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County of San Diego

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Nicholas J. Ferraro (State Bar No. 306528)
Lauren N. Vega (State Bar No. 306525)
Dorota A. James (State Bar No. 309933)
Ferraro Vega Employment Lawyers, Inc.
3333 Camino del Rio South, Suite 300
San Diego, California 92108
(619) 693-7727 main / (619) 350-6855 facsimile
nick@ferrarovega.com / lauren@ferrarovega.com
dorota@ferrarovega.com

Justin O. Walker (State Bar No. 275633)
Lorrie A. Walker (State Bar No. 272637)
Walker Law, PC
2247 San Diego Ave, Suite 136
San Diego, California 92110
Tel.: (619) 839-9978
justin@walkerlawsd.com / lorrie@walkerlawsd.com

Attorneys for Plaintiff Dusty Tunnell

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

DUSTY TUNNELL, on behalf of other similarly
situated employees of Defendants,

Plaintiffs,

vs.

KAISER FOUNDATION HEALTH PLAN,
INC.; SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, INC.;
KAISER FOUNDATION HOSPITALS; and
DOES 2 through 50, inclusive,

Defendants.

Case No. 25CU054597C

Hon. Blaine K. Bowman
Dept. 74

CLASS ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Pay All Wages Owed
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Paid Sick Leave Violations
6. Unpaid Vacation Wages
7. Untimely Payment of Wages
8. Wage Statement Violations
9. Waiting Time Penalties
10. Unfair Competition
11. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

Action Filed: October 9, 2025

1 Plaintiff DUSTY TUNNELL, on behalf of all others similarly situated employees of
2 Defendants and the State of California under the Private Attorneys General Act (“Plaintiff”) brings
3 this FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against
4 Defendants KAISER FOUNDATION HEALTH PLAN, INC.; SOUTHERN CALIFORNIA
5 PERMANENTE MEDICAL GROUP, INC.; KAISER FOUNDATION HOSPITALS; and DOES 2
6 through 50, inclusive (collectively “Defendants”), alleging as follows:

7 **INTRODUCTION**

8 1. Plaintiff brings this instant class action on behalf of herself and similarly situated
9 current and former employees of Defendants for a series of systemic violations of the California Labor
10 Code and IWC Wage Orders.

11 2. Defendants failed to pay Plaintiff and the putative class members at the lawful
12 minimum wage due to their practice of paying \$12.00/hour for stand-by shifts.

13 3. Defendants failed to pay Plaintiff and the putative class members for all time worked
14 due to their unlawful practice of time rounding.

15 4. As a result of Defendants’ unlawful time rounding policy, Defendants failed to pay
16 Plaintiff and the putative class members for each hour worked over 8 in one day and 40 in one week.

17 5. Further, as a result of Defendants’ unlawful time-rounding policy, Defendants failed to
18 account for each hour of paid sick leave and vacation time Plaintiff and the putative class members
19 accrued.

20 6. Plaintiff and the putative class members were not always given adequate opportunities
21 to take compliant meal and rest breaks, and Defendants did not pay Plaintiff and the putative class
22 members all meal and rest premiums owed.

23 7. Defendants’ employment policies, practices, and payroll administration systems
24 enabled and facilitated these violations on a company-wide basis with respect to the putative class
25 members.

26 8. Defendants are further liable for derivative claims for wage statements, untimely
27 payment, and other associated violations.

9. Plaintiff seeks to recover the underpaid damages, plus associated penalties, interests, attorney's fees and costs.

JURISDICTION & VENUE

10. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the California Constitution as the causes of action are premised upon violations of California law.

11. The monetary damages and restitution sought exceed the minimal jurisdiction limits of the Superior Court.

12. This Court has jurisdiction over Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California, or otherwise intentionally avail themselves to the California economy so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

13. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conducted business and committed some of the alleged violations in this County.

PARTIES

A. Plaintiff Dusty Tunnell

14. Plaintiff Tunnell is an individual over 18 years of age who has been working for Defendants in San Diego, California since June 201. Plaintiff is classified as a non-exempt, hourly employee and holds the position of an Orthopedic Tech II.

15. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in in-terest.”])). To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal. App. 5th 533 and *Rodriguez v. Packers Sanitation Services Ltd., LLC* (2025) 109 Cal.App.5th 69, the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

B. Defendants

16. Defendant Kaiser Foundation Health Plan, Inc. is a health care organization that offers allergy, oncology, hospice, laboratory, nephrology, occupational therapy, pain management, pediatric rehabilitation, and pharmacy services to patients in throughout the entire State of California, including in San Diego County.

17. Defendant Southern California Permanente Medical Group, Inc. is a California corporation that maintains operations and conducts business throughout the State of California, including in San Diego County. Southern California Permanente Medical Group comprises more than 8,000 physicians who provide health care to 4.9 million Kaiser Permanente members throughout Southern California.

18. Defendant Kaiser Foundation Hospitals is a California corporation that provides health care services. Kaiser Foundation Hospitals offers preventative care, immunizations, emergency, screening, diagnostics, and pharmacy services. Kaiser Foundation Hospitals serves clients throughout the entire United States, including in the State of California, in San Diego County.

19. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 2 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 2 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

20. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

21. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

22. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

23. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

24. Plaintiff reserves the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

25. The class is ascertainable and shares a well-defined community of interest in this litigation:

a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of class members are ascertainable by inspection of Defendants' employment and payroll records.

b. Typicality: Plaintiff's claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiff experienced, will establish the right of the class to recover on the causes of action alleged herein.

c. Adequacy: Plaintiff is an adequate class representative; will take all necessary steps to protect the class members' interests adequately and fairly; has no interest antagonistic to other class members; and is represented by attorneys

1 who have substantial experience prosecuting, defending, resolving, and
2 litigating wage and hour class, collective, and representative actions in
3 California state and federal courts.

4 d. Superiority: A class action is superior to other means for adjudicating this
5 dispute. Individual joinder is impractical. Class treatment will allow for
6 common issues to be resolved in a single forum, simultaneously, and without
7 duplication of effort and expense.

8 e. Public Policy Considerations: Certification of this lawsuit as a class action
9 advances the State of California's strong public interest in ensuring its
10 approximately millions of employed residents are properly paid the wages they
11 earned for the hours they worked. Class actions provide a mechanism for
12 enforcement of labor laws and allow for vindication of employee rights by
13 unnamed class members.

14 26. Common questions of law and fact as to the class members predominate over questions
15 affecting only individual members. The common questions of law and fact exist as to whether the
16 employment policies and practices formulated by Defendants and applied to the class members
17 constitute violations of California law.

18 **GENERAL ALLEGATIONS**

19 26. Defendants failed to pay Plaintiff and the putative class members the lawful minimum
20 wage for all hours worked, resulting in unpaid minimum wages.

21 27. Specifically, Defendants failed to compensate Plaintiff and the putative class members
22 at least minimum wage for time spent on mandatory "standby" shifts, which functioned as on-call
23 shifts. During these shifts, employees were required to remain within close proximity to the worksite
24 and be available to respond within 30 minutes. Plaintiff and the putative class members regularly
25 performed standby shifts between 4:00 p.m. and 8:00 a.m. on weekdays, and for 24 hours on Saturdays
26 and Sundays.

1 28. Due to the high level of control Defendants exercised over employees' time during
2 these standby periods, the time qualifies as compensable hours worked under California law and
3 should have been paid at least the applicable minimum wage.

4 29. However, Defendants compensated Plaintiff and the putative class members at only
5 \$12.00 per hour, resulting in unpaid minimum wages.

6 30. In addition, Defendants maintained an unlawful time-rounding policy.

7 31. Defendants rounded time entries to the nearest quarter hour, which occasionally
8 resulted in underreporting the actual hours worked by Plaintiff and the putative class members.

9 32. As a result, Plaintiff and the putative class members experienced unpaid hours worked.

10 33. Defendants also failed to pay Plaintiff and the putative class members overtime wages
11 at the lawful rate, resulting in unpaid overtime compensation.

12 34. First, Defendants' unlawful rounding policy caused employees not to be paid for all
13 hours worked over 8 hours in a day and 40 hours in a week.

14 35. Furthermore, Defendants failed to pay double time wages owed for hours worked in
15 excess of eight on the seventh consecutive day of the workweek. Because the standby shifts constitute
16 compensable work under California law, these hours should have been compensated at twice the
17 regular rate of pay. Instead, Defendants, failed to pay Plaintiff and, on information and belief other
18 similarly-situated employees, double time wages, resulting in further unpaid compensation.

19 37. Defendants also failed to comply with California's paid sick leave laws. Due to their
20 unlawful time-rounding policy, Defendants did not accurately account for accrued sick leave hours,
21 resulting in unpaid sick leave.

22 38. Defendants maintained an unlawful policy and practice of failing to pay all accrued and
23 unused vacation wages upon separation from employment, leading to the forfeiture of vested vacation
24 time and wages.

25 39. As a result of the rounding policy, Defendants failed to accurately track accrued
26 vacation time, causing unpaid vacation wages.

27 40. Defendants failed to ensure Plaintiff and the putative class members received legally
28 compliant meal periods. Plaintiff, an Orthopedic Technician, was regularly required to perform critical

1 tasks in the operating room, including acting as a First Assistant, holding retractors, and pulling
2 traction. Due to these responsibilities, Plaintiff and, on information and belief, other similarly situated
3 employees frequently missed or delayed meal periods.

4 42. Defendants were required to pay meal period premiums for each missed or non-
5 compliant meal period but failed to do so.

6 43. Defendants likewise failed to ensure employees received compliant rest breaks. Due to
7 operating room duties, Plaintiff and the putative class members were sometimes unable to take rest
8 periods.

9 44. Defendants were obligated to pay rest period premiums for each missed or non-
10 compliant rest break but failed to compensate Plaintiff and the putative class members accordingly.

11 45. These wage and break violations create derivative liability for failure to timely pay all
12 wages due on each payday and upon separation of employment.

13 46. Defendants failed to pay all wages earned—including regular, overtime, and sick pay—
14 within seven (7) calendar days following the close of each payroll period, in violation of Labor Code
15 section 204(a).

16 47. Defendants also failed to provide accurate itemized wage statements, in violation of
17 Labor Code section 226(a)(1) and (5). Specifically, the wage statements did not reflect the correct
18 “gross wages earned” or “net wages earned,” as employees earned wages and premiums that were not
19 paid.

20 48. Defendants further violated Labor Code section 226(a)(9) by failing to list on wage
21 statements the applicable hourly rates and number of hours worked at each rate. The amounts shown
22 were inaccurate due to unpaid wages and premiums. As a result, Plaintiff and the putative class
23 members could not promptly and easily determine from the wage statements the wages earned or paid
24 without referring to external documents or records. These violations created confusion regarding
25 compensation owed and concealed systemic underpayments.

26 49. Due to the above-described unlawful policies and practices, Defendants failed to
27 maintain accurate payroll and employment records as required under Labor Code section 1174 and the
28 applicable IWC Wage Orders.

1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL WAGES OWED**

3 **Violation of Labor Code §§ 200, 218, 1194, 1194.2 and 1197**

4 **(All Claims Alleged by Plaintiff and Class Members Against All Defendants)**

5 50. All outside paragraphs of this Complaint are incorporated into this section.

6 51. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
7 §§ 200, 218, 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours
8 and Days of Work” and “Minimum Wages” sections of the applicable orders), which require non-
9 exempt employees be timely paid at least the state or local minimum wage (if higher) for each hour of
10 work, and further provide a private right of action for an employer’s failure to pay all minimum wages
11 (plus liquidated damages). In addition to minimum wages, Labor Code § 200 states that “‘wages’
12 includes all amounts for labor performed by employees of every description, whether the amount is
13 fixed or ascertained by the standard of time, task, piece, commission basis, or other method of
14 calculation.”

15 52. Defendants willfully failed in their affirmative obligation to pay Plaintiff and class
16 members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
17 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of
18 Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful
19 local and county minimum wage ordinances in effect. As a result, Defendants are liable for all
20 associated damages, including liquidated damages for the minimum wage violations pursuant to Labor
21 Code § 1194.2.

22 53. Defendants’ unlawful acts and omissions deprived Plaintiff and class members of
23 minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and class
24 members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an
25 amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys’
26 fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2,
27 218.6 and any other applicable statutes.

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60. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiff and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

61. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

62. Plaintiff and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 516

63. All outside paragraphs of this Complaint are incorporated into this section.

64. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods (or rest period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful regular rate of compensation.

65. Defendants willfully failed in their affirmative obligation to consistently authorize and permit Plaintiff and class members to receive compliant, duty-free rest periods of not less than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the applicable orders).

66. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant rest period was not provided, in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

FIFTH CAUSE OF ACTION

FAILURE TO PAY ALL PAID SICK LEAVE WAGES

Violation of Labor Code §§ 200, 218, 246 *et seq.*

67. All outside paragraphs of this Complaint are incorporated into this section.

68. Defendants knowingly and intentionally failed in their affirmative obligation to pay sick leave wages to Plaintiff and a paid sick leave subclass in violation of Labor Code section 246 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law. (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 [“Courts have recognized that ‘wages’ also include those benefits to which an employee is entitled as a part of his or her compensation, including money, room, board, clothing, vacation pay, and sick pay”].)

69. Labor Code section 246(1), in conjunction with Labor Code section 248 *et seq.*, 248.1, 248.2, and 248.6, in addition to the applicable County sick pay ordinances in locales worked by class members, govern how Defendants were required to calculate paid sick leave.

70. Defendants failed to pay Plaintiff and class members their paid sick leave wages at one of the lawful rates set forth in the statute or ordinance because Defendants failed to include in their sick leave calculation the additional remuneration received by Plaintiff and class members (i.e., at the regular rate of pay and/or calculated based on total wages earned).

71. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19 Supplemental Sick Leave wages to class members at the correct accrual rate or hourly pay rate in violation of Labor Code sections 246, 248.1, 248.2, and 248 *et seq.*

72. As a result, Defendants violated the Labor Code and are liable to Plaintiff and class members for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

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80. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiff and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of the applicable orders).

81. Plaintiff and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each employee and \$200 for all subsequent violations and for all willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

EIGHTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226

82. All outside paragraphs of this Complaint are incorporated into this section.

83. This cause of action is brought by a wage statement subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation.

84. Defendants knowingly and intentionally failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiff and class members resulting in injury to Plaintiff and class members. Specifically, the wage statements issued to Plaintiff and class members did not accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

85. Defendants' unlawful acts and omissions deprived Plaintiff and class members of accurate itemized wage statements, causing confusion and concealing wage and premium underpayments.

86. As a result, Plaintiff and class members are entitled to recover the statutory penalty of \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for

1 each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in
2 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
3 Code section 226(e).

4 **NINTH CAUSE OF ACTION**

5 **WAITING TIME PENALTIES**

6 **Violation of Labor Code §§ 201 *et seq.***

7 87. All outside paragraphs of this Complaint are incorporated into this section.

8 88. This cause of action is brought by a waiting time subclass pursuant to Labor Code
9 §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of
10 employment, and which further provide a private right of action to recover statutory waiting time
11 penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days
12 wages.

13 89. Defendants willfully failed and continue to fail in their affirmative obligation to pay all
14 wages earned and unpaid to Plaintiff and class members immediately upon termination of employment
15 or within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his
16 or her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of Labor
17 Code sections 201 through 203 and the IWC Wage Orders.

18 90. Plaintiff and class members are entitled to recover a waiting time penalty for a period
19 of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

20 **TENTH CAUSE OF ACTION**

21 **UNFAIR COMPETITION**

22 **Violation of Business and Professions Code §§ 17200 *et seq.***

23 91. All outside paragraphs of this Complaint are incorporated into this section.

24 92. Defendants have engaged and continue to engage in unfair and/or unlawful business
25 practices in the State of California in violation of California Business and Professions Code § 17200
26 by committing the foregoing wage and hour violations alleged throughout this Complaint.

27 93. Defendants' dependence on these unfair and/or unlawful business practices deprived
28 Plaintiff and continue to deprive other class members of compensation to which they are legally

entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage to Defendants over competitors who have been and/or are currently employing workers in compliance with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

94. Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged in this Complaint, and Plaintiff, as an individual and on behalf of others similarly situated, seeks full restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

95. Plaintiff does not have an adequate remedy at law for past or future violations, to the extent the statute of limitations on each of the alleged causes of action do not extend to the four year limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order violations do not provide a private right of action.

96. Plaintiff and class members are entitled to injunctive relief against Defendants, restitution, and other equitable relief to return all funds over which Plaintiff and class members have an ownership interest and to prevent future damage and the public interest under Business and Professions Code § 17200 *et seq.* Plaintiff and class members are further entitled to recover interest, attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure § 1021.5.

ELEVENTH CAUSE OF ACTION

CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§ 2698 *et seq.*

(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)

97. All outside paragraphs of this Complaint are incorporated into this section.

98. Plaintiff brings this cause of action as a proxy for the State of California on behalf of the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"), codified as Labor Code section 2698 *et seq.*:

1 a. All current and former non-exempt employees who worked for Defendants in
2 California at any time from one year prior to the postmark date of the initial
3 PAGA notice through date of trial.

4 99. Plaintiff reserves the right to amend, supplement, or add to this description of the
5 aggrieved employees, according to proof.

6 100. The State of California, via the Labor and Workforce Development Agency
7 (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
8 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
9 files suit is always the real party in interest.”])

10 101. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,,
11 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
12 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
13 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
14 civil action brought by an aggrieved employee on behalf of the employee and other current or former
15 employees against whom a violation of the same provision was committed pursuant to the procedures
16 specified in Section 2699.3. “

17 102. Any allegations regarding violations of the IWC Wage Orders are enforceable as
18 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
19 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

20 103. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
21 penalties under the PAGA.

22 104. On or about **September 22, 2025**, Plaintiff paid the requisite PAGA filing fee and
23 provided written notice (by online electronic filing with the LWDA and by certified mail to
24 Defendants) of Defendants’ alleged Labor Code violations, including the facts and theories to support
25 the alleged violations.

26 105. A true and correct copy of Plaintiff’s written PAGA notice, entitled “Notice of Labor
27 Code Violations” is attached hereto as Exhibit 1 and incorporated by reference as though fully set
28 forth herein (the “PAGA notice”).

1 106. To date, neither Plaintiff nor Plaintiff's counsel has received a response to Plaintiff's
2 written PAGA notice from the LWDA.

3 107. Within 33 calendar days of the postmark date of the notice sent by Plaintiff, neither
4 Plaintiff nor Plaintiff's counsel has received written notice by certified mail from any defendant
5 providing a description of any actions taken to cure the alleged violations.

6 108. Now that at least 65 days have passed from Plaintiff notifying Defendants of these
7 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate
8 the alleged allegations and issue the appropriate citations to Defendants, Plaintiff exhausted all
9 prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

10 109. As set forth in the PAGA notice attached as Exhibit 1 and incorporated into this
11 Complaint, Defendants committed the following violations and are liable for all corresponding civil
12 penalties and injunctive relief under sections 2699(e)(1) and 2699(k):

- 13 **a. Unpaid Hours Worked/Minimum Wage.** Violation of Labor Code §§ 1194, 1197,
14 1198; IWC Wage Orders.
- 15 **b. Unpaid Overtime.** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.
- 16 **c. Unpaid Paid Sick Leave.** Violation of Labor Code §§ 246 through 248.7.
- 17 **d. Unpaid Vacation Wages.** Violation of Labor Code § 227.3.
- 18 **e. Unpaid Meal Period Premium Wages.** Violation of Labor Code §§ 226.7, 512, 1198;
19 IWC Wage Orders.
- 20 **f. Unpaid Rest Period Premium Wages.** Violation of Labor Code §§ 226.7, 516, 1198;
21 IWC Wage Orders.
- 22 **g. Untimely Payment of Wages During Employment.** Violation of Labor Code §§ 204,
23 204b, 210.
- 24 **h. Untimely Payment of Wages Upon Separation of Employment.** Violation of Labor
25 Code §§ 201, 202, 203, 256.
- 26 **i. Non-Compliant Wage Statements.** Violation of Labor Code §§ 226, 226.3.
- 27 **j. Failure to Maintain Accurate Records.** Violation of Labor Code § 1174; IWC Wage
28 Orders.

110. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(k).

PRAAYER

Plaintiff prays for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the class representative;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
- d. For division of class members into appropriate classes and/or subclasses according to proof;
- e. For recovery of all statutory penalties and liquidated damages;
- f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;
- g. For restitution and injunctive relief;
- h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194 and Code of Civil Procedure § 1021.5.;
- i. For recovery of damages in amount according to proof;
- j. For all recoverable pre- and post-judgment interest;
- k. For this action to be maintained as a representative action under the PAGA;
- l. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or the California Division of Labor Enforcement;
- m. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- n. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, associated with the PAGA claims pursuant to Labor Code § 2699, and Code of Civil Procedure section 1021.5 and any other applicable sections; and

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1 o. For such other relief the Court deems just and proper.

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3 Dated: December 3, 2025

Ferraro Vega Employment Lawyers, Inc.

4 

5 Nicholas J. Ferraro

6 Justin O. Walker

7 Dorota A. James

8 *Attorneys for Plaintiff Dusty Tunnell*