6 example, Plaintiff and the Aggrieved Employees would have to work through their meal
7 periods but would nonetheless be required to clock out for thirty (30) minutes to create the
8 appearance of lawful meal periods. If employees did not clock out for thirty minutes while they
9 continued to work, then Defendant and/or DOES would alter their time records to create the
10 appearance of a lawful meal period. Further, Defendant and/or DOES fail to pay Plaintiff and
11 the Aggrieved Employees for meal period time when Plaintiff and the Aggrieved Employees
12 were not relieved of all duties and/or employer control. Thus, Plaintiff and the Aggrieved
13 Employees are owed wages for the unpaid time during which they are subject to Defendant's
14 and/or DOES' control and/or during which they are not free from all work duties. When
15 Plaintiff and the Aggrieved Employees work over eight (8) hours in a shift, these unpaid hours
16 must be compensated at an overtime rate. Because Plaintiff and the Aggrieved Employees were
17 typically scheduled to work shifts lasting nine (9) to twelve (12) hours long, the majority of
18 these unpaid hours would qualify for the overtime rate.

19 64. Plaintiff and those similarly situated Aggrieved Employees were employed by Defendant
20 and/or DOES at all relevant times. Defendant and/or DOES were required to compensate
21 Plaintiff and the Aggrieved Employees for all overtime hours worked and were prohibited from
22 making deductions that had the effect of reducing the agreed upon wage.

23 65. Plaintiff and the Aggrieved Employees are informed and believe and thereon allege that
24 Defendant and/or DOES breach the legal duty to pay full wages to Mr. Calderon by failing to
25 pay Mr. Calderon and similarly aggrieved employees for meal period time when Plaintiff and
26 the Aggrieved Employees were not relieved of all duties and employer control.

27 66. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial
28 unpaid wages, and lost interest on such wages, and expenses.

67. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant's and/or DOES' warehouses in California.

68. 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) for violations of *California Labor Code* section 510.

69. 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 *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 222, 223 and 510.

70. Pursuant to *California Labor Code* section 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 *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

71. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the PAGA for Failure to Provide Meal Periods (California Labor Code §2698 et. seq.).

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

73. Under *California Labor Code* section 512, and IWC Wage Order 7-2001(11), no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty

(30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

74. 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 a second meal period of not less than thirty (30) minutes.

75. Under *California Labor Code* section 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.

76. Defendant and/or DOES fail to provide thirty (30) minute, uninterrupted meal periods to Plaintiff and Aggrieved Employees who worked for work periods of more than five (5) consecutive hours. As such, Plaintiff and Aggrieved Employees were required to work over five (5) consecutive hours at a time without being provided a thirty (30) minute uninterrupted, duty-free meal period within that time.

77. Defendant and/or DOES breach the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, Defendant and/or DOES fail to provide Plaintiff and the Aggrieved Employees with meal periods within the first five continuous hours of work.

78. Defendant and/or DOES breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy 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. In addition, Plaintiff and the Aggrieved Employees would have to work through their meal periods and could not leave the premises but would nonetheless be required to clock out for thirty minutes to create the

appearance of lawful meal periods. If employees did not clock out for thirty minutes while they continued to work, then Defendant and/or DOES would alter their time records to create the appearance of a lawful meal period even though no such meal period was taken. Thus, Plaintiff and the Aggrieved Employees did not receive lawful meal periods while working for Defendant and/or DOES.

79. Defendant and/or DOES have a consistent policy and/or practice of not providing second meal periods to Plaintiff and the Aggrieved Employees and/or providing compensation in lieu thereof. Specifically, Plaintiff and the Aggrieved Employees were not provided with second meal periods when they worked shifts over ten (10) hours long.

80. 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 *California Labor Code* section 226.7 and 512.

81. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant's and/or DOES' warehouses in California.

82. 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 violate the provisions of *California Labor Code* sections 226.7 and 512, and IWC Wage Order No. 7-2001.

83. As a result of the unlawful acts of Defendant and/or DOES, Plaintiff and the Aggrieved Employees have been deprived of premium wages and/or other compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest, attorneys' fees, and costs.

84. During the relevant time period, Plaintiff and the Aggrieved Employees who were scheduled to work for a period of time in excess of six (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

85. During the relevant time period, Plaintiff and the Aggrieved Employees who were scheduled to work for a period of time in excess of ten (10) hours and/or (12) hours, and who did not waive their legally-mandated meal periods by mutual consent were required to work in excess

- of ten (10) hours and/or twelve (12) hours without receiving a second uninterrupted meal period of not less than thirty (30) minutes.
86. During the relevant time period, Defendant and/or DOES fail to pay Plaintiff and the Aggrieved Employees all meal period premiums due pursuant to *California Labor Code* section 226.7.
87. Defendant's and/or DOES' conduct violates applicable IWC Wage Order 7-2001 and *California Labor Code* sections 226.7 and 512(a).
88. 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 *California Labor Code* section 2699.5.
89. 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 *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7 and 512.
90. Pursuant to *California Labor Code* section 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 *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).
91. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to *California Labor Code* Section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

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**FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the
PAGA for Failure to Provide Rest Periods (California Labor Code §2698 et. seq.).**

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

93. Industrial Welfare Commission Order No. 7-2001 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.”

94. At all times mentioned herein, 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.

95. Defendant and/or DOES have a consistent policy and/or practice of not providing duty free, net-ten minute, paid rest periods to Plaintiff and all Aggrieved Employees and/or providing compensation in lieu thereof.

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

97. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per day by Plaintiff and the Aggrieved Employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, Defendant and/or DOES willfully violate the provisions of *California Labor Code* section 226.7.

98. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant’s and/or DOES’ warehouses in California.

99. Plaintiff, as 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

1 has satisfied all prerequisites to serve as a representative of the general public to enforce
2 California's labor laws, and the penalty provisions identified in *California Labor Code* section
3 2699.5 for violations of *California Labor Code* section 226.7.

4 100. Plaintiff, as a non-exempt employee who was unlawfully deprived of paid ten (10)-minute rest
5 periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
6 satisfied all prerequisites to serve as a representative of the general public to enforce
7 California's labor laws, and the penalty provisions identified in *California Labor Code* section
8 2699.5.

9 101. Plaintiff, as a representative of the people of the State of California, will seek all penalties
10 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
11 each of the following, as set forth in *California Labor Code* section 2699.5, which provides
12 that section 2699.3(a) applies to any alleged violation of the following provisions: sections
13 226.7.

14 102. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
15 behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil
16 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the
17 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars
18 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per
19 *California Labor Code* section 2699(f)(2).

20 103. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other
21 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for
22 violations pursuant to this chapter or any provisions regulating hours and days of the week of
23 the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and
24 558(a)(2).

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**FIFTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the
PAGA for Failure to Pay Wages Due at Termination and During Employment (California Labor
Code §2698 et. seq.).**

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

105. 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 Aggrieved Employees who left Defendant's and/or DOES' employ or who were terminated.

106. Plaintiff and the Aggrieved Employees who ended their employment with Defendant and/or DOES during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

107. At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

108. During the relevant time period, Defendant and/or DOES intentionally and willfully fail to pay the Aggrieved Employees who are no longer employed by Defendant and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Defendant's and/or DOES' employ.

109. Plaintiff ERIC CALDERON'S employment with Defendant and/or DOES was terminated on or about October 18, 2022. Defendant and/or DOES failed to provide Plaintiff ERIC CALDERON his final wages in accordance with *California Labor Code* sections 201 through 203. Instead, Defendant and/or DOES required Plaintiff to drive to Los Angeles to pick up his final wage statement on the next regularly scheduled payday.

110. Defendant and/or DOES have a continuous policy of not providing final paychecks to employees who are terminated or quit until Defendant's and/or DOES' next regularly

- 1 scheduled pay date.
- 2 111. Defendant and/or DOES have a continuous policy of not providing final wages to employees
3 who are fired at the time of termination or who quit within seventy-two (72) hours of their
4 leaving Defendant's and/or DOES' employ. Defendant and/or DOES also require employees
5 to receive their final wages on Visa debit cards and does not provide the option for employees
6 to receive their final wages through a check or direct deposit.
- 7 112. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff
8 and the Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES have
9 a continuous and consistent policy of requiring employees to work before clocking in, after
10 clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not paid for
11 this time. For example, Plaintiff and the Aggrieved Employees would have to work through
12 their meal periods but would nonetheless be required to clock out for thirty (30) minutes to
13 create the appearance of lawful meal periods. If employees did not clock out for thirty minutes
14 while they continued to work, then Defendant and/or DOES would alter their time records to
15 create the appearance of a lawful meal period. Further, Defendant and/or DOES fail to pay
16 Plaintiff and the Aggrieved Employees for meal period time when Plaintiff and the Aggrieved
17 Employees were not relieved of all duties and/or employer control. Thus, Plaintiff and the
18 Aggrieved Employees are owed wages for the unpaid time during which they are subject to
19 Defendant's and/or DOES' control and/or during which they are not free from all work duties.
- 20 113. Defendant's and/or DOES' failure to pay Plaintiff and the Aggrieved Employees who are no
21 longer employed by Defendant and/or DOES their wages, that were earned and unpaid, at the
22 time of termination or within seventy-two (72) hours of their leaving Defendant's and/or
23 DOES' employ, is in violation of *California Labor Code* sections 201 and 202.
- 24 114. *California Labor Code* section 203 provides that when an employer willfully fails to pay wages
25 owed, in accordance with *California Labor Code* sections 201 and 202, the wages of the
26 employee shall continue as a penalty from the due date thereof at the same rate until paid or
27 until action is commenced; but the wages shall not continue for more than thirty (30) days.
- 28 115. Plaintiff, as a non-exempt employee who Defendant and/or DOES fail to pay all wages, failed

to provide a minimum statutory first and/or second meal periods, and failed to provide paid ten (10) minute rest periods, 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 *California Labor Code* section 2699.5.

116. Plaintiff, as a representative of the people of the State of California, seeks 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 *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 201 through 203.

117. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant's and/or DOES' warehouses in California.

118. Pursuant to *California Labor Code* section 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 *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

119. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* section 558(a)(1) and 558(a)(2).

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

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

1 121. *California Labor Code* section 226(a) requires Defendant and/or DOES to itemize in wage
2 statements all deductions from payment of wages and to accurately report total hours worked
3 by Plaintiff and the Aggrieved Employees. *California Labor Code* section 226(a) requires
4 Defendant and/or DOES, at the time of each payment of wages, to “furnish each of her or her
5 employees, either as an detachable part of the check, draft, or voucher paying the employee’s
6 wages, or separately when wages are paid by personal check or cash, an accurate itemized
7 statement in writing showing (1) gross wages earned, (2) total hours worked by the
8 employee...(3) the number of piece-rate units earned and any applicable piece rate if the
9 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
10 on written orders of the employee may be aggregated and shown as one item, (5) net wages
11 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
12 the employee and only the last four digits of his or her social security number or an employee
13 identification number other than the social security number, (8) the name and address of the
14 legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period
15 and the corresponding number of hours worked at each hourly rate and the corresponding
16 number of hours worked at each hourly rate by the employee....”

17 122. *California Labor Code* section 226, subdivision (a) also requires that “deductions made from
18 payment of wages shall be recorded in ink or other indelible form, properly dated, showing the
19 month, day and year, and a copy of the statement and the record of the deductions shall be kept
20 on file by the employer for at least three years at the place of employment or at a central
21 location within the State of California.”

22 123. In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in
23 excess of the normal work period shall be paid no later than the payday for the next regular
24 payroll period.” An employer complies with section 226(a) “if hours worked in excess of the
25 normal work period during the current pay period are itemized as corrections on the paystub
26 for the next regular pay period. Any corrections set out in the subsequently issued paystub shall
27 state the inclusive dates of the pay period for which the employer is correcting its initial report
28 of hours worked.”

1 124. Defendant and/or DOES have knowingly and intentionally failed to comply with *California*
2 *Labor Code* section 226(a) on each and every wage statement provided to Plaintiff and the
3 Aggrieved Employees.

4 125. In every pay period during the period of the relevant statute of limitations, Defendant and/or
5 DOES knowingly and intentionally did not itemize the total hours worked on wage statements
6 as *California Labor Code* section 226 (a), requires. In every pay period during the period of
7 the relevant statute of limitations, Defendant and/or DOES knowingly and intentionally did
8 not include the total hours worked on wage statements and failed to include this information
9 accurately. Defendant and/or DOES therefore knowingly and intentionally fail to itemize the
10 total hours worked on Plaintiff's and the Aggrieved Employees' wage statements.

11 126. Defendant and/or DOES knowingly and intentionally did not include the gross wages earned
12 on wage statements. Defendant and/or DOES therefore knowingly and intentionally failed to
13 itemize the gross wages earned on Plaintiff's and the Aggrieved Employees' wage statements.

14 127. In every pay period during the period of the relevant statute of limitations, Defendant and/or
15 DOES knowingly and intentionally did not itemize the total hours worked on wage statements
16 as *California Labor Code* section 226 (a), requires. Defendant and/or DOES have a continuous
17 policy of not paying Plaintiff and the Aggrieved Employees for all hours worked. Specifically,
18 Defendant and/or DOES have a continuous and consistent policy of requiring employees to
19 work before clocking in, after clocking out, and during meal periods. Plaintiff and the
20 Aggrieved Employees are not paid for this time. For example, Plaintiff and the Aggrieved
21 Employees would have to work through their meal periods but would nonetheless be required
22 to clock out for thirty (30) minutes to create the appearance of lawful meal periods. If
23 employees did not clock out for thirty minutes while they continued to work, then Defendant
24 and/or DOES would alter their time records to create the appearance of a lawful meal period.
25 Further, Defendant and/or DOES fail to pay Plaintiff and the Aggrieved Employees for meal
26 period time when Plaintiff and the Aggrieved Employees were not relieved of all duties and/or
27 employer control. Thus, Plaintiff and the Aggrieved Employees are owed wages for the unpaid
28 time during which they are subject to Defendant's and/or DOES' control and/or during which

1 they are not free from all work duties.

2 128. Defendant and/or DOES also did not itemize the amount of sick pay accrued on wage
3 statements.

4 129. Throughout the relevant time period, because of the knowing and intentional failure by
5 Defendant and/or DOES to comply with itemized employee wage statement provisions,
6 Plaintiff and the Aggrieved Employees have been able to reconstruct only a reasonable
7 estimate of the hours worked and have, therefore, not received full compensation.

8 130. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant's
9 and/or DOES' warehouses in California.

10 131. Plaintiff, as a non-exempt employee who Defendant and/or DOES fail to provide accurate and
11 itemized wage statements, is an aggrieved employee with standing to bring an action under the
12 PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to
13 enforce California's labor laws, and the penalty provisions identified in *California Labor Code*
14 section 2699.5.

15 132. Plaintiff, as a representative of the people of the State of California, will seek all penalties
16 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
17 each of the following, as set forth in *California Labor Code* section 2699.5, which provides
18 that section 2699.3(a) applies to any alleged violation of the following provisions: sections
19 226, 1174, 1199.

20 133. Pursuant to Labor Code section 2699(f), Plaintiff, as an aggrieved employee, on behalf of
21 himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one
22 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation
23 per Labor Code section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved
24 Employee per pay period for each subsequent violation, per *California Labor Code* section
25 2699(f)(2).

26 134. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other
27 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for
28 violations pursuant to this chapter or any provisions regulating hours and days of the week of

the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy and Failure to Provide Written Notice Setting Forth the Amount of Sick Leave Available (California Labor Code §2698 et. seq.).

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

136. Section 246(a)(1) of the *California Labor Code* states: “An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.”

137. *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, “an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.”

138. *California Labor Code* section 246(k) provides that, “[a]n employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.”

139. Section 246(c) of the Labor Code states: “An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.”

140. Section 233(c) of the *California Labor Code* states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5.”

141. Section 233(d) of the *California Labor Code* provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to

- 1 reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate
2 equitable relief.”
- 3 142. Section 234 of the *California Labor Code* further forbids employers from adopting an “absence
4 control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead
5 to or result in discipline, discharge, demotion, or suspension is a per se violation of Section
6 233. An employee working under this policy is entitled to appropriate legal and equitable relief
7 pursuant to Section 233.”
- 8 143. CHINESE LAUNDRY and/or DOES operate under an absence control policy that counts sick
9 leave taken pursuant to Section 233 as an unauthorized absence that may result in discipline,
10 discharge, demotion, or termination. Thus, CHINESE LAUNDRY and/or DOES’ sick pay
11 policy punishes Plaintiff and Aggrieved Employees by way of suspension and/or termination
12 for use of protected and appropriate sick leave. Plaintiff and the Aggrieved Employees are
13 entitled to actual damages or one day's pay pursuant to Labor Code Section 233(d).
- 14 144. Further, CHINESE LAUNDRY's and/or DOES’ sick pay policy fails to pay sick pay for all
15 appropriate and protected purposes enumerated in Labor Code section 233, 234, and 246.
- 16 145. Section 246(i) of the California Labor Code states, “[a]n employer shall provide an employee
17 with written notice that sets forth the amount of sick leave available, or paid time off an
18 employer provides in lieu of sick leave, for use on either the employee's itemized wage
19 statement described in Section 226 or in a separate writing provided on the designated pay date
20 with the employee's payment of wages.”
- 21 146. CHINESE LAUNDRY and/or DOES fail to itemize sick leave available, or paid time off an
22 employer provides in lieu of sick leave, for us on Plaintiff's and the Aggrieved Employees’
23 itemized wage statements or in a separate writing provided on the designated pay date with the
24 employee's payment of wages.
- 25 147. CHINESE LAUNDRY's and/or DOES’ sick pay policy fails to pay sick pay for all appropriate
26 and protected purposes enumerated in Labor Code sections 233, 234, 246, and 246.5, and
27 CHINESE LAUNDRY and/or DOES fail to itemize the amount of accrued/available sick leave
28 employees have on wage statements each pay period.

1 148. As a result of the unlawful acts of Defendant CHINESE LAUNDRY and/or DOES, Plaintiff
2 and the Aggrieved Employees he seeks to represent have been incurred damages, in amounts
3 to be determined at trial, and are entitled to recovery of such amounts, plus interest and
4 penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 233(e).

5 149. These claims are on behalf of all non-exempt, hourly employees who worked in Defendant's
6 and/or DOES' warehouses in California.

7 150. Plaintiff, as a non-exempt employee who was subject to Defendant's and/or DOES' unlawful
8 sick pay/paid time off policy, is an aggrieved employee with standing to bring an action under
9 the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general
10 public to enforce California's labor laws, and the penalty provisions identified in *California*
11 *Labor Code* section 2699.5 for violations of the *California Labor Code* sections 233, 234, 246,
12 and 246.5.

13 151. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other
14 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for
15 violations pursuant to this chapter or any provisions regulating hours and days of the week of
16 the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and
17 558(a)(2).

18 **PRAYER FOR RELIEF**

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

- 21 A. For penalties as provided under *California Labor Code* sections 558(a)(1) and 558(a)(2).
22 B. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
23 2699, et. seq. for failure to provide compliant meal periods;
24 C. For all statutory penalties for each pay period during which an employee was underpaid due to
25 failure to provide compliant meal periods;
26 D. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
27 2699, et. seq. for failure to provide all rest periods;
28 E. For all statutory penalties provided under *California Labor Code* for each pay period during

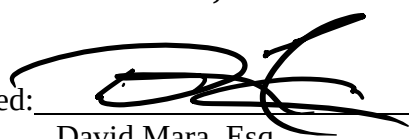
- 1 which an employee was underpaid due to failure to provide paid rest periods;
- 2 F. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
- 3 2699, et. seq. for failure to timely pay wages at separation;
- 4 G. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
- 5 2699, et. seq. for failure to provide compensation at the regular and overtime rate for all time
- 6 worked;
- 7 H. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
- 8 2699, et. seq. for failure to provide compensation at the minimum wage;
- 9 I. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
- 10 2699, et. seq. for failure to provide accurate, itemized wage statements;
- 11 J. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
- 12 2699, et. seq. for failure to adopt a lawful sick pay policy;
- 13 K. For reasonable attorneys' fees and costs under the PAGA, *California Labor Code* section
- 14 2699(g)(1).

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff demands a jury trial as to liability.

17
18 **MARA LAW FIRM, PC**

19 Date: May 1, 2023

20 Signed: 

21 David Mara, Esq.

22 Jill Vecchi, Esq.

23 Taylor Getman, Esq.

24 Attorneys for Plaintiff ERIC CALDERON, on
25 behalf of himself and all others similarly
26 situated, and on behalf of the general public
27
28