

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Courtney M. Miller, Esq. (SBN 327850)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
cmiller@lelawfirm.com
WHT1@lelawfirm.com

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MAY 30 2023

BY: SIB
Samantha Becerra, Deputy

Attorneys for Plaintiff STEVE BARDEN.
on behalf of himself and current and former aggrieved employees

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

STEVE BARDEN, on behalf of himself and
current and former aggrieved employees,

Plaintiff,

vs.

WESTERN REFINING RETAIL, LLC; and
DOES 1 to 100, inclusive,

Defendants.

Case No.:

CIV SB 2311682

PAGA ACTION

**PLAINTIFF STEVE BARDEN'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff STEVE BARDEN ("Plaintiff"), who alleges and complains
against Defendants WESTERN REFINING RETAIL, LLC; and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure
2 to authorize or permit all legally required and/or compliant meal periods or pay meal period
3 premium wages; failure to authorize or permit all legally required and/or compliant rest periods or
4 pay rest period premium wages; statutory penalties for failure to provide accurate wage
5 statements; statutory waiting time penalties in the form of continuation wages for failure to timely
6 pay employees all wages due upon separation of employment. Plaintiff seeks on a representative
7 basis, following notice to the Labor and Workforce Development Agency, civil penalties,
8 reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf
9 of Plaintiff, the State of California, and others aggrieved.

10 **II. JURISDICTION AND VENUE**

11 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
12 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
13 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
14 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
15 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
16 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
17 aggrieved California-based hourly non-exempt employees occurred in locations throughout
18 California, including but not limited to San Bernardino County, at 3864 Sierra Ave, Fontana CA
19 92336.

20 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
21 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
22 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
23 tolled from April 6, 2020, until October 1, 2020.

24 **III. PARTIES**

25 4. Plaintiff brings this action as a representative of the Labor and Workforce
26 Development Agency on behalf of himself and other current and former employees subject to
27 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
28 filed include current, former and/or future employees of Defendants who work, worked, or will

1 work for Defendants as direct employees as well as temporary employees employed through temp
2 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
3 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
4 employed by Defendants in an hourly position at Defendants' location in San Bernardino from in
5 or around February 2021, until on or about September 22, 2022.

6 5. Plaintiff is informed and believes and thereon alleges that Defendant WESTERN
7 REFINING RETAIL, LLC is authorized to do business within the State of California and is doing
8 business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant
9 hereto were persons acting on behalf of Defendant WESTERN REFINING RETAIL, LLC in the
10 establishment of, or ratification of, the aforementioned illegal wage and hour practices or policies.
11 Defendant WESTERN REFINING RETAIL, LLC operates in San Bernardino County and
12 employed Plaintiff and aggrieved employees in San Bernardino County, including but not limited
13 to, at 3864 Sierra Ave, Fontana CA 92336.

14 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
15 through 50 are corporations, or are other business entities or organizations of a nature unknown to
16 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
17 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
18 working conditions of employment of Plaintiff and aggrieved employees.

19 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
20 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
21 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
22 supervisor, independent contractor and/or employee of each defendant who violated or caused to
23 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
24 the Industrial Welfare Commission's wage orders regulating hours and days of work.

25 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
26 sues said defendants by said fictitious names, and will amend this complaint when the true names
27 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
28 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously

1 named defendants is in some manner responsible for the events and allegations set forth in this
2 complaint.

3 9. Plaintiff makes the allegations in this complaint without any admission that, as to
4 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
5 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

6 **FIRST CAUSE OF ACTION**

7 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

8 **GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

9 **(Against all Defendants by Plaintiff)**

10 10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11 11. During the period beginning one (1) year preceding Plaintiff sending the initial
12 PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
13 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and the applicable Wage Orders.

14 12. Specifically, Defendants have committed the following violations of California
15 Labor Code:

16 13. **Failure to pay wages for all hours worked at the legal minimum wage:**
17 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
18 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
19 which includes all time that an employee is under control of the employer and all time the
20 employee is suffered and permitted to work. This includes the time an employee spends, either
21 directly or indirectly, performing services which inure to the benefit of the employer.

22 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
23 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
24 Wage Orders.

25 15. In this case, Plaintiff and other current and former aggrieved California-based
26 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
27 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
28 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum

1 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
2 not limited to:

3 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
4 non- non-exempt managers and assistant managers to be on on-call five (5) hours per week
5 without being paid for that time. Plaintiff alleges that the hours Defendant required he and
6 similarly situated non-exempt managers and assistant managers was restrictive and, therefore,
7 should have been paid because they were subject to Defendant's control during their on-call hours.
8 For example, while working on-call there was no other managers and/or assistant managers that
9 they could readily exchange their on-call responsibilities with, Defendant's requirements
10 regarding how quickly they were required to respond to calls amounted the imposition of
11 geographic restrictions and an inability to engage in personal pursuits, and the volume and
12 frequency of calls was unduly restrictive.

13 16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
14 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
15 control without paying wages for that time. This resulted in Plaintiff and other current and former
16 aggrieved California-based hourly non-exempt employees working time for which they were not
17 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
18 Wage Order.

19 17. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
20 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
21 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
22 which includes all time that an employee is under control of the employer and all time the
23 employee is suffered and permitted to work. This includes the time an employee spends, either
24 directly or indirectly, performing services that inure to the benefit of the employer.'

25 18. Labor Code sections 510 and 1194 require an employer to compensate employees a
26 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
27 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

28 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of

1 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
2 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
3 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
4 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
5 seventh day of a workweek shall be compensated at the rate of no less than twice the
6 regular rate of pay of an employee.

7 Labor Code section 510.

8 19. In this case, Defendants failed to pay Plaintiff and other current and former
9 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
10 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

11 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
12 non- non-exempt managers and assistant managers to be on on-call five (5) hours per week
13 without being paid for that time. Plaintiff alleges that the hours Defendant required he and
14 similarly situated non-exempt managers and assistant managers was restrictive and, therefore,
15 should have been paid because they were subject to Defendant's control during their on-call hours.

16 For example, while working on-call there was no other managers and/or assistant managers that
17 they could readily exchange their on-call responsibilities with, Defendant's requirements
18 regarding how quickly they were required to respond to calls amounted the imposition of
19 geographic restrictions and an inability to engage in personal pursuits, and the volume and
20 frequency of calls was unduly restrictive.

21 20. Overtime is based upon an employee's regular rate of pay. "The regular rate at
22 which an employee is employed shall be deemed to include all remuneration for employment paid
23 to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement
24 Policies and Interpretations Manual, Section 49.1.2.

25 21. In this case, Plaintiff alleges that when he and other current and former
26 aggrieved California-based hourly non- non-exempt managers and assistant managers earned
27 overtime wages, Employer failed to pay them overtime wages at the proper overtime rate of pay
28 due to Defendant's failure to include all remuneration when calculating the overtime rate of pay.
Specifically, Employer maintained a policy, practice, and/or procedure of failing to include all
remuneration such as "inventive pay" and "bonus pay," for example, when calculating Plaintiff
and other current and former aggrieved California-based hourly non- non-exempt managers and

1 assistant managers regular rate of pay for the purpose of paying overtime.

2 22. The foregoing policies, practices, and/or procedures resulted in time during each
3 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
4 employees were under the control of Defendants but were not compensated. To the extent that the
5 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
6 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
7 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
8 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
9 sections 510 and 1194 and the applicable Wage Order.

10 23. **Failure to pay wages to hourly non-exempt employees for workdays that**
11 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
12 current and former aggrieved California-based hourly non-exempt employees regularly worked
13 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

14 24. California law requires an employer to authorize or permit an employee an
15 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
16 all duties and the employer relinquishes control over the employee's activities prior to the
17 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 7 at §11; *Brinker*
18 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
19 employee for a work period of more than ten (10) hours per day without providing the employee
20 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
21 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
22 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
23 period is only permitted when: (1) the nature of the work prevents an employee from being
24 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

25 25. If an employer fails to provide an employee a meal period in accordance with the
26 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
27 for each workday that a legally required and compliant meal period was not provided. Labor Code
28 section 226.7; Wage Order 7 at §11.

1 26. In this case, Defendants failed to authorize or permit legally required and compliant
2 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
3 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
4 limited to:

5 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
6 non-exempt employees who worked single-employee shifts to remain on-duty during their meal
7 breaks because they were not permitted to leave Defendant's store unattended.

8 27. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
9 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
10 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
11 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
12 employees did not receive legally required and compliant meal periods, in violation of Labor Code
13 section 226.7.

14 28. Finally, on occasions when Defendant paid Plaintiff and other current and former
15 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed,
16 short, on-premise, on-duty, and/or interrupted meal periods, Employer failed to pay the one (1)
17 additional hour of pay at Plaintiff and other current and former aggrieved California-based hourly
18 non-exempt employees regular rate of compensation. Specifically, Defendant maintained a policy,
19 practice, and/or procedure of failing to include all remuneration such as "incentive pay" and
20 "bonus pay," for example, when calculating Plaintiff and other current and former aggrieved
21 California-based hourly non-exempt employees regular rate of pay for the purpose of paying meal
22 period premium wages.

23 29. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
24 and other current and former aggrieved California-based hourly non-exempt employees not
25 receiving wages to compensate them for workdays during which Defendants did not provide them
26 with meal periods in compliance with California law.

27 30. **Failure to pay wages to hourly non-exempt employees for workdays that**
28 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other

1 current and former aggrieved California-based hourly non-exempt employees regularly worked
2 shifts of more than three-and-a-half (3.5) hours.

3 31. California law requires every employer to authorize and permit an employee a rest
4 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
5 Code section 226.7; Wage Order 7 at §12. Under California law, “[e]mployees are entitled to 10
6 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
7 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
8 on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
9 section 226.7; Wage Order 7 at §12. Rest periods, insofar as practicable, shall be in the middle of
10 each work period. Wage Order 7 at §12. Additionally, the rest period requirement “obligates
11 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
12 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
13 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

14 32. If the employer fails to authorize or permit a required rest period, the employer
15 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
16 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
17 Wage Order 7 at § 12.

18 33. In this case, Defendants failed to authorize or permit all legally required and
19 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
20 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
21 limited to:

22 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
23 non-exempt employees who worked single-employee shifts to remain on-duty during their rest
24 breaks because they were not permitted to leave Defendants’ store unattended.

25 34. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
26 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
27 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
28 workday they did not receive legally required and compliant rest periods, in violation of Labor

1 Code section 226.7.

2 35. Finally, on occasions when Defendant did pay Plaintiff and other current and
3 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
4 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendant failed to pay the one
5 (1) additional hour of pay at Plaintiff and other current and former aggrieved California-based
6 hourly non-exempt employees regular rate of compensation. Specifically, Defendant maintained a
7 policy, practice, and/or procedure of failing to include all remuneration such as “inventive pay”
8 and “bonus pay,” for example, when calculating Plaintiff and other current and former aggrieved
9 California-based hourly non-exempt employees regular rate of pay for the purpose of paying rest
10 period premiums.

11 36. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
12 and other current and former aggrieved California-based hourly non-exempt employees not
13 receiving wages to compensate them for workdays in which Defendants did not provide them with
14 rest periods in compliance with California law.

15 37. **Failure to timely pay earned wages during employment:** In California, wages
16 must be paid at least twice during each calendar month on days designated in advance by the
17 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
18 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
19 16th and the 26th day of that month and wages earned between the 16th and the last day,
20 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
21 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
22 paid within seven (7) calendar days following the close of the payroll period in which wages were
23 earned. Labor Code section 204(d).

24 38. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed
25 to timely pay Plaintiff’s and other current and former aggrieved California-based hourly non-
26 exempt employees’ earned wages (including minimum wages, overtime wages, meal period
27 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
28 Defendants’ aforementioned policies, practices, and/or procedures resulted in their failure to pay

1 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
2 their earned wages within the applicable time frames outlined in Labor Code section 204.

3 **39. Failure to provide complete and accurate wage statements:** Labor Code section
4 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
5 employee his or her wages, the employer must "furnish each of his or her employees ... an
6 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
7 employee, except for any employee whose compensation is solely based on a salary and who is
8 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
9 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
10 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
11 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
12 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
13 name of the employee and his or her social security number, (8) the name and address of the legal
14 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
15 the corresponding number of hours worked at each hourly rate by the employee."

16 **40.** As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
17 and other current and former aggrieved California-based hourly non-exempt employees all wages
18 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
19 period premium wages) rendered Plaintiff's and other current and former aggrieved California-
20 based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code
21 section 226.

22 **41. Failure to pay employees all wages due at time of termination/resignation:** An
23 employer is required to pay all unpaid wages timely after an employee's employment ends. The
24 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
25 hours of resignation (Labor Code section 202).

26 **42.** As a derivative of Plaintiff's allegations above, because Defendants failed to pay
27 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
28 all their earned wages (including minimum wages, overtime wages, meal period premium wages,

1 and/or rest period premium wages), Defendants failed to pay those employees timely after each
2 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

3 43. Defendants' violations of Wage Order 7 constituted violations of Labor Code
4 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

5 44. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
6 employee, on behalf of himself or herself and other current or former employees, to bring a civil
7 action to recover civil penalties against all Defendants pursuant to the procedures specified in
8 Labor Code section 2699.3.

9 45. Plaintiff has complied with the procedures for bringing suit specified in Labor
10 Code section 2699.3. On March 23, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
11 and provided notice to Defendants by certified mail which provided notice of the specific
12 provisions of the Labor Code alleged to have been violated, including the facts and theories to
13 support the violations alleged.

14 46. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
15 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
16 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
17 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
18 to investigate Plaintiff's claims.

19 47. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
20 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510,
21 512, 1194, 1197, beginning one (1) year preceding Plaintiff sending the initial PAGA Claim
22 Notice to the LWDA to the present, in the following amounts:

23 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, and 512,
24 one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
25 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
26 violation [penalty amounts established by Labor Code section 2699(f)(2)].

27 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
28 for each employee for each pay period for the initial violation, and for each subsequent violation,

1 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
2 established by Labor Code section 226.3].

3 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
4 employee for each pay period for the initial violation, and for each subsequent violation, one
5 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
6 established by Labor Code section 558] and any unpaid wages.

7 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
8 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
9 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
10 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

11 48. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
12 reasonable attorneys' fees and costs in connection with his claims for civil penalties.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER**
15 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

16 **ON THE FIRST CAUSE OF ACTION:**

17 1. That Defendants be found to have violated the provisions of the Labor Code and
18 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

19 2. For any and all legally applicable penalties during the relevant statute of limitations
20 subject to any permissible tolling, including but not limited to those recoverable under the
21 California Labor Code, including but not limited to section 2699(f);

22 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
23 under California Labor Code section 2699(g); and

24 4. For such and other further relief, in law and/or equity, as the Court deems just or
25 appropriate

26 //

27 //

28 //

1 Dated: May 30, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

2
3 By: *Vincent C. Granberry*

4 Joseph Lavi, Esq.
5 Vincent C. Granberry, Esq.
6 Courtney M. Miller, Esq.
7 Attorneys for Plaintiff
8 STEVE BARDEN,
9 on behalf of himself and current and former
10 aggrieved employees
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28