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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Blake Dubrow, individually and on behalf of all similarly situated individuals,

Plaintiff,

vs.

Andy Frain Services, Inc., a California Corporation; and **Does 1-10**, inclusive,

Defendants.

CASE NO. 25STCV33744

[Assigned for all purposes to the Hon. Carolyn B. Kuhl, Dept 12]

FIRST AMENDED CLASS ACTION COMPLAINT FOR:

1) **Failure to Pay Minimum Wages;**
2) **Failure to Pay Overtime Wages;**
3) **Failure to Provide Meal Periods;**
4) **Failure to Provide Rest Periods;**
5) **Failure to Provide and Maintain Complete and Accurate Wage Statements;**
6) **Failure to Pay Reporting Time Wages;**
7) **Failure to Provide Wages When Due;**
8) **Failure to Reimburse Necessary Business Expenses;**
9) **PAGA Penalties; and**
10) **Violation of California Business & Professions Code §§ 17200, et seq.**

Plaintiff hereby brings this action on behalf of himself and all other similarly situated current and former employees, by and through his counsel of record, alleges as follows:

PARTIES

1. At all relevant times for this Complaint, Plaintiff **Blake Dubrow**, ("Mr. Dubrow" or "Plaintiff") is and has been a resident of Los Angeles County, California. Plaintiff has been employed as an hourly, non-exempt employee of Defendants from on or around February 5, 2025, and remains employed in that capacity. Plaintiff is and was subject to the policies and practices described in this complaint at all times during his employment at Defendants.

2. Defendant **Andy Frain Services, Inc.** ("Andy Frain") is an Illinois corporation with its principal place of business at 761 Shoreline Drive, Aurora, Illinois 60504. Defendant Andy Frain engages in security services throughout California, and upon information and belief, employs at least 50 hourly, non-exempt employees.

3. Plaintiff is not currently aware of the names and true identities of defendants Does 1-10 (collectively with Andy Frain as "Defendants"). Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this information is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the causes of action asserted, either through its own conduct, or vicariously through the conduct of others. All further references in this complaint to any of the named Defendants includes the fictitiously named defendants.

4. At all times alleged herein, each Defendant was an agent, servant, joint employer, employee, partner, and/or joint venture of every other Defendant and was acting within the scope of the Defendants' relationship. Moreover, the conduct of every Defendant was ratified by each other Defendant.

VENUE AND JURISDICTION

5. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI, § 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California statutes and law, including the Labor Code and the Business & Professions Code. Because putative class members were employed by Defendants, the policies and practices complained of herein were implemented in Los Angeles County, and Defendants transact business within Los Angeles County, Defendant is within the jurisdiction of the court for service of process. Moreover, Business & Professions Code § 17204 provides that

any person acting on their own behalf may bring an action in any court of competent jurisdiction.

6. Venue as to Defendant is proper in this Superior Court pursuant to California Code of Civil Procedure § 395. Defendants transact business and/or have offices in this county, employ putative class members in this County, and the acts and omissions alleged herein took place in this county.

CLASS ACTION ALLEGATIONS

7. At all relevant to this Complaint, Defendants employed Plaintiff or Class Members to oversee security guard services for different businesses in California.

8. At all times relevant to this complaint, Defendants' company-wide policy required scheduling employees for on-call shifts. When scheduled for an on-call shift, Employees were not guaranteed to be suffered or permitted to work on any given shift. Rather, employees were required to physically report in to learn if they would be required to show up for work any given on-call shift. However, on multiple occasions, employees who reported in were dismissed without further work the same day of an on-call shift.[1]

9. Employees placed on on-call shifts were prevented from scheduling their time as they pleased as they were required to block off days in advance as days they might be called into work.

10. Employees were not paid for time placed on-call, nor were they compensated for on-call shifts that were cancelled by Defendants with the reporting time pay required by law.

11. Upon information and belief, Defendants required Plaintiff and Class Members to work split shifts, whereby their days were interrupted by non-paid non-working periods established by Defendants. However, upon information and belief, Defendants failed to pay the premium pay as required by law.

12. As a matter of uniform and systemic policy, Defendants failed to authorize and/or permit non-exempt employees to take bona fide meal breaks pursuant to Labor Code § 226.7.

13. Defendants have consistently denied their non-exempt employees the opportunities to take compliant 30-minute meal periods in accordance with California's Labor Code. Upon information and belief, Class Members, including Plaintiff, were required remain on-call and/or interrupt their meal periods to monitor the business they were stationed at, or otherwise interrupt or cut short their meal periods, or remain on duty and under Defendants' control during their meal periods to perform other tasks at Defendants'

[1] Depending on operational needs, employees who were not scheduled for on-call shifts were similarly released from work at the beginning of a shift without working their full shift schedule.

directions due to Defendants' policies and practices, including their scheduling and staffing practices and policies.

14. As a matter of uniform and systemic policy, Defendants requires non-exempt employees to remain on-premises during their meal periods. These policies prohibited employees from using meal periods in the manner of their choosing, free from their employer's dominion and control. Accordingly, Defendants failed to authorize and permit compliant meal periods as required by law.

15. Accordingly, Defendants failed to authorize and permit compliant meal periods as required by law.

16. In the same manner, and as a matter of uniform and systemic policy, Defendant requires non-exempt employees to continue working during their rest periods or otherwise interrupting or cut short their rest periods, or remain on duty and under Defendants' control during their rest periods to perform other tasks at Defendants' directions due to Defendants' policies and practices, including their scheduling and staffing policies and practices.

17. Additionally, Defendants requires non-exempt employees to remain on-premises during their rest periods. These policies prohibited employees from using rest periods in the manner of their choosing, free from their employer's dominion and control. Accordingly, Defendants failed to authorize and permit compliant rest periods as required by law.

18. In failing to authorize and/or permit meal and rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal and rest periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal and rest periods.

19. As a matter of uniform and systemic policy, Defendants required non-exempt employees to utilize their personal cell phones for work-related purposes including making outbound calls, answering texts and calls from their supervisors while at work or on a break, being assigned tasks, and general administrative matters. Defendants further failed to compensate their non-exempt employees for reasonable costs associated with utilizing their personal cell phones for work-related purposes.

20. As a matter of uniform and systemic policy, Defendants failed to provide its non-exempt employees with accurate itemized wage statements in accordance with California's Labor Code. Upon

information and belief, Defendants failed to furnish Plaintiff, or Class Members, either semimonthly or at the time of each payment of wages, either as a detachable part of the check or separately, an accurate, itemized statement in writing showing sick pay, gross wages earned, all deductions, and the net wages earned by Plaintiff for the inclusive dates for which the Plaintiff worked, including the unpaid premium payments owed to the Class for their missed meal and rest breaks.

21. Plaintiff therefore brings this action on behalf of himself and as a class action on behalf of the following defined Class:

Non-Exempt Employee Class:

All persons who worked at least one shift as a non-exempt employee in the State of California from the period four years prior to the filing of the Action and the date of trial ("Class").

22. Common methods of proof exist for determining these issues on a class-wide basis, including but not limited to, Defendants' employment records, payroll records, timesheets, policies, and disciplinary records.

23. **Numerosity.** Plaintiff is informed and believe that, during the class period, at least 50 Class Members have been employed as non-exempt employees by Defendants within the state of California. The number of Class Members is sufficiently numerous such that joinder of all members is impossible or impracticable.

24. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of Class Members in all relevant respects.

25. **Adequacy.** There are no material conflicts between the claims of the representative Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands his obligations to inform the Court of any relationship, conflicts, or differences with any Class Member. Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in redressing Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement, and will vigorously assert the claims of all Class Members. Plaintiff has incurred, and will continue to incur, costs and attorneys' fees that have

been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

26. **<u>Existence and Predominance of Common Issues.</u>** Common questions of law and fact exist as to all Class Members and predominate over issues affecting individual Class Members, including, but not limited to:

a. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required minimum wages;

b. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required minimum wages;

c. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of required overtime wages;

d. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required overtime wages;

e. Whether Defendants had a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

f. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

g. Whether Defendants had a common policy and/or practice of requiring Plaintiff and Class Members to remain on call during meal and rest periods;

h. Whether Defendants have a common policy and/or practice of depriving Plaintiff and Class Members of reporting time pay;

i. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of their reporting time pay;

j. Whether Defendants have a common policy and/or practice of failing to maintain accurate payroll records in the State of California;

k. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;

l. Whether Defendants have a common policy and/or practice of failing to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

m. Whether Defendants unlawfully and/or willfully failed to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

n. Whether Defendants have a common policy and/or practice of failing to reimburse Plaintiff and Class Members for reasonable business expenses;

o. Whether Defendants unlawfully and/or willfully failed to reimburse Plaintiff and Class Members for reasonable business expenses;

p. Whether Defendants has a policy and/or practice of failing to pay Plaintiff and Class Members final wages owed upon termination;

q. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation due to Plaintiff and Class Members upon termination of employment in violation of Labor Code §§ 201, 202, and 203;

r. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief; and

s. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq., by violating the above provisions of law.

27. **<u>Superiority.</u>** A class action is superior to other available means for the fair and efficient adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are small compared to the burden and expense of individual prosecution of the complex and expensive litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members sought redress. In addition, individualized litigation increases the delay and expense to all parties and to the court system resulting from the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device presents far fewer management difficulties; it allows the hearing of claims which might otherwise go unaddressed because of the relative expense of bringing individual lawsuits, and it provides the benefits of single adjudication, economies

of scale, and comprehensive supervision by a single court. Plaintiff contemplates providing individual notice to members of the class defined above as identified through Defendants' records.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198

Failure to Pay Minimum Wages for All Hours Worked

(Plaintiff and Class Against Defendants)

28. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

29. California law requires employers to compensate employees for all time that an employee is "suffered or permitted to work," which includes all time "when any employer 'directs, commands or restrains' an employee." *See, e.g.*, *Morillion v. Royal Packing Co.*, 22 Cal. 4th 575, 583 (2000), as modified (May 10, 2000); *see also* Code Regs. tit. 8, § 11070 ("'Hours worked' means the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.").

30. Defendants consistently and as a matter of common policy and practice failed to pay Class Members at least minimum wages for all hours worked. Additionally, Defendants' time policies were not fair and neural on their face because Defendants' written policies subjected employees to discipline for showing up late to the start of their shift or after a break but not for arriving early, thus penalizing employees when rounding worked to their favor but not when it worked against them.

31. Additionally, Defendants failed to compensate Plaintiff and the Class for all hours worked because Defendants had a policy and/or practice whereby they required and/or pressured Class Members to work under Defendants' control while off-the-clock, including but not limited to forcing or requiring Class Members to work while they were clocked out for their meal periods.

32. Upon information and belief, Defendants required Class Members to work off the clock or failed to pay all earned wages in ways unknown to Plaintiff at this time.

33. Defendants further failed to pay Plaintiff and Class Members any wages for time engaged in this off-the-clock work.

34. As a result of Defendants' failure and refusal to comply with California law, Plaintiff and Class Members are entitled to recover actual and liquidated damages for the unpaid time, plus injunctive relief and reasonable attorney's fees and costs. Lab. Code §§ 1194, 1197.1.

SECOND CAUSE OF ACTION

California Labor Code §§ 510 and 1198

Unpaid Overtime

(Plaintiff and Class Against Defendants)

35. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

36. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

37. Plaintiff and Class Members who work more than eight hours in a day or more than forty hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of eight hours in a day or more than forty hours in a workweek. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

38. Throughout the Class Period, Plaintiff and other Class Members were not paid overtime premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of eight hours on the seventh consecutive day of work in a workweek, and in excess of forty hours in a week based on the off the clock work described above.

39. Defendants required its non-exempt employees to work through their legally mandated meal periods or remain on duty and under Defendants' control during their meal periods to perform other tasks at Defendants' directions due to Defendants' policies and practices, however, Class Members were clocked out under Defendants' time-keeping system during this time and therefore treated as not working. This resulted in compensable time going unreported and unpaid by Defendants.

40. As Class members worked shifts of eight or more hours or worked weeks for 40 or more hours, some or all of this time should have qualified for overtime pay.

41. Defendants knew or should have known that Plaintiff and Class Members did not receive overtime compensation. Because Plaintiff and Class Members sometimes worked shifts of more than eight hours a day or forty hours a week, they should have been adequately compensated at their appropriate overtime rate of pay. Accordingly, Defendants' failure to pay overtime compensation resulted in Plaintiff and Class Members being deprived of earned overtime wages.

42. Pursuant to Labor Code § 1194, Plaintiff and Class Members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

California Labor Code §§ 226.7, 512(a), and 1198

Meal Period Violations

(Plaintiff and Class Against Defendants)

43. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

44. At all times relevant to this complaint, Defendants knew they were obligated to provide legally-compliant meal breaks to its non-exempt employees pursuant to Labor Code §§ 512 and 226.7. Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

45. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC. "An off-duty meal period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . . . an employer's obligation is to provide an off-duty meal period: an uninterrupted 30–minute period during which the employee is relieved of all duty." *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035 (2012).

46. Defendants' policies and practices served to deprive the Class of a full 30-minute break period free of employer control or relieved of all duties. Upon information and belief, employees were required to skip meal periods, interrupt their meal periods, take meal periods after the fifth hour of work, or remain under Defendants control while on meal periods.

47. Accordingly, Plaintiff and Class Members were uniformly denied meal periods as a result of

Defendants' formal policies and practices. By failing to consistently provide uninterrupted, off-duty 30-minute meal periods, Defendants violated the Labor Code as to Plaintiff and Class Members.

48. In failing to authorize and/or permit meal periods, Defendants have also implemented a uniform policy of denying compensation in lieu of meal periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant meal periods.

49. Pursuant to Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift in which a required meal period was not provided.

FOURTH CAUSE OF ACTION

Labor Code §§ 226.7 and 1198

Failure to Provide Rest Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

50. Plaintiff incorporates by reference every allegation in this complaint as if fully set forth herein.

51. At all times relevant to this complaint, Defendants knew they were obligated to provide compliant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

52. Labor Code § 226.7 provides:

> (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
>
> (b) If any employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

53. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee to work during any rest or meal period mandated by an applicable order of the IWC, including Wage Order No. 1. Employers must authorize and permit employees to be relieved of all duty during their rest and meal periods: "A rest period, in short, must be a period of rest." *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d 823, 834 (2016).

54. Employees must also be free to leave the employer's premises during their rest period. *See id.* at 270 ("In the context of a 10-minute break that employers must provide during the work period, a broad and intrusive degree of control exists when an employer requires employees to remain on call and respond

during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes back—if at the farthest extent of the walk he or she is not in a position to respond. Employees similarly cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time."); *see also* Department of Industrial Relations, "Rest Periods," *available at https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm* ("Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.").

55. Defendants failed to authorize or permit all required compliant paid rest periods for shifts between 3.5 and ten hours, or subjected employees to interrupted, shortened, or on-duty rest periods.

56. As a direct and proximate result of Defendants' willful and unlawful conduct, Plaintiff and Class Members have sustained damages, including lost compensation resulting from missed or non-compliant rest periods, in an amount to be established at trial.

57. In failing to authorize and/or permit rest periods, Defendants have also implemented a uniform policy of denying compensation in lieu of rest periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were uniformly denied compliant rest periods.

58. Pursuant to Wage Order No. 4 and Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift that a compliant rest period was not provided. Defendants were aware that their actions were a violation of applicable law but consistently refused to pay premium pay as required by law.

FIFTH CAUSE OF ACTION

Labor Code §§ 226. 226.3, and 1174

Failure to Provide Complete and Accurate Wage Statements

(Plaintiff and Class Against Defendants)

59. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

60. Labor Code § 226 requires employers to furnish employees with an accurate, itemized statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the employee (for hourly-paid, non-exempt employees); (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and the last four digits of

his or her social security number; (7) the name and address of the legal entity that is the employer; and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

61. At all times relevant to this complaint, Defendants' failure to pay premium wages for missed meal and/or rest periods further ensured that Class Members' wage statements inaccurately reflected gross and net wages earned. Defendants' failure to compensate all hours worked and/or pay all required overtime rates further left the wage statements they provided to employees to be inaccurate.

62. Defendants have also failed to keep accurate payroll records for Plaintiff and Class Members in accordance with Labor Code § 1174. Defendants' failure to keep and maintain accurate payroll records reflecting hours worked and wages earned has impeded Plaintiff and Class Members' ability to calculate unpaid wages earned.

63. Injury. Defendants knowingly and intentionally failed to comply with Labor Code § 226, causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly situated were injured by these failures because, among other things, they were confused about whether they were paid properly and/or they were misinformed about how much compensation was owed. These damages include, but are not limited to, costs incurred calculating the correct net wages for each pay period and the amount of employment taxes that were not paid to state and federal tax authorities.

64. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of not being provided with an accurate itemized wage statement is entitled to recover the greater of all actual damages suffered or fifty ($50) dollars for the initial violation and one hundred ($100) dollars for each subsequent violation, up to $4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all others similarly situated are entitled to injunctive relief to ensure Defendant's compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

SIXTH CAUSE OF ACTION

California Labor Code § 1198, 1199, and IWC Wage Order 5-2001

Reporting Time Pay

(Plaintiffs and Reporting Time Pay Subclass Against Defendants)

65. Plaintiffs incorporate by reference all the allegations of this Complaint as though fully set

forth herein.

66. Labor Code § 1199 prohibits an employer from causing any employee to work under conditions of labor prohibited by an order of the Industrial Welfare Commission (IWC) or from violating, refusing, or neglecting to comply with any order of the commission's orders regarding wages, hours, and working conditions. Labor Code § 1198 states that the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees and forbids the employment of any employee under conditions of labor prohibited by the commission's wage orders.

67. Wage Order 5-2001 requires that each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

68. Defendants failed to pay reporting time to employees who were required to report into work via phone or in person but were not put to work or were furnished less than half of their usual or scheduled shift. See Wage Order No. 5-2001, Section 5. *Ward v. Tilly's, Inc.*, 31 Cal. App. 5th 1167, 1183 (2019), review denied (May 15, 2019).

69. As a result, Plaintiffs and the Reporting Time Pay Subclass are entitled to recover reporting time pay in amounts to be determined at trial.

<u>SEVENTH CAUSE OF ACTION</u>

Labor Code §§ 201, 202, 203, and 204

Failure to Pay Wages When Due

(Plaintiff and Class Against Defendants)

70. Plaintiff incorporates by reference all allegation contained in the preceding paragraphs as if fully set forth herein.

71. Labor Code § 201 provides, in relevant part, that:

> If an employee not having a written contract for a definite period quits his or her

> employment, his or her wages[1] shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

72. Defendants do not include definite periods of service in their contracts of employment for Class Members employed at their California facility. Plaintiff' contract of employment did not include a definite term.

73. Labor Code § 203 provides:

> If an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

74. Labor Code § 204 provides that all wages, other than those mentioned in Section 201 and 202, are due and payable twice during each calendar month, on days designated in advance by the employer as regular paydays.

75. Failure to Timely Pay Wages Due. As set forth above, Defendants failed to timely pay the overtime wages and meal and rest period premiums resulting from its deficient timekeeping and meal and rest period policies.

76. Failure to Pay Upon Termination. Many Class Members have left Defendants' employ during the Class Period. As discussed above, Defendants knowingly failed to pay Plaintiff and Class Members all earned wages upon termination. Instead, Defendants willfully and intentionally refused to pay the earned rest and/or meal period premiums and earned minimum wages as alleged herein to Plaintiff and Class Members in violation of Labor Code §§ 201 and 202.

77. Relief. Defendants' failure to pay those Class Members who are no longer employed by

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[1] Labor Code § 200 defines "wages" as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation." "Labor" is defined as "labor, work, or service . . . if the labor to be paid for is performed personally by the person demanding payment."

Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment, violates Labor Code §§ 201 and 202. Plaintiff and formerly employed Class Members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

EIGHTH CAUSE OF ACTION

California Labor Code § 2802

Failure to Reimburse Necessary Business Expenses

(Plaintiff and Class Against Defendants)

78. Plaintiff repeats, replead, and incorporate by reference, as though fully set forth in this paragraph, all the allegations of this Complaint.

79. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer." Lab. Code § 2802. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

80. Defendants required non-exempt employees to utilize their personal cell phones for work-related purposes, making outbound calls, including answering texts and calls from their supervisors while at work or on a break, being assigned tasks, and general administrative matters. Defendants further failed to compensate their non-exempt employees for reasonable costs associated with utilizing their personal cell phones for work-related purposes.

81. Defendants failed to reimburse a reasonable portion of the Class Members' cellphone related expenses despite requiring the use of the device and/or applications that required a data plan. *See Cochran v. Schwan's Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 ("We hold that when employees must use their personal cell phones for work related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.").

82. By unlawfully failing to pay Plaintiff and Class Members, Defendants are liable for a reasonable

portion of the incurred expenses, to be determined upon trial, plus reasonable attorneys' fees and costs. Lab. Code § 2802.

NINTH CAUSE OF ACTION

Labor Code §§ 558, 2698, et seq.

Private Attorneys General Act ("PAGA") Penalties

(Plaintiffs and Aggrieved Employees Against Defendants)

83. Plaintiff repeats, replead, and incorporate by reference, as though fully set forth in this paragraph, all the allegations of this Complaint.

84. Standing. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders.

85. Plaintiff, by nature of his employment with Defendants, is an aggrieved employee for purposes of this Complaint with standing to bring an action under PAGA.

86. Plaintiff, on behalf of the State of California and all Aggrieved Employees, brings this representative action pursuant to Labor Code § 2699, *et seq.*, seeking civil penalties for Defendants' violation of the Labor Code provisions mentioned in this Complaint, including but not limited to §§ 201, 202, 203, 204, 206.5 226, 226.3, 226.7, 432.5, 510, 512, 558, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1199, 1401, and 2802 as described herein, plus attorneys' fees and costs.

87. Entitlement to Penalties. Under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney general, on behalf of himself and other current or former employees, against whom a violation of the same provision(s) was committed, as well as the general public, to recover penalties for an employer's violations of the Labor Code and IWC Wage Orders within one year of filing a notice to the Labor and Workforce Development Agency in the amounts set forth in Labor Code § 2698.

88. These penalties are in addition to any other relief available under the Labor Code and are allocated sixty-five percent to the Labor and Workforce Development Agency and thirty-five percent to the affected employees.

89. These penalties may be "stacked" separately for each of Defendants' violations of the Labor Code subject to the exceptions enumerated in Labor Code section 2698(i). *See, e.g.*, *Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012); *see also O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016); Labor Code § 2698(i).

90. Procedural Requirements Met. On October 16, 2025, Plaintiff electronically filed a notice of claims with the LWDA and sent a copy to Defendants by certified mail. On December 21, 2025, the sixty-five-day notice period expired as to all defendants. Plaintiff did not receive notice from the LWDA that it would be investigating the complaint nor did Plaintiff receive notice from the LWDA that it was declining to investigate with the 65-day period under Labor Code § 2699.3. Since the LWDA took no steps within the prescribed time to intervene, Plaintiff has exhausted all required administrative remedies required to seek penalties under PAGA. *See* Lab. Code § 2699.3(a)(2). A true and correct copy of Plaintiff's PAGA Notice is attached herein as **Exhibit A**.

TENTH CAUSE OF ACTION

California Business & Professions Code §§ 17200, et seq.

Unlawful Business Practices

(Plaintiff and Class Against Defendants)

91. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully set forth herein.

92. Defendants are "person(s)" as defined by California Business & Professions Code § 17201, as they are a natural person, corporations, firms, partnerships, joint stock companies, and/or associations.

93. Unlawful Business Practices. Defendants' knowing violations of the Labor Code constitutes an unlawful business practice as set forth in Business & Professions Code § 17200, et seq.

94. Defendants' failure to abide by the laws discussed herein provided Defendants an unfair advantage over their competitors at the expense of their workers. Instead, Defendants cuts corners in the name of higher profits and at the expense of employee well-being. Defendants' actions thereby constitute an unfair, fraudulent, and/or unlawful business practice under Business & Professions Code § 17200, et seq.

95. Relief. Plaintiff bring this cause of action seeking equitable and injunctive relief to stop Defendant's willful and ongoing misconduct, and to seek restitution of the amounts Defendants acquired

through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff seek an award of costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure § 631, Plaintiff demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

A. For an Order:

   a. Certifying the Class;

   b. Appointing Plaintiff as representatives of the Class;

   c. Appointing Plaintiff' counsel as Class Counsel;

B. For actual and liquidated damages according to proof at trial;

C. For statutory and civil penalties and special damages, according to proof at trial;

D. For pre- and post-judgment interest on monetary damages;

E. For preliminary and permanent injunctive relief;

F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and

G. For such other relief as this Court deems just and proper.

Dated: December 22, 2025

Respectfully submitted,

BARAHMAND LAW GROUP

By: ______________________

Navid Barahmand, Esq.
Attorneys for Plaintiff

EXHIBIT A

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October 16, 2025

Original filed online via the LWDA's PAGA Claim Notice Portal

LABOR & WORKFORCE DEVELOPMENT AGENCY
1515 Clay Street, Ste. 801
Oakland, CA 94612

Copy Sent via Email and Certified Mail to: WVCvet@gmail.com

Human Resources Administrator
ANDY FRAIN SERVICES, INC.
761 Shoreline Drive
Aurora, Illinois 60504
Tracking: 9589 0710 5270 2981 1137 83

CT Corporation System - Agent for Service of Process
ANDY FRAIN SERVICES, INC.
330 N Brand Boulevard, Suite 700
Glendale, California 91203
Tracking: 9589 0710 5270 2981 1137 90

***Re*: Private Attorneys General Act ("PAGA") Notice Letter of Blake Dubrow on Behalf of Himself and Aggrieved Employees Under California Labor Code Section 2699.3**

To Whom It May Concern:

This letter shall constitute notice under California Labor Code section 2699.3 (hereinafter "PAGA Notice"). The $75 filing fee for the PAGA Notice was paid online by credit card at the time this PAGA Notice was submitted online to the Department of Industrial Relations.

This PAGA Notice concerns Mr. Blake Dubrow ("Employee") employment with his current employer: Andy Frain Services ("Employer" or "the Company"). Employee is employed in a non-exempt position as Field Supervisor beginning around February 5, 2025.

In connection with the alleged claims for failure to comply with California Labor Code Sections 98.6, 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1401, 1174, 1198, 1198.5, 2802 and 2810.5, Employee seeks to represent all employees of the Company, and each of them, as well as their parents, subsidiaries, and affiliates. With all other claims mentioned herein, Employee seeks to represent only non-exempt employees of Employer.

Employee and other aggrieved employees are covered by Labor Code section 510 and applicable Wage Orders. Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of requiring its employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to attend company meetings off the clock, to make phone calls or drive off the clock; failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, and other forms of remuneration into the regular rate of pay for the pay periods where overtime was worked and the additional compensation was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked, for paying straight pay instead of overtime pay to the detriment of Employee and other aggrieved employees, as opposed to compensating employees for all hours worked. Consequently, Employee is informed and believes, and based thereon alleges, that Employer violated Labor Code sections 510, and applicable Wage Orders based on its practice of providing total compensation that is less than the required legal overtime compensation for the overtime worked, entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing to compensate Employee and other aggrieved employees for all hours worked or otherwise under Employer's control as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to attend company meetings off the clock, to make phone calls or drive off the clock; detrimental rounding of employee time entries; editing and/or manipulation of time entries to show less hours than actually worked; failing to pay reporting time pay; and failing to pay split shift premiums. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code section 1197 and applicable Wage Orders based on its continued failure to pay minimum wages for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated damages under, without limitation, Labor Code sections 1194 and 1194.2. Employer would also be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of compelling its employees to work in excess of five (5) and ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof including, without limitation: by interrupting meal periods; not providing timely meal periods; failing to provide first and second meal periods; providing short meal periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal periods; and auto-deducting meal periods that could not be auto-deducted by law or during which employees worked. Consequently, Employee is informed and believes, and based thereon alleges, that Employer violated Labor Code section 512, entitling Employee and other aggrieved employees to premium payments under Labor Code section 226.7. However, Employee is informed and believes that those premium payments under Labor Code section 226.7 were not made, either, for these non-compliant meal periods. Employer would thus be liable for civil penalties pursuant to Labor Code sections 558 and

2699 for both failing to authorize the taking of compliant meal periods, as well as for failing to provide premium pay under Labor Code section 226.7.

Employee is informed and believes, and based thereon alleges, that Employer maintains policies or practices of compelling its non-exempt employees, including, without limitation, Employee, to work over four-hour periods (or major fractions thereof) without authorizing and permitting Employee and other aggrieved employees to take uninterrupted, timely, and complete ten-minute rest periods in which the employees are completely relieved of all of their duties, including, without limitation: by failing to provide rest periods all together; requiring that they be bundled together and/or with meal periods; interrupting them; and not permitting employees to leave the premises; and otherwise requiring on-duty/on-call rest periods. As such, Employee is informed and believes, and based thereon alleges, that Employee and other aggrieved employees are entitled to relief under, without limitation, Labor Code section 226.7. However, Employee is informed and believes that those premium payments under Labor Code section 226.7 were not made, either, for these non-compliant rest periods. Employer would thus be liable for civil penalties pursuant to Labor Code sections 558 and 2699 for both failing to authorize the taking of compliant rest periods, as well as for failing to provide premium pay under Labor Code section 226.7.

In addition to the above, Employee is informed and believes, and based thereon alleges that Employer failed and continue to fail to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174, making it difficult for Employee and other aggrieved employees to calculate their unpaid wages and/or premium payments. Employer also failed to provide these documents to Employee and other aggrieved employees upon request. This would entitle Employee and other aggrieved employees to penalties prescribed by Labor Code sections 226 and 1198.5. Employer would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5 and 2699.

As a result of, among other things, Employer's herein-described policy or practice of failing to: accurately record time; failing to pay overtime and minimum wages; provide meal periods; provide rest periods; and provide compensation in lieu of meal or rest periods; as described above, Employee is informed and believes, and based thereon alleges, that Employer also intentionally failed and continues to fail to furnish aggrieved employees, including, without limitation, Employee, with itemized wage statements that accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; the legal name and address of the other; and other such information as required by Labor Code section 226, subdivision (a). Specifically, Employer intentionally failed to furnish employees with itemized wage statements that accurately reflect the hours worked by Ms. Ceja and other aggrieved employees and the rates of pay at which they were or should have been paid, thus resulting in a failure to reflect gross and net wages earned and paid at each rate, as well. Consequently, since Employer would have failed to comply with Labor Code section 226, subdivision (a), Employee and other aggrieved employees would be entitled to recover penalties under, without limitation, Labor Code section 226, subdivision (e). Employer would also be liable for civil penalties pursuant to Labor Code sections 226.3, 558, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer also failed and refused, and continue to fail and refuse, to timely pay compensation to Employee and other terminated or resigned employees, including but not limited to, all overtime wages owed; all minimum wages owed; and all premium pay owed as set out above. Consequently, Employer would be liable for waiting time penalties for having violated California Labor Code sections 201, 202, and 203. Employer would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is further informed and believes, and based thereon alleges that Employer failed and refused, and continues to fail and refuse, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employee and other aggrieved employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employer, the name of the employer, including any "doing business as" names used, the name, address and telephone number of the workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employer under Labor Code section 2810.5. Employee is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employer to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Among other relief, employees may collect from Employer in connection with these violations' civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is further informed and believes, and based thereon alleges, that Employer has or had a policy or practice of failing to provide Employee and other aggrieved employees with the amount of paid sick leave required to be provided pursuant to California and local laws (including, without limitation, Labor Code section 246, *et seq*. Employee is further informed and believes that Employer also did not permit its use upon request by Employee and other aggrieved employees as contemplated under California and local laws. As such, Employer would be liable for civil penalties for violation of the paid sick leave regulations under Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to pay aggrieved employees their paid time off and vacation time owed upon separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3 and applicable Wage Orders. As such, Employer would be liable for civil penalties for violation of Labor Code section 227.3 under Labor Code section 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to pay aggrieved employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month." Employee is informed and believes and based thereon alleges that Employer did not and do not pay Employee and other aggrieved employees in accordance with Labor Code Section 204. As such, Employee is informed and believes, and based thereon alleges that Employer violated Labor Code section 204. Employer would be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from using or disclosing the skills, knowledge and experience they obtained at Employer for purposes of competing with Employer, including, without limitation, preventing Employees from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employer and under what circumstances that they might be receptive to an offer from a rival employer. As such, Employee is informed and believes that this violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employer would be liable for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from disclosing violations of state and federal law, either within Employer to their managers or outside Employer to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Employee is informed and believes that these policies and/or practices prevent Employee and/or other aggrieved employees from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code section 232 and 232.5. These violations of the Labor Code would expose Employer to liability for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from engaging in lawful conduct during non-work hours, thus violating state statutes entitling employees to disclose wages, working conditions, and illegal conduct, including, without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Employee is informed and believes that this lawful conduct includes the exercise of Employee and/or other aggrieved employee's constitutional rights of freedom of speech and economic liberty and would thus expose Employer to liability for civil penalties pursuant to Labor Code section 2699.

Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), please advise within sixty-five (65) calendar days of the postmarked date of this notice whether the LWDA intends to investigate the violations alleged above. Our office understands that if we do not receive a response within sixty-five (65) calendar days of the postmark date of this PAGA Notice that the LWDA intends to investigate these allegations, Employee may immediately thereafter file a civil complaint against Employer to allege causes of action for civil penalties under the Private Attorney General Act for the herein-described alleged violations of the Labor Code.

Thank you in advance for your prompt attention to this request.

Very truly yours,

BARAHMAND LAW GROUP

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