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as an Aggrieved Employee, and on behalf of all other
Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

FRANCISCO J. LEMUS HERCULES, as an
Aggrieved Employee, and on behalf of all
other Aggrieved Employees under the Labor
Code Private Attorneys' General Act of 2004,

Plaintiff

v.

CUEVAZ FARM LABOR CONTRACTING,
INC., a California corporation; ABUNDANT
HARVEST ORGANICS, a California
corporation; ELDON THIESEN FARMS INC,
a California corporation; DEAN
JOHNSTON'S FARM; an unknown
entity; PEDRO CUEVAS; an individual, and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 26CU00544

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff FRANCISCO J. LEMUS HERCULES (“Plaintiff”), as an Aggrieved Employee,
2 and on behalf of all other Aggrieved Employees under the Labor Code Private Attorneys’ General
3 Act of 2004, alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against CUEVAZ FARM
7 LABOR CONTRACTING, INC. and any of its respective subsidiaries or affiliated companies
8 within the State of California (“CUEVAZ”); ABUNDANT HARVEST ORGANICS and any of its
9 respective subsidiaries or affiliated companies within the State of California (“HARVEST
10 ORGANICS”); ELDON THIESEN FARMS INC, and any of its respective subsidiaries or affiliated
11 companies within the State of California (“ELDON”); DEAN JOHNSTON’S FARM; and any of
12 its respective subsidiaries or affiliated companies within the State of California (“DEAN”); PEDRO
13 CUEVAS (“PEDRO”) (collectively, CUEVAZ, HARVEST ORGANICS, ELDON, DEAN
14 JOHNSTON’S FARM, PEDRO and DOES 1 through 100, as further defined below, “Defendants”)
15 as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”),
16 on behalf of Plaintiff and all Aggrieved Employees that worked for Defendants during the PAGA
17 Period. Specifically, in connection with any alleged claims for failure to comply with Labor Code
18 sections 201, 202, 203, 204, 210, 223, 226, 226.3, 432, 1198, 1198.5, and applicable Wage Orders,
19 Plaintiff seeks to represent all current and former employees that worked for Defendants during the
20 PAGA Period. On all other claims mentioned herein, Plaintiff seeks to represent only non-exempt
21 current and former employees that worked for Defendants during the PAGA Period. Collectively,
22 these employees are herein referred to as “Aggrieved Employees.” The “PAGA Period” refers to
23 three years preceding the date notice was submitted to the LWDA, continuing past the date of notice
24 to the LWDA into perpetuity.

25 **PARTIES**

26 2. Plaintiff FRANCISCO J. LEMUS HERCULES is a resident of the State of
27 California. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges,
28 that Defendants employed Plaintiff as a non-exempt employee. Plaintiff worked as a laborer with

1 duties that included, but were not limited to, cultivating fruits. Plaintiff is informed and believes,
2 and based thereon alleges, that Plaintiff FRANCISCO J. LEMUS HERCULES worked for
3 Defendants from approximately April of 2025 through approximately April of 2025.

4 3. Plaintiff is informed and believes and based thereon alleges that defendant CUEVAZ
5 is, and at all times relevant hereto was, a limited liability company organized and existing under and
6 by virtue of the laws of the State of California and doing business in the County of Fresno, State of
7 California. At all relevant times herein, CUEVAZ employed Plaintiff and Aggrieved Employees
8 within the State of California.

9 4. Plaintiff is informed and believes and based thereon alleges that defendant
10 HARVEST ORGANICS is, and at all times relevant hereto was, a limited liability company
11 organized and existing under and by virtue of the laws of the State of California and doing business
12 in the County of Fresno, State of California. At all relevant times herein, HARVEST ORGANICS
13 employed Plaintiff and Aggrieved Employees within the State of California.

14 5. Plaintiff is informed and believes and based thereon alleges that defendant ELDON
15 is, and at all times relevant hereto was, a limited liability company organized and existing under and
16 by virtue of the laws of the State of California and doing business in the County of Fresno, State of
17 California. At all relevant times herein, ELDON employed Plaintiff and Aggrieved Employees
18 within the State of California.

19 6. Plaintiff is informed and believes and based thereon alleges that defendant DEAN is,
20 and at all times relevant hereto was, a limited liability company doing business in the County of
21 Fresno, State of California. At all relevant times herein, DEAN employed Plaintiff and Aggrieved
22 Employees within the State of California.

23 7. Plaintiff is informed and believes and based thereon alleges that defendant PEDRO
24 is, and at all times relevant hereto was, an individual residing in California, as well as the Chief
25 Executive Officer of CUEVAS. Plaintiff is further informed and believes and based thereon alleges
26 that PEDRO violated, or caused to be violated, the above-reference and below-reference Labor Code
27 provisions in violation of Labor Code 558.1. Upon information and belief, PEDRO personally
28 participated in these alleged violations by, among other things, actively participating in the operation

1 and management of the business. Specifically, on information and belief, PEDRO was personally
2 responsible for payroll and issuing paychecks, and personally involved in creating and
3 implementing wage and hour policies, including but not limited to, time and payroll policies.

4 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
6 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
7 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
8 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
9 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
10 the defendants designated hereinafter as DOES when such identities become known.

11 **JOINT LIABILITY ALLEGATIONS**

12 9. Plaintiff is informed and believes, and based thereon alleges, that each defendant
13 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
14 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
15 legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made
16 to "Defendants," it shall include CUEVAZ, HARVEST ORGANICS, ELDON, DEAN and any of
17 their parent, subsidiary, or affiliated companies within the State of California, as well as PEDRO
18 and DOES 1 through 100 identified herein.

19 10. Plaintiff is informed and believes and based thereon alleges that all the times
20 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
21 representative, joint venture or co-conspirator of each of the other defendants, either actually or
22 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
23 employment, joint venture, and conspiracy.

24 11. All of the acts and conduct described herein of each and every corporate defendant
25 was duly authorized, ordered, and directed by the respective and collective defendant corporate
26 employers, and the officers and management-level employees of said corporate employers. In
27 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
28 their said employees, agents, and representatives, and each of them; and upon completion of the

1 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
2 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
3 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
4 aforementioned corporate employees, agents and representatives.

5 12. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
6 thereon alleges that Defendants, and each of them, are joint employers.

7 **ALTER EGO ALLEGATIONS**

8 13. Plaintiff is further informed and believes and based thereon alleges that PEDRO and
9 DOES 51 through 100 violated, or caused to be violated, the above-referenced and below-referenced
10 Labor Code provisions in violation of Labor Code section 558.1.

11 14. Plaintiff is informed and believes, and based thereon alleges, that PEDRO personally
12 participated in the alleged violations by, among other things, actively participating in the operation
13 and management of the business. Specifically, on information and belief, PEDRO was personally
14 responsible for payroll and issuing paychecks, and personally involved in creating and
15 implementing wage and hour policies, including but not limited to, time and payroll policies.

16 15. Plaintiff is informed and believes, and based thereon alleges, that there exists such a
17 unity of interest and ownership between Defendants, and each of them, that their individuality and
18 separateness have ceased to exist.

19 16. Plaintiff is informed and believes, and based thereon alleges that despite the
20 formation of the purported corporate existence of CUEVAZ, HARVEST ORGANICS, ELDON,
21 DEAN, and DOES 1 through 50, inclusive (the "Alter Ego Defendants"), they, and each of them,
22 are one and the same with PEDRO and DOES 51 through 100 ("Individual Defendants"), and each
23 of them, due to, but not limited to, the following reasons:

- 24 a. The Alter Ego Defendants are completely dominated and controlled by the
25 Individual Defendants who personally committed the wrongful and illegal
26 acts and violated the laws as set forth in this Complaint, and who has hidden
27 and currently hide behind the Alter Ego Defendants to perpetrate frauds,
28 circumvent statutes, or accomplish some other wrongful or inequitable

1 purpose;

2 b. The Individual Defendants derive actual and significant monetary benefits by
3 and through the Alter Ego Defendants' unlawful conduct, and by using the
4 Alter Ego Defendants as the funding source for the Individual Defendants'
5 own personal expenditures;

6 c. Plaintiff is informed and believes and thereon alleges that the Individual
7 Defendants and the Alter Ego Defendants, while really one and the same, were
8 segregated to appear as though separate and distinct for purposes of
9 perpetrating a fraud, circumventing a statute, or accomplishing some other
10 wrongful or inequitable purpose;

11 d. Plaintiff is informed and believes and thereon alleges that the business affairs
12 of the Individual Defendants and the Alter Ego Defendants are, and at all
13 relevant times mentioned herein were, so mixed and intermingled that the
14 same cannot reasonably be segregated, and the same are inextricable
15 confusion. The Alter Ego Defendants are, and at all relevant times mentioned
16 herein were, used by the Individual Defendants as mere shells and conduits
17 for the conduct of certain of their, and each of their affairs. The Alter Ego
18 Defendants are, and at all relevant times mentioned herein were, the alter egos
19 of the Individual Defendants;

20 e. The recognition of the separate existence of the Individual Defendants and
21 the Alter Ego Defendants would promote injustice insofar that it would
22 permit defendants to insulate themselves from liability to Plaintiff for
23 violations of the Civil Code, Labor Code, and other statutory violations. The
24 corporate existence of these defendants should thus be disregarded in equity
25 and for the ends of justice because such disregard is necessary to avoid fraud
26 and injustice to Plaintiff herein;

27 f. Accordingly, the Alter Ego Defendants constitute the alter ego of the
28 Individual Defendants (and vice versa), and the fiction of their separate

1 corporate existence must be disregarded.

2 **JURISDICTION**

3 17. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
4 of Civil Procedure section 410.10.

5 18. Venue is proper in Fresno County, California pursuant to Code of Civil Procedure
6 sections 392, *et seq.* because, among other things, Fresno County is where the causes of action
7 complained of herein arose; the county in which the employment relationship began; the county in
8 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
9 due to be performed; the county in which the employment contract, or part of it, between Plaintiff
10 and Defendants was actually performed; and the county in which Defendants, or some of them,
11 reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved
12 Employees in Fresno County, and Defendants employ Aggrieved Employees in Fresno County.

13 **PAGA REPRESENTATIVE ALLEGATIONS**

14 19. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by
15 Defendants during the PAGA Period and suffered the Labor Code violations set forth herein, even
16 if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to
17 recover civil penalties under PAGA, plus reasonable attorneys’ fees and costs, for Plaintiff and all
18 other Aggrieved Employees of Defendants during the PAGA Period.

19 20. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
20 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
21 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
22 PAGA allegations described herein is not required.

23 21. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
24 such as Plaintiff to bring a civil action to recover civil penalties pursuant to the procedures specified
25 in Labor Code section 2699.3 on behalf of Plaintiff and all other Aggrieved Employees within the
26 PAGA Period.

27 22. Pursuant to Labor Code section 2699.3, on or around October 17, 2025, Plaintiff
28 provided written notice of Defendants’ violation of various provisions of the Labor Code to the

1 LWDA online and by certified mail, with return receipt requested, to Defendants (“PAGA Notice”).

2 23. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
3 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
4 calendar days of the PAGA Notice.

5 24. To the extent Defendants, or either of them, previously used the notice and cure
6 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
7 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
8 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
9 conference process pursuant to section 2699.3(f).

10 25. In the event that Defendants, or either of them, is/are determined to have satisfied
11 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
12 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
13 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

14 26. In the event that Defendants, or either of them, is/are determined to have, prior to
15 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
16 and/or Plaintiff’s counsel, adequately taken all reasonable steps to be in compliance with all
17 provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to
18 section 2699(g)(1)-(3).

19 27. In the event that Defendants, or either of them is/are deemed to have adequately taken
20 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
21 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
22 Code section 2699(h)(1)-(3).

23 28. In the event, the LWDA and/or a court issued a finding or determination to the
24 Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the
25 policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or
26 any of them, would be subject to heightened penalties pursuant to Labor Code sections
27 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either
28 Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving

1 of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations
2 as detailed herein was and is malicious, fraudulent, and/or oppressive. Thus, Defendants, or any of
3 them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack
4 eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

5 **FACTUAL ALLEGATIONS**

6 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew,
7 or should have known, that Plaintiff and Aggrieved Employees are entitled to receive wages for all
8 time worked, including regular, overtime, and double times wages, and that Plaintiff and Aggrieved
9 Employees were not receiving all wages owed for work that was required to be performed.

10 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
11 and have a policy or practice of requiring Plaintiff and other Aggrieved Employees to work more
12 than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
13 workweek (in violation of Labor Code sections 551 and 552) without paying them proper overtime
14 wages.

15 31. Upon information and belief, Defendants failed to accurately track and/or pay for all
16 minutes actually worked by Plaintiff and Aggrieved Employees at the proper rates of pay.
17 Defendants also engaged, suffered, or permitted Aggrieved Employees to work off the clock,
18 including, without limitation, by requiring Plaintiff and Aggrieved Employees to remain on call
19 without pay and by failing to pay for non-productive time.

20 32. Moreover, upon information and belief, Defendants detrimentally rounded, edited
21 and/or manipulated time entries so the hours recorded were less than the hours actually worked. By
22 way of example, Plaintiff's, and upon information and belief, Aggrieved Employees', hours worked
23 were recorded by their supervisor and not the employee or any time recording mechanism, resulting
24 in a miscalculation of the time actually worked.

25 33. In addition, Defendants failed to include all forms of remuneration, including
26 incentive pay, and other forms of remuneration, into the regular rate of pay during pay periods
27 where overtime was worked.
28

1 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 violated, without limitation, Labor Code sections 223, 510, 551, 552, 1197, 1182.12, and applicable
3 Wage Orders based on its continued failure to pay minimum and overtime wages for all hours
4 worked. Thus, Plaintiff and other Aggrieved Employees are entitled to actual and liquidated
5 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198. Plaintiff is further
6 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
7 violations and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
8 penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1197.1,
9 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further
10 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

11 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
12 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
13 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per
14 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
15 compensation in lieu thereof. By way of example, Defendants regularly denied Plaintiff and
16 Aggrieved Employees lawful meal periods by, without limitation, interrupting meal periods; not
17 providing timely meal periods; failing to provide first and second meal periods; providing short
18 meal periods, including without, limitation meal periods that recorded for less than thirty minutes
19 and/or meal periods that may appear on the record to be thirty minutes or longer but in practice were
20 shorter than thirty minutes due to the requirement that employees carry and monitor their cellular
21 phones during meal periods; and otherwise requiring on-duty/on-call meal periods. Plaintiff and
22 other Aggrieved Employees personally suffered these violations. Consequently, Plaintiff is
23 informed and believes, and based thereon alleges, that Defendants violated Labor Code sections 512
24 and 1198 each day for each Aggrieved Employee during the PAGA Period, and thus each Aggrieved
25 Employee was owed one hour of premium pay at their regular rate of pay for each day worked
26 during the PAGA Period under Labor Code section 226.7. However, Plaintiff is informed and
27 believes that those premium payments under Labor Code section 226.7 were not made for these
28 non-compliant meal periods, either at all or at the proper regular rate of pay. Defendants would thus

1 be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these
2 wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant meal periods and
3 for failing to provide premium pay under Labor Code section 226.7, or injunctive relief under
4 sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
5 alleges, that Defendants' conduct that gave rise to such violations and was malicious, fraudulent, or
6 oppressive. As such, Defendants are further liable for civil penalties pursuant to Labor Code section
7 2699(f)(2)(B)(ii).

8 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,
10 including, without limitation, work over four-hour periods (or major fractions thereof) without
11 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
12 and complete ten-minute rest periods in which the employees are completely relieved of all of their
13 duties. By way of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful
14 rest periods by, without limitation, failing to provide rest periods all together; requiring that rest
15 periods be bundled and taken together and/or with meal periods; interrupting rest periods; requiring
16 Aggrieved Employees carry cellular telephones during rest periods; and not providing rest periods
17 in a timely fashion. Plaintiff and other Aggrieved Employees personally suffered these violations.
18 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 violated the applicable Wage Order(s) each day for each Aggrieved Employee during the PAGA
20 Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at their regular
21 rate of pay for each day worked during the PAGA Period under Labor Code section 226.7.
22 However, Plaintiff is informed and believes that those premium payments under Labor Code section
23 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper regular
24 rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants would thus be liable
25 for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558,
26 1198 and 2699 for both failing to authorize the taking of compliant rest periods and for failing to
27 provide premium pay under Labor Code section 226.7, or injunctive relief under sections 2699(e)(1)
28 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'

1 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. As such,
2 Defendants are further liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 37. As a result of, among other things, Defendants' herein-described policy or practice
4 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
5 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
6 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
7 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
8 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that
9 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the
10 inclusive dates of the period for which the employee is paid; the name of the employee and only the
11 last four digits of their social security number or an employee identification number other than a
12 social security number; all deductions; all applicable hourly rates in effect during the pay period and
13 the corresponding number of hours worked at each hourly rate by the employee; the legal name and
14 address of the employer, and other such information as required by Labor Code section 226,
15 subdivision (a). Specifically, Defendants intentionally failed to furnish employees with itemized
16 wage statements that accurately reflect the hours worked by Plaintiff and other Aggrieved
17 Employees and the rates of pay at which they were or should have been paid (including due to failure
18 to pay at the proper regular rate), thus resulting in a failure to reflect gross and net wages earned and
19 paid at each rate, as well. Consequently, Plaintiff is informed and believes, and based thereon
20 alleges, that Defendants violated Labor Code sections 226, and 1198 each day for each Aggrieved
21 Employee during the PAGA Period, and that, thus Plaintiff and each Aggrieved Employee
22 personally suffered these violations and was owed penalties under Labor Code section 226 for each
23 pay period worked during the PAGA Period. Plaintiff is informed and believes that those penalties
24 under Labor Code section 226 were not paid for these violations of Labor Code section 226.
25 Defendants would thus be liable for civil penalties pursuant to Labor Code sections 226.3, 558,
26 1198, and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
27 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
28

1 violations and was malicious, fraudulent, or oppressive. Thus, Defendants would further be liable
2 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants also
4 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
5 compensation to Plaintiff and other terminated or resigned employees, including but not limited to,
6 failing to pay all overtime wages owed, including for failure to pay at overtime the proper rate of
7 pay; all minimum wages; and all premium pay owed, as set forth above, among other things.
8 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 violated Labor Code sections 201, 202 203, and 1198 each pay period for each Aggrieved Employee
10 during the PAGA Period, and thus Plaintiff and each Aggrieved Employee personally suffered these
11 violations and was owed penalties under Labor Code section 203 for each pay period worked during
12 the PAGA Period. However, Plaintiff is informed and believes that those penalties under Labor
13 Code section 203 were not made for these violations of Labor Code sections 201, 202, and 203.
14 Defendants would thus be liable for civil penalties pursuant to Labor Code sections 558, 1198 and
15 2699, or injunctive relief under sections 2699(e)(1) and 2699(j). Plaintiff is further informed and
16 believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations and
17 was malicious, fraudulent, or oppressive. As such, Defendants would further be liable for civil
18 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

19 39. Plaintiff is informed and believes, and based thereon alleges that Defendants also
20 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
21 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for driving personal
22 vehicles (*i.e.*, mileage and gas), purchasing uniforms, separately laundering mandatory uniforms,
23 and for the use of personal cellular phones, in direct consequence of the discharge of their duties, or
24 of their obedience to the directions of Defendants, as required by Labor Code sections 1198, 2800,
25 2802, and other statutory and common law offenses. As a result, Plaintiff and other Aggrieved
26 Employees have personally suffered these violations and Defendants are liable to reimburse Plaintiff
27 and other Aggrieved Employees for these costs incurred in furtherance of work duties. Defendants
28 would thus be liable for civil penalties pursuant to Labor Code sections 558, 1198 and 2699, or

1 injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes,
2 and based thereon alleges, that Defendants' conduct above gave rise to such violations and was
3 malicious, fraudulent, or oppressive. As such, Defendants would further be liable for civil penalties
4 pursuant to Labor Code section 2699(f)(2)(B)(ii).

5 40. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
6 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with
7 Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days,
8 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
9 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
10 any calendar month, shall be paid for between the 1st and 10th day of the following month." Plaintiff
11 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
12 and other Aggrieved Employees all wages owed every day and every workweek in accordance with
13 Labor Code sections 204 and 1198. Plaintiff is informed and believes, and based thereon alleges,
14 that Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees
15 have personally suffered these violations. As such, Defendants would be liable for civil penalties
16 pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections
17 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon alleges, that
18 Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
19 oppressive. Therefore, Defendants would further be liable for civil penalties pursuant to Labor Code
20 section 2699(f)(2)(B)(ii).

21 41. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
22 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
23 statements and similar payroll documents under Labor Code section 226, documents signed to
24 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
25 section 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and
26 other Aggrieved Employees to calculate their unpaid wages and/or premium payments. Plaintiff and
27 the Aggrieved Employees personally suffered these violations, which in turn would entitle Plaintiff
28 and other Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5.

1 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5,
2 and 2699. Plaintiff further informed and believes, and based thereon alleges, that Defendants'
3 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. Defendants
4 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

5 42. Plaintiff is further informed and believes, and based thereon alleges that Defendants
6 failed and refused, and continue to fail and refuse, to comply with the notice requirements of Labor
7 Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing
8 to provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
9 applicable to their employment; any allowances claimed as part of the minimum wage; the regular
10 payday designated by Defendants; the name of the employer, including any "doing business as"
11 names used by the employer; the physical address of the employer's main office and the telephone
12 number of the employer; the name, address and telephone number of the workers' compensation
13 insurance carrier; information regarding paid sick leave; and other pertinent information required to
14 be disclosed by Defendants under Labor Code section 2810.5. Plaintiff is informed and believes that
15 Defendants' failure to provide such information, including rates of pay that are in effect, has
16 permitted Defendants to pay employees at rates of pay that were not agreed upon and violate
17 minimum wage and overtime wage laws in California. Plaintiff is informed and believes that
18 Defendants violated Labor Code sections 1198 and 2810.5. Plaintiff and other Aggrieved
19 Employees personally suffered these violations. Plaintiff is further informed and believes, and based
20 thereon alleges, that Defendants' conduct above gave rise to such violations and was malicious,
21 fraudulent, or oppressive. Among other relief, employees may collect from Defendants in
22 connection with these violations' civil penalties pursuant to Labor Code sections 558, 1198 and
23 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable
24 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

25 43. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
26 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
27 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
28 Employees pursuant to PAGA.

1 **FIRST AND ONLY CAUSE OF ACTION**

2 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

3 44. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
4 preceding paragraphs as though fully set forth hereat.

5 **Civil Penalties Under Labor Code § 210**

6 45. At all relevant times herein, Labor Code section 204, requires and required that:
7 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
8 between the 16th and 26th day of the month during which the labor was performed, and labor
9 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
10 between the 1st and 10th day of the following month.”

11 46. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
12 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
13 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
14 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
15 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
16 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
17 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

18 47. At all relevant times herein, Defendants have had a consistent policy or practice of
19 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
20 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
21 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
22 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
23 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
24 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
25 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
26 violation in connection with each payment that was made in violation of Labor Code section 204.

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1 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
2 employee for each pay period for which the employee was underpaid in addition to
3 an amount sufficient to recover underpaid wages;

4 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

5 53. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
6 each of them, violated, or caused to be violated, the Labor Code sections and Wage Orders
7 regulating wages, hours and days of work described herein, including but not limited to Labor Code
8 sections 201-204, 223, 226.7, 510, 511, 512, 551, 552, 1182.12, 1194, 1197, 1198, and 2802.

9 54. As a direct and proximate result of the herein-described Labor Code violations,
10 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
11 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
12 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
13 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

14 Violation of Labor Code § 1174.5

15 55. At all times mentioned herein, Labor Code section 1174, subdivision (b) has
16 required every person employing labor in California to “[a]llow any member of the commission or
17 the employees of the Division of Labor Standards Enforcement free access to the place of business
18 or employment of the person to secure any information or make any investigation that they are
19 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
20 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
21 or papers of the person.”

22 56. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
23 every person employing labor in California to “[k]eep a record showing the names and addresses of
24 all employees employed and the ages of all minors.”

25 57. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
26 every person employing labor in California to “[k]eep, at a central location in the state or at the
27 plants or establishments at which employees are employed, payroll records showing the hours
28 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable

1 piece rate paid to, employees employed at the respective plants or establishments. These records
2 shall be kept in accordance with rules established for this purpose by the commission, but in any
3 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
4 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
5 earned.”

6 58. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
7 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
8 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
9 member of the commission or employees of the division to inspect records pursuant to subdivision
10 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

11 59. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
12 willfully failed to keep adequate or accurate time records including wage statements and similar
13 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
14 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
15 under Labor Code section 1174.

16 60. As a direct and proximate result of the herein-described Labor Code violations,
17 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
18 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
19 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

20 Violation of Labor Code § 1197.1

21 61. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
22 person acting either individually or as an officer, agent, or employee of another person, who pays
23 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
24 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
25 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
26 Section 203 as follows:

- 27 (1) For any initial violation that is intentionally committed, one hundred dollars
28 (\$100) for each underpaid employee for each pay period for which the

1 employee is underpaid. This amount shall be in addition to an amount
2 sufficient to recover underpaid wages, liquidated damages pursuant to Section
3 1194.2, and any applicable penalties imposed pursuant to Section 203.

4 (2) For each subsequent violation for the same specific offense, two hundred fifty
5 dollars (\$250) for each underpaid employee for each pay period for which the
6 employee is underpaid regardless of whether the initial violation is
7 intentionally committed. This amount shall be in addition to an amount
8 sufficient to recover underpaid wages, liquidated damages pursuant to Section
9 1194.2, and any applicable penalties imposed pursuant to Section 203.

10 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
11 Section 203, recovered pursuant to this section shall be paid to the affected
12 employee.”

13 62. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
14 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants
15 routinely failing to accurately track and/or pay for all minutes actually worked by Plaintiff and
16 Aggrieved Employees at the proper rates of pay, as described above.

17 63. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
19 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one
20 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
21 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
22 subsequent violation.

23 Civil Penalties Under Labor Code § 2699

24 64. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
25 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
26 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
27 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
28 action brought by an Aggrieved Employee on behalf of himself or herself and other current or former

employees pursuant to the procedures specified in Labor Code section 2699.3.

65. Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, violated the Labor Code sections described in the preceding paragraphs.

66. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

67. Moreover, Plaintiff and other Aggrieved Employees within the State of California whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

PRAYER

WHEREFORE, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for judgment against Defendants as follows:

- A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- C. For equitable, including, without limitation, injunctive relief;
- C. Pre-judgment and post-judgment interest;
- D. For costs of suit incurred herein; and
- E. Such other and further relief as the Court deems just and proper.

Dated: April 17, 2026

BIBIYAN LAW GROUP, P.C.

BY: /s/ Sarah H. Cohen

Sarah H. Cohen

Attorneys for Plaintiff FRANCISCO J.
LEMUS HERCULES and on behalf of all
other Aggrieved Employees