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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE

VIRGEL ALLEN, individually, on a  
representative basis, and on behalf of all  
others similarly situated;

Plaintiff,

vs.

KELLY SERVICES GLOBAL, LLC, a  
Michigan Corporation; and MITSUBISHI  
MOTORS NORTH AMERICA, INC., a  
California Corporation, and DOES 1 through  
20, inclusive;

Defendants.

Case No.: **CVRI2303841**

**REPRESENTATIVE ENFORCEMENT  
ACTION COMPLAINT [Private  
Attorneys General Act of 2004 (“PAGA”),  
Lab. Code § 2698, et seq.]**

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Pay Vested Vacation;
- (6) Failure to Timely Pay Wages Each Period;
- (7) Failure to Timely Pay Final Wages; and
- (8) Failure to Provide Accurate Itemized Wage Statements

Plaintiff Virgel Allen (“Plaintiff”) brings this Private Attorneys General Act (“PAGA”) Representative Action Complaint (“Complaint”), on behalf of the State of California as the real party in interest,<sup>1</sup> against Defendants as follows.

<sup>1</sup> Because a PAGA action is aimed at deterring and punishing violations of the Labor Code, the State of California “is always the real party in interest in the suit.” *Iskanian v. CLS Transp. of Los Angeles, LLC* (2014) 59 Cal.4th 348, 360; *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175, 185 (all PAGA claims “are brought on the state’s behalf”).

1 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

2 1. Plaintiff brings this action against his former employer(s), Kelly Services Global,  
3 LLC, and Mitsubishi Motors North America, Inc. and DOES 1 through 20, inclusive, (collectively,  
4 “Defendants”) on behalf of the State of California, seeking civil penalties under PAGA for Labor  
5 Code violations committed against all current and former nonexempt employees employed by  
6 Defendants in California within the last one year and 65-days prior to the filing of this action  
7 (hereinafter, the “Aggrieved Employees”). Such violations include, but are not limited to,  
8 Defendants’ failure to pay all wages owed, including minimum, regular, and overtime wages,  
9 failure to provide meal periods, failure to provide rest breaks, failure to pay vested vacation,  
10 failure to timely pay wages each period and upon separation of employment, and failure to  
11 provide accurate itemized wage statements.

12 2. Plaintiff was employed by Defendants from approximately December 2021  
13 through November 2022.

14 3. Plaintiff alleges on information and belief that the Aggrieved Employees were  
15 subjected to the same policies, working conditions, and corresponding wage and hour violations  
16 to which Plaintiff was subjected during employment.

17 4. Plaintiff and the Aggrieved Employees were not provided all minimum, regular,  
18 and overtime wages due to Defendants’ failure to accurately record and compensate for all hours  
19 worked. As one such example, during employment, Plaintiff and the Aggrieved Employees were  
20 only allowed to clock in once their supervisor arrived, so on days where the supervisor did not arrive  
21 on time, Plaintiff and Aggrieved Employees did not start getting paid until after the supervisor  
22 arrived resulting in unaccounted for compensable time. Moreover, the Company promised the  
23 employees a nondiscretionary attendance bonus. However, when the supervisor was late, the  
24 Plaintiff and Aggrieved Employees were also counted as being tardy which eliminated their right to  
25 the contractually agreed upon attendance bonus.

26 5. Furthermore, Defendants failed to pay proper overtime to Plaintiff and the  
27 Aggrieved Employees. For example, Defendants paid Plaintiff and the Aggrieved Employees on  
28 an hourly basis but also paid additional nondiscretionary compensation. However, during

workweeks where the Aggrieved Employees worked overtime hours and earned additional nondiscretionary compensation, Defendants failed to include that compensation in the calculations for the regular rate of pay – violating the well-established rule that overtime must always be paid at time and one-half the regular rate of pay.

6. Plaintiff and the Aggrieved Employees were also denied 30-minute off-duty meal periods, as mandated by California law. As a result of Defendants’ policies and practices, the Aggrieved Employees were subjected to meal period violations when they were: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a shortened meal period, (4) forced to take a meal period after the 5th hour of work, and (5) not provided mandated second meal periods for shifts in excess of 10 hours.

7. Defendants also failed to provide Plaintiff and the Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. Defendants did not schedule rest breaks for Plaintiff and the Aggrieved Employees, the Aggrieved Employees were not allowed freedom to be truly “off duty” for rest breaks, and the Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiff and the Aggrieved Employees worked longer shifts, Defendants failed to authorize and/or permit mandated third rest breaks.

8. Also, at all relevant times, Defendants utilized a policy and practice through which Plaintiff and the Aggrieved Employees accrued vacation. However, on occasions when Plaintiff and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay these wages and, further, failed to pay them at the “final rate” required by Labor Code § 227.3.

9. Plaintiff further alleges that he and the Aggrieved Employees were not paid all wages due and owing each pay period (Labor Code § 204) and upon separation of employment within the time required by Labor Code §§ 201 – 203. Plaintiff further alleges that Defendants engaged in the practice of failing to pay all wages due and owing to Plaintiff and the Aggrieved

1 Employees at the time their employment ended with Defendants, including, but not limited to  
2 minimum, regular, and overtime wages, wage premiums, vacation and sick wages, among others.

3 10. Plaintiff further alleges that Defendants failed to provide accurate itemized wage  
4 statements that fully complied with the requirements of Labor Code § 226(a).

5 11. At all material times, Defendants and DOES 1 through 20 were and/or are the  
6 Aggrieved Employees' employers or persons acting on behalf of the Aggrieved Employees'  
7 employer, within the meaning of California Labor Code § 558, who violated or caused to be  
8 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating  
9 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each  
10 underpaid employee as set forth in Labor Code § 558 and under California law.

11 12. Plaintiff brings this lawsuit seeking declaratory, injunctive, equitable, and  
12 monetary relief against Defendants and each of them, on behalf of himself and the Aggrieved  
13 Employees to recover, among other things, unpaid wages and benefits, interest, attorneys' fees,  
14 penalties, costs and expenses pursuant to California Labor Code §§ 200, 201, 202, 203, 204, 208,  
15 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198,  
16 1199, and 2802, among possibly other sections inadvertently omitted. Plaintiff also reserves the  
17 right to name additional representatives throughout the State of California.

18 13. Plaintiff brings this lawsuit on behalf of the State of California, as the real party in  
19 interest, to recover all applicable and available PAGA remedies for violations of the California  
20 Labor Code committed against the Aggrieved Employees as alleged herein, as well as attorneys'  
21 fees, costs, and/or other damages as permitted by PAGA. Plaintiff reserves the right to name  
22 additional representatives throughout the State of California.

23 14. Pursuant to Labor Code § 2699.3(a), Plaintiff is in the process of giving written  
24 notice the Labor and Workforce Development Agency ("LWDA") and to Defendants of the  
25 specific provisions of the Labor Code alleged to have been violated, including the facts and  
26 theories to support the alleged violations. Sixty-Five days has past since Plaintiff gave notice of  
27 his claims to the LWDA. Therefore, Plaintiff files this complaint for the PAGA claims pursuant  
28 to Labor Code § 2699.3(a)(2)(C).

1 **II. JURISDICTION**

2 15. This Court has jurisdiction over the claims for relief of Plaintiff and the  
3 Aggrieved Employees pursuant to the Labor Code and the IWC Wage Orders.

4 **III. VENUE**

5 16. Venue as to each Defendant is proper in this Court pursuant to Code of Civil  
6 Procedure § 395(a). Defendants also transact business in Riverside County and the unlawful acts  
7 alleged herein have a direct effect on Plaintiff and the Aggrieved Employees in Riverside  
8 County. Furthermore, Defendants employed or employ Plaintiff and Aggrieved Employees in  
9 Riverside County.

10 **IV. PARTIES**

11 **Plaintiff**

12 17. Plaintiff and Class Representative Virgel Allen was employed by Defendants  
13 from approximately December 2021 through November 2022 and performed work for  
14 Defendants in California.

15 **Defendants**

16 18. Plaintiff is informed and believes and thereon alleges that Defendant Kelly  
17 Services Global, LLC is a Michigan limited liability company which is authorized to and doing  
18 business in Riverside County, California. Plaintiff is also informed and believes that Defendant  
19 Kelly Services Global, LLC is and/or was the legal employer of Plaintiff and the Aggrieved  
20 Employees during the applicable statutory periods.

21 19. Plaintiff is informed and believes and thereon alleges that Defendant Mitsubishi  
22 Motors North America, Inc. is a California corporation which is authorized to and doing business  
23 in Riverside County, California. Plaintiff is also informed and believes that Defendant  
24 Mitsubishi Motors North America, Inc. is and/or was the legal employer of Plaintiff and the  
25 Aggrieved Employees during the applicable statutory periods.

26 20. Plaintiff is ignorant of the true names, capacities, relationships, and extent of  
27 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,  
28 inclusive, but on information and belief alleges that those Defendants are legally responsible for

1 the payment of penalties and damages to Plaintiff and all Aggrieved Employees by virtue of  
2 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious  
3 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE  
4 Defendants when ascertained.

5         21. Plaintiff is informed and believes and thereon alleges that he and the Aggrieved  
6 Employees worked under the joint direction and control of Defendants and that Defendants, and  
7 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,  
8 carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of  
9 each Defendant are legally attributable to the other Defendants. On information and belief, a  
10 unity of interest and ownership between each Defendant exists such that all Defendants acted as  
11 a single employer of Plaintiff and other Aggrieved Employees.

12         22. Furthermore, Plaintiff is informed and believes and thereon alleges that  
13 Defendants, and each of them, are an integrated enterprise and should be treated as a single  
14 employer because these entities share an interrelation of operations, with common human  
15 resources and personnel policies and shared common offices and facilities. Additionally,  
16 Defendants also have a shared website, common management, a centralized control of labor  
17 operations, and common ownership or financial control.

18         23. Plaintiff is informed and believes and thereon alleges that, in conducting  
19 themselves in the manner described herein, Defendants, and each of them, were acting in active  
20 concert with one another such that the acts of each were and are fully attributable to the others in  
21 all material respects. Plaintiff is further informed and believes that at all relevant times  
22 Defendants and each of them are now, and at all material times herein mentioned were, the  
23 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining  
24 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and  
25 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of  
26 their remaining co-Defendants.

27         24. Plaintiff is further informed and believes that at all relevant times, Defendants  
28 have been inadequately capitalized to conduct business, have failed to follow appropriate

1 corporate formalities, and have simply been a shell and instrumentality through which  
2 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,  
3 the corporate veil should be pierced, and any liability attached to Defendants should be imposed  
4 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the  
5 separate existence of these corporate entities would permit abuse of the corporate privilege,  
6 thereby sanctioning fraud and promoting injustice.

7 **V. PAGA CAUSES OF ACTION (Labor Code §§ 2698 – 2699.5)**

8 25. Plaintiff is an “aggrieved employee” under the PAGA as he was employed by  
9 Defendants during the applicable statutory period and suffered one or more of the Labor Code  
10 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil  
11 action filed on behalf of the State of California and for violations committed against the  
12 Aggrieved Employees.

13 26. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to  
14 Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by  
15 PAGA through a representative action pursuant to the PAGA and the California Supreme Court  
16 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor  
17 does she, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

18 27. Pursuant to Labor Code § 2699.3(a), Plaintiff gave written notice by online filing  
19 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to  
20 Defendants of the specific provisions of the Labor Code alleged to have been violated, including  
21 the facts and theories to support the alleged violations. Now that sixty-five (65) days have  
22 elapsed since Plaintiff provided notice of the claims alleged herein without the LWDA assuming  
23 jurisdiction over the claims alleged, Plaintiff has fully satisfied her administrative prerequisites  
24 for bringing suit under the PAGA.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES**

3 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

4 *Against All Defendants*

5 28. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully  
6 alleged herein.

7 29. Plaintiff and the Aggrieved Employees were not exempt from the requirement to  
8 be paid at least the applicable California minimum wage throughout the statutory period for each  
9 hour worked.

10 30. Plaintiff and the Aggrieved Employees were not provided proper minimum and  
11 regular wages due to Defendants' failure to accurately record and compensate for all hours  
12 worked. As a result of this policy and practice, Plaintiff and the Aggrieved Employees were  
13 required to perform off-the-clock work that Defendants either knew or should have known they  
14 were performing.

15 31. As a result of these policies and practices, Defendants failed to pay Plaintiff and  
16 the Aggrieved Employees for all hours worked.

17 32. Consequently, Defendants violated California Labor Code laws and minimum  
18 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and  
19 Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

20 33. Plaintiff is informed and believes and thereon alleges that Defendants  
21 intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved  
22 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

23 34. At all material times, Defendants DOES 1 through 20 were and/or are the  
24 employer of Plaintiff and the Aggrieved Employees or were persons acting on behalf of said  
25 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be  
26 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California  
27 Labor Code regulating hours and days of work respectively.

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35. Defendants' conduct was willful, as Defendants knew that Plaintiff and the Aggrieved Employees were entitled to be paid wages throughout the statutory period for each hour worked, including proper minimum and regular wages, yet Defendants chose not to pay them in accordance thereto.

36. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

## **SECOND CAUSE OF ACTION**

## FAILURE TO PAY OVERTIME WAGES

(Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

*Against All Defendants*

37. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

38. Plaintiff and the Aggrieved Employees were employees of Defendants who did not receive proper protections and benefits of the laws governing payment of overtime wages.

39. Labor Code § 204 requires that the employer timely pay all overtime wages to its employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12) in one workday shall be compensated at twice the regular rate of pay for an employee.

40. At all relevant times, Plaintiff and the Aggrieved Employees were required by Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to Defendants' failure to accurately record and compensate for all hours worked Plaintiff and the Aggrieved Employees did not receive proper overtime compensation.

41. As one specific example, Defendants paid Plaintiff and the Aggrieved Employees on an hourly basis but also paid additional nondiscretionary compensation (such as bonuses).

1 However, during workweeks where the Aggrieved Employees worked overtime hours and  
2 earned additional nondiscretionary compensation, Defendants failed to include that  
3 compensation in the calculations for the regular rate of pay – violating the well-established rule  
4 that overtime must always be paid at time and one-half the regular rate of pay.

5 42. As a result of this policy and practice, Defendants failed to pay Plaintiff and the  
6 Aggrieved Employees for all overtime hours worked.

7 43. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage  
8 Order § 3(A) every pay period with respect to Plaintiff and the Aggrieved Employees because  
9 Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per  
10 week without proper overtime compensation.

11 44. Plaintiff is informed and believes and thereon alleges that Defendants  
12 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiff and the  
13 Aggrieved Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

14 45. Defendants' conduct was willful, as Defendants knew that Plaintiff and the  
15 Aggrieved Employees were entitled to be paid proper overtime wages throughout the statutory  
16 period, yet Defendants chose not to pay them in accordance thereto.

17 46. At all material times, Defendants DOES 1 through 20 were and/or are the  
18 employer of Plaintiff and the Aggrieved Employees or were persons acting on behalf of said  
19 employer(s), within the meaning of California Labor Code § 558, who violated or caused to be  
20 violated Labor Code § 204 and a provision or provisions of Part 2, Chapter 1 of the California  
21 Labor Code regulating hours and days of work respectively.

22 47. Defendants' conduct was willful, as Defendants knew that Plaintiff and the  
23 Aggrieved Employees were entitled to be paid proper overtime wages throughout the statutory  
24 period, yet Defendants chose not to pay them in accordance thereto.

25 48. As a result of the unlawful employment practices alleged herein, Plaintiff, on  
26 behalf of the State of California, seeks the assessment of all applicable and available PAGA  
27 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or  
28 any other damages permitted under PAGA.

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1           55. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage  
2 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with  
3 all mandatory meal periods and Defendants failed to pay Plaintiff and the Aggrieved Employees  
4 one additional hour of compensation at the regular rate of pay in lieu thereof.

5           56. At all relevant times herein, Defendants failed to provide Plaintiff and the  
6 Aggrieved Employees all mandated meal periods and failed to pay wage premiums in lieu of  
7 mandated meal or rest periods, thereby receiving an economic benefit.

8           57. On information and belief, Plaintiff and the Aggrieved Employees did not  
9 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers  
10 obtained from Plaintiff and the Aggrieved Employees were not willfully obtained, were not  
11 voluntarily agreed to, were a condition of employment, or were a part of a contract of an  
12 unlawful adhesion. Defendants did not permit or authorize Plaintiff and the Aggrieved  
13 Employees to take meal periods in accordance with California law.

14           58. As a result of the unlawful employment practices alleged herein, Plaintiff, on  
15 behalf of the State of California, seeks the assessment of all applicable and available PAGA  
16 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or  
17 any other damages permitted under PAGA.

18                           **FOURTH CAUSE OF ACTION**

19                           **FAILURE TO PROVIDE REST BREAKS**

20                           (Labor Code §§ 226.7 and 512; IWC Wage Order § 12)

21                           *Against All Defendants*

22           59. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully  
23 alleged herein.

24           60. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants  
25 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

26           61. Labor Code § 226.7 requires employers, including Defendants, to provide rest  
27 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

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1           62.     The IWC Wage Order § 12 states, in part, that every employer shall authorize and  
2 permit all employees to take rest periods, which insofar as practicable shall be in the middle of  
3 each work period. Employees shall receive a 10-minute rest period every four hours or major  
4 fraction thereof that they are required to work. Authorized rest period time shall be counted, as  
5 hours worked, for which there shall be no deduction from wages.

6           63.     Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage  
7 Order, Defendants shall pay Plaintiff and the Aggrieved Employees one additional hour of pay at  
8 his regular rate of compensation for each day that the rest period is not provided.

9           64.     At all relevant times, Defendants also failed to provide Plaintiff and the  
10 Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major  
11 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks for the  
12 Aggrieved Employees, the Aggrieved Employees were unable to leave the premises for breaks,  
13 and the Aggrieved Employees were often not authorized and/or permitted to take mandated rest  
14 breaks due to being overwhelmed by their hectic workload. Furthermore, on occasions when the  
15 Aggrieved Employees worked longer shifts, Defendants failed to authorize and/or permit  
16 mandated third rest breaks.

17           65.     Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage  
18 Order every pay period because Plaintiff and the Aggrieved Employees were not provided with  
19 all mandatory rest periods and Defendants failed to pay Plaintiff and the Aggrieved Employees  
20 one additional hour of compensation in lieu thereof.

21           66.     As a result of the unlawful employment practices alleged herein, Plaintiff, on  
22 behalf of the State of California, seeks the assessment of all applicable and available PAGA  
23 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or  
24 any other damages permitted under PAGA.

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**FIFTH CAUSE OF ACTION**  
**FAILURE TO PAY VESTED VACATION**

(Labor Code § 227.3)

*Against All Defendants*

67. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

68. Plaintiff and the Aggrieved Employees were employees of Defendants who did not receive proper protections and benefits of the laws governing the payment of vested vacation time and/or paid time off upon separation of employment.

69. Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at his final rate of pay.

70. At all relevant times, Defendants utilized a policy and practice through which Plaintiff and the Aggrieved Employees accrued vacation hours. However, on occasions when Plaintiff and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay these wages and, further, failed to pay them at the "final rate" required by Labor Code § 227.3.

71. As a result, Plaintiff and the Aggrieved Employees did not receive compensation for all accrued but unused vacation hours as required by Labor Code § 227.3.

72. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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1 **SIXTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

3 (Labor Code § 204)

4 *Against All Defendants*

5 73. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully  
6 alleged herein.

7 74. Plaintiff and the Aggrieved Employees are and/or were “non-exempt” employees  
8 of Defendants who did not receive proper protections and benefits of the laws regarding the  
9 timing of payment of wages each period.

10 75. Labor Code § 204(a) states that all wages earned by a person are due and payable  
11 twice during each calendar month, and further states that wages earned during the first through  
12 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that  
13 wages earned between the sixteenth and last day of the month must be paid by the tenth day of  
14 the following month.

15 76. Furthermore, Labor Code § 204(d) states “[t]he requirements of this section shall  
16 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if  
17 the wages are paid not more than seven calendar days following the close of the payroll period.”

18 77. At all relevant times herein, Defendants did not provide Plaintiff and the  
19 Aggrieved Employees with all wages due and owing each pay period, including, but not limited  
20 to, minimum, regular, and overtime wages, as well as meal and rest period premiums, within the  
21 time specified by Labor Code § 204.

22 78. As a result of the unlawful employment practices alleged herein, Plaintiff, on  
23 behalf of the State of California, seeks the assessment of all applicable and available PAGA  
24 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys’ fees, costs, and/or  
25 any other damages permitted under PAGA.

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any other damages permitted under PAGA.

**EIGHTH CAUSE OF ACTION**

**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

(Labor Code § 226)

*Against All Defendants*

87. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

88. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who did not receive proper protections and benefits of the laws governing the provision of accurate itemized wage statements.

89. Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, all deductions, net wages earned, the inclusive dates of the pay period, the employee's name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

90. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff and the Aggrieved Employees due to violations including: failure to accurately state total hours worked (for example, the wage statements failed to accurately reflect total compensable hours); failure to accurately state gross wages earned, all deductions, and net wages earned (due to, for example, the failure to pay all required minimum and overtime wages); failure to state the start and end dates of the pay period; failure to state the applicable hourly rates (including the accurate overtime rate of pay); failure to state the inclusive dates of the pay period; failure to accurately state the name and address of the legal entity of the employer; and failure to accurately state the corresponding number of hours worked at each hourly rate.

91. Additionally, Defendants' wage statements directly violated Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied meal periods and rest breaks under § 226.7.

1           92.     Therefore, Defendants violate Labor Code § 226(a) every pay period with respect  
2 to Plaintiff and the Aggrieved Employees because Defendants failed to provide a wage statement  
3 to Plaintiff and the Aggrieved Employees that complied with the requirements of Labor Code §  
4 226(a).

5           93.     Unlike class action claims, a PAGA plaintiff need not meet the “injury” and  
6 “knowing and intentional” violation requirements of Labor Code § 226(e). See *Lopez v. Friant*  
7 & Associates, LLC (2017) 15 Cal.App.5th 773, 788 (“a plaintiff seeking civil penalties under  
8 PAGA for a violation of section 226(a) does not have to satisfy the “injury” and “knowing and  
9 intentional” requirements of section 226(e)(1)”); See also *Lawson v. ZB, N.A.* (2017) 18  
10 Cal.App.5th 705, 722 (“the scienter requirement [of § 226(e)] has no application in a PAGA  
11 claim for violation of [§ 226(a)]”).

12           94.     As a result of the Defendants’ violations of Labor Code § 226, Plaintiff, on behalf  
13 of the State of California, seeks the assessment of all applicable and available PAGA remedies  
14 pursuant to Labor Code § 2699, and seeks to recover all attorneys’ fees, costs, and/or any other  
15 damages permitted under PAGA.

16 **VI.   PRAYER FOR RELIEF**

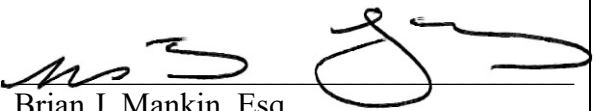
17           WHEREFORE, Plaintiff, on behalf of the State of California as the real party in interest,  
18 prays for judgment and relief against Defendants, jointly and severally, as follows:

- 19           1.     For the assessment of all remedies and/or penalties available under the PAGA;  
20           2.     For reasonable attorneys’ fees and costs of suit to the extent permitted by law; and  
21           3.     For such other and further relief as the Court deems just and proper.

22  
23 Dated: July 26, 2023

LAUBY, MANKIN & LAUBY LLP

24  
25 BY:

  
Brian J. Mankin, Esq.  
Misty M. Lauby, Esq.  
Attorneys for Plaintiff