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on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

HUMBERTO TAPIA, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

48FORTY SOLUTIONS, LLC, a Delaware
limited liability company; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: C25-02964

**FIRST AMENDED CLASS AND
REPRESENTATIVE 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. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. VIOLATION OF QUOTA LAWS; and
9. UNFAIR COMPETITION; and
10. CIVIL PENALTIES UNDER LABOR
CODE SECTIONS 210, 226.3, 558, 1174.5,
1197.1 AND 2699, et seq

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiff HUMBERTO TAPIA (“Plaintiff”), on behalf of Plaintiff and all others similarly
2 situated, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against
6 48FORTY SOLUTIONS LLC, and any of its respective subsidiaries or affiliated companies within
7 the State of California (“48FORTY” collectively with DOES 1 through 100, as further defined below,
8 “Defendants”) on behalf of Plaintiff and all other current and former non-exempt California
9 employees employed by or formerly employed by Defendants (“Class Members”).

10 2. This is also representative action, pursuant to the Labor Code Private Attorneys’
11 General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”), against 48FORTY
12 SOLUTIONS, LLC, and any of its respective subsidiaries or affiliated companies within the State of
13 California (“48FORTY”) (48FORTY, collectively, with DOES 1 through 100, as further defined
14 below, “Defendants”) and as a proxy of the Labor and Workforce Development Agency of the State
15 of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt
16 employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as
17 it pertains to the alleged claims for failure to comply with the Labor Code. Specifically, in connection
18 with the alleged claims for failure to comply with Labor Code sections 201, 202, 203, 204, 210, 223,
19 226, 226.2, 226.3, 226.7, 432, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1,
20 1198, 1198.5, 1695.55, 2100 through 2122, 2802, 2810.5, 2699, 2699.3 among others, California
21 Code of Regulations, Title 8, sections 3395 and 3396, Business and Professions Code sections 16600,
22 16700, and 17200, Government Code section 12952, as well as applicable Wage Orders, Plaintiff
23 seeks to represent all current and former employees of Defendants working during the PAGA Period.
24 Plaintiff seeks to represent all employees of Defendants, and each of them, DOES 1 through 100, as
25 well as their parents, subsidiaries and affiliates (hereinafter, collectively, “Defendants”) working
26 within three years preceding the date of filing Notice with the LWDA and continuing past the LWDA
27 Notice filing date into perpetuity (“Civil Penalty Period”). On all other claims mentioned herein,
28 Plaintiff seeks to represent only non-exempt employees of Defendants working within the Civil

1 Penalty Period. Collectively, those employees shall be known as “Aggrieved Employees” herein.

2 **PARTIES**

3 **A. Plaintiff**

4 3. Plaintiff HUMBERTO TAPIA is a resident of the State of California. At all relevant
5 times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants employed
6 Plaintiff as a non-exempt employee May of 2008 through approximately August of 2025, with duties
7 subject to production targets and quotas that included, but were not limited to, repairing pallets. Under
8 Defendants’ quotas, Plaintiff was assigned or required to perform at a specified productivity speed,
9 perform a quantified number of tasks, and/or to handle or produce a quantified amount of material,
10 within a defined time period, under which he suffered adverse employment actions if he failed to
11 complete the performance standard for Defendants, and each of them.

12 **B. Defendants**

13 4. Plaintiff is informed and believes and based thereon alleges that defendant 48FORTY
14 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of
15 the laws of the State of California and doing business in the County of Contra Costa. At all relevant
16 times herein, 48FORTY employed Plaintiff and similarly situated employees within the State of
17 California

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

25 6. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted
26 in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme,
27 business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally
28 attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to

1 “Defendants,” it shall include 48FORTY, and any of its parent, subsidiary, or affiliated companies
2 within the State of California, and DOES 1 through 100 identified herein.

3 7. Plaintiff is informed and believes, and based thereon alleges, that each employer acted
4 in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme,
5 business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally
6 attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to
7 “Defendants,” it shall include 48FORTY SOLUTIONS, LLC, and any of its respective subsidiaries
8 or affiliated companies within the State of California.

9 **JOINT LIABILITY ALLEGATIONS**

10 8. Plaintiff is informed and believes and based thereon alleges that all the times
11 mentioned herein, each of a2the Defendants was the agent, principal, employee, employer,
12 representative, joint venture or co-conspirator of each of the other defendants, either actually or
13 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
14 employment, joint venture, and conspiracy.

15 9. All of the acts and conduct described herein of each and every corporate defendant was
16 duly authorized, ordered, and directed by the respective and collective defendant corporate employers,
17 and the officers and management-level employees of said corporate employers. In addition thereto,
18 said corporate employers participated in the aforementioned acts and conduct of their said employees,
19 agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct
20 of said corporate employees, agents, and representatives, the defendant corporation respectively and
21 collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise
22 approved of each and all of the said acts and conduct of the aforementioned corporate employees,
23 agents and representatives.

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

26 ////

27 **JURISDICTION**

28 11. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of

1 Civil Procedure section 410.10.

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

11 13. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by
12 Defendants during the Civil Penalty Period and suffered the Labor Code violations set forth herein,
13 even if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to
14 recover civil penalties under the Labor Code Private Attorneys’ General Act of 2004, codified at Labor
15 Code section 2698, *et seq.* (“PAGA”), as amended, plus reasonable attorneys’ fees and costs, for
16 Plaintiff and all other current and former Aggrieved Employees of Defendants during the Civil Penalty
17 Period.

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

22 15. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code sections,
23 201, 202, 203, 204, 210, 223, 226, 226.2, 226.3, 226.7, 432, 512, 551, 552, 558, 1174, 1174.5,
24 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1695.55, 2100 through 2122, 2802, 2810.5, 2699,
25 2699.3, among others, California Code of Regulations, Title 8, sections 3395 and 3396, Business and
26 Professions Code sections 16600, 16700, and 17200, Government Code section 12952, as well as
27 applicable Wage Orders, Plaintiff seeks to represent all current and former employees of Defendants
28 working during the PAGA Period.

16. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees such as Plaintiff, on behalf of Plaintiff and all other current and former Aggrieved Employees within the Civil Liability Period, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

17. On or around October 10, 2025, Plaintiff provided written notice pursuant to Labor Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants' violation of various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by certified mail, with return receipt requested to Defendants, and each of them.

FACTUAL BACKGROUND

18. At all relevant times mentioned herein, Defendants employed Plaintiff and other persons as non-exempt employees at numerous locations within California. Defendants employed Plaintiff in a non-exempt position during Plaintiff's employment and continues to employ non-exempt employees within California.

19. Plaintiff is informed and believes, and based thereon alleges, that all times mentioned herein, Defendants were advised by skill lawyers, employees and other professionals who were knowledgeable about California's wage and hour laws, employment and personnel practices, and the requirements of California law.

20. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known they had a duty to compensate Plaintiff and all others similarly situated, and Defendants had the financial ability to pay such compensation but willfully, knowingly, and intentionally failed to do so all in order to increase Defendants' profits.

21. Plaintiff is informed and believes, and thereon alleges, that at all times Defendants tracked each and every workday, pay period, shift, meal period, and rest period that was unlawful and in violation of California laws.

22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that they imposed systematic quota and production demands on Plaintiff and Class Members in violation of employees' rights pursuant to Labor Code sections 2100 *et. seq.* Defendants had a duty to ensure its production demands did not interfere with Plaintiff's and Class Members'

1 right to lawful meal periods, rest periods, bathroom breaks, and/or expose them to safety hazards.
2 Defendants willfully, knowingly, and intentionally failed to establish legally compliant quotas,
3 placing profits above concern for employee safety.

4 **Unpaid Wages**

5 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
6 have known that Plaintiff and Class Members were entitled to receive at least minimum, regular,
7 overtime, and double times wages and that they were not receiving minimum, regular, overtime, and
8 double time wages for all work that was required to be performed. Furthermore, Defendants knew
9 that on January 1, 2022, they must provide Plaintiff and Class Members with a written description of
10 Defendants' quota production demands and failed to do so.

11 24. For at least four (4) years prior to the filing of this action and continuing to the present,
12 Defendants have, at times, failed to pay minimum wages to Plaintiff and Class Members, or some of
13 them, in violation of California state wage and hour laws.

14 25. For at least four (4) years prior to the filing of this action and continuing to the present,
15 Defendants have, at times, failed to pay overtime wages to Plaintiff and Class Members, in violation
16 of California state wage and hour laws as a result of, without limitation, Plaintiff and Class Members
17 working over eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in
18 a work week without being properly compensated for hours worked in excess of (8) hours per day in
19 a work day, forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive
20 work day in a work week.

21 26. On information and belief, Defendants did not accurately or appropriately compensate
22 Plaintiff and Class Members for the hours worked by, among other things, failing to accurately track
23 and/or pay for all minutes actually worked at the proper overtime rate of pay; engaging, suffering, or
24 permitting employees to work off the clock, including, without limitation, by requiring Plaintiff and
25 Class Members to suffer under Defendants' control due to long lines for clocking in and failing to pay
26 reporting time pay, to the detriment of Plaintiff and Class Members. By way of example, Plaintiff and,
27 upon information and belief, Class Members had to wait in line to clock in because all Class Members
28 had to clock in and out at the same time, and there were only two (2) time clocks available that did

1 not suffice for the number of employees clocking in and out simultaneously. In addition, Plaintiff and,
2 upon information and belief, Class Members would often show up to work for a scheduled shift and
3 get sent home without being paid for at least half their scheduled day's work.

4 27. In addition, Defendants failed to include all forms of remuneration, including non-
5 discretionary bonuses, incentive pay, and/or other forms of remuneration into the regular rate of pay
6 during pay periods where overtime was worked, all to the detriment of Plaintiff and Class Members.

7 **Meal Period Violations**

8 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
9 have known that Plaintiff and Class Members were entitled to receive a timely, off-duty, uninterrupted
10 30-minute meal period for every five hours of work, or payment of one additional hour of pay at their
11 regular rate of pay when they did not receive a compliant meal period. Upon information and belief,
12 Defendants enacted quotas that prevented Plaintiff and Class Members from taking lawful meal
13 periods.

14 29. For at least four (4) years prior to the filing of this action and continuing to the present,
15 Defendants have, at times, failed to provide Plaintiff and Class Members, or some of them, full, timely
16 thirty (30) minute uninterrupted meal period for days on which they worked more than five (5) hours
17 in a work day and a second thirty (30) minute uninterrupted meal period for days on which they
18 worked in excess of ten (10) hours in a work day, and failing to provide compensation for such
19 unprovided meal periods as required by California wage and hour laws. This is due, in part, to the fact
20 that, upon information and belief, Defendants have a policy and practice of scheduling breaks to
21 "accommodate business needs" rather than comply with the law.

22 **Rest Period Violations**

23 30. Defendants tracked and maintained a record of each and every rest period that violated
24 California law including when Plaintiff or Class Members worked up to 10 - 12 hours in a workday.
25 Defendants' quota demands were unreasonable and pressured Plaintiff and Class Members to work
26 through rest periods.

27 31. For at least four (4) years prior to the filing of this action and continuing to the present,
28 Defendants have failed to authorize and permit Plaintiff and Class Members to take lawful rest

1 periods. Plaintiff is informed and believe, and thereon alleges, that Defendants knew or should have
2 known that Plaintiff and Class Members were entitled to receive a ten-minute, off-duty, uninterrupted
3 rest period for every four (4) hours worked, or major fraction thereof, or payment of one (1) additional
4 hour of pay at their regular rate of pay when they were not permitted to take a compliant rest period.
5 This is due, in part, to the fact that, upon information and belief, Defendants have a policy and practice
6 of scheduling breaks to “accommodate business needs” rather than comply with the law.

7 32. During the Class Period, Plaintiff and Class Members regularly worked in excess of
8 four (4) hours or major fraction thereof. In violation of the Labor Code and IWC Wage Orders,
9 Plaintiff and Class Members were not permitted to take compliant rest breaks, due to Defendants’
10 unlawful policy and practice to favor production goals over employee rights. Consequently, Plaintiff
11 and Class Members were not authorized or permitted to take rest breaks, including first, second, and
12 third rest breaks. Defendants failed to pay Plaintiff and Class Members one additional hour of pay at
13 their regular rate of pay when they did not receive a compliant rest break. On information and belief,
14 Defendants also failed to provide recovery periods to Plaintiff and Class Members. Defendants’ quota
15 requirements were unlawful and prevented employees from complying with California laws regarding
16 recovery and rest periods.

17 33. Recovery Period Violations: Defendants failed to maintain a policy of providing
18 recovery or permitted recovery periods and/or paying premium pay in lieu thereof. Quota and
19 performance demands were unreasonable and pressured Plaintiff and Class Members to work through
20 breaks, including recovery periods. Plaintiff is informed and believes, and thereon alleges, that
21 Defendants knew or should have known that Plaintiff and Class Members were entitled to receive
22 recovery periods for safety, including cooling-down, and heat prevention illness. Defendants, among
23 other reasons, enacted quotas that prevented Plaintiff and Class Members from taking recovery
24 periods. Consequently, Plaintiff and Class Members were not authorized or permitted to take recovery
25 periods which permit employees of a minimum of five (5) minutes to “cool down.” Defendants failed
26 to pay Plaintiff and Class Members one additional hour of pay at their regular rate of pay when they
27 did not provide a recovery period. On information and belief, Defendants also failed to provide
28 recovery periods to Class Members.

1 **Waiting Time Penalties**

2 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
3 have known that Plaintiff and Class Members who separated from their employment with Defendants
4 during the statutory period were entitled to timely payment of all wages due. For at least three (3)
5 years prior to the filing of this action and continuing to the present, Defendants have, at times, failed
6 to pay Plaintiff and Class Members the full amount of their wages owed to them upon termination
7 and/or resignation as required by Labor Code sections 201 and 202, including for, without limitation,
8 failing to pay overtime wages, minimum wages, and premium wages.

9 **Wage Statement Violations**

10 35. Plaintiff is informed and believes and thereon alleges that Defendants knew or should
11 have known that Plaintiff and Class Members were entitled to receive complete and accurate wage
12 statements and failed to abide by the requirements of Labor Code section 226 to pay and record each
13 premium pay and meal and rest period violation which Defendants tracked and recorded. For at least
14 one (1) year prior to the filing of this action and continuing to the present, Defendants have, at times,
15 failed to furnish Plaintiff and Class Members with itemized wage statements that accurately reflect
16 gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during
17 the pay period and the corresponding number of hours worked at each hourly rate; piece rate
18 information; the name and address of the legal entity that is the employer; and other such information
19 as required by Labor Code section 226, subdivision (a). As a result thereof, Defendants have further
20 failed to furnish employees with an accurate calculation of gross and gross wages earned, as well as
21 gross and net wages paid.

22 **Failure to Timely Pay Wages**

23 36. Plaintiff is informed and believes, and thereon alleges that Defendants knew or should
24 have known that Plaintiff and Class Members were entitled to receive their wages in a timely fashion.
25 For at least one (1) year prior to the filing of this action and continuing to the present, Defendants
26 have, at times, failed to pay Plaintiff and Class Members, or some of them, the full amount of their
27 wages for labor performed in a timely fashion as required under Labor Code section 204.

28 **Quota Violations**

37. Since January 1, 2022 and continuing to the present, Defendants have had a consistent policy of willfully and intentionally failing to comply with Labor Code sections 2100, 2101, 2102, 2103, 2104, 2105 and 2108 in connection with Plaintiff and Class Members who, like Plaintiff, were covered employees under Labor Code section 2100, within the State of California. Class Members, like Plaintiff, had a sundry of warehouse duties subject to production targets and quotas. Under Defendants' quotas, Plaintiff and Class Members are assigned and/or required to perform at a specified productivity speed, and/or perform a quantified number of tasks, and/or handle and/or produce a quantified amount of material, within a defined time period. Moreover, Plaintiff and Class Members suffered adverse employment actions if they failed to complete the performance standard for Defendants, and each of them.

38. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 510, 512, 558.1, 1194, 1194.2, 1197, 2100, 2101, 2102, 2103, 2104, 2105, 2108, and California Code of Regulations, Title 8, section 11040, seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest periods, failure to pay timely wages, waiting time penalties, wage statement penalties, other such provisions of California law, and reasonable attorneys' fees and costs.

39. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as all monies owed but withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as restitution of amounts owed.

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REPRESENTATIVE ACTION ALLEGATIONS

Unpaid Minimum and Overtime Wages

40. Plaintiff is informed and believes, and based thereon alleges, that Defendant had and

1 has a practice or policy of failing to compensate Plaintiff and other Aggrieved Employees with
2 minimum and overtime wages for all minutes worked, at the proper rates of pay. Plaintiff is informed
3 and believes, and based thereon alleges, that Defendant had and has a policy or practice of requiring
4 Plaintiff and other Aggrieved Employees to work more than eight (8) hours per day, forty (40) hours
5 per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections 551
6 and 552).

7 41. Defendant failed to accurately track and/or pay for all minutes actually worked by
8 Plaintiff and Aggrieved Employees. Defendant also engaged, suffered, or permitted Aggrieved
9 Employees to work off the clock, including, without limitation, by requiring Plaintiff and other
10 Aggrieved Employees to suffer under Defendant's control by waiting in long lines to clock in and
11 failing to pay reporting time pay. By way of example, Plaintiff and, upon information and belief,
12 Aggrieved Employees had to wait in line to clock in because all employees had to clock in and out at
13 the same time, and there were only two (2) time clocks available that did not suffice for the number
14 of employees clocking in and out simultaneously. Plaintiff and, upon information and belief,
15 Aggrieved Employees would often show up to work for a scheduled shift and get sent home without
16 being paid for at least half their scheduled day's work.

17 42. In addition, Defendant failed to include all forms of remuneration, including
18 nondiscretionary bonuses, incentive pay, and/or other forms of remuneration into the regular rate of
19 pay during pay periods where overtime was worked.

20 43. Given Plaintiff personally suffered these violations of the overtime laws, Plaintiff also
21 seeks to represent Aggrieved Employees in connection with other violations of the minimum wage
22 and overtime laws. These practices were all to the detriment of Plaintiff and other Aggrieved
23 Employees. As such, Plaintiff is informed and believes, and based thereon alleges, that Defendant
24 violated, without limitation, Labor Code sections 1197, 1182.12, Cal. and applicable Wage Orders
25 based on its continued failure to pay minimum wages for all hours worked. Thus, Plaintiff and other
26 Aggrieved Employees are entitled to actual and liquidated damages under, without limitation, Labor
27 Code sections 1194, 1194.2, and 1198 to compensate them for work each day for each Aggrieved
28 Plaintiff in the PAGA Period. Plaintiff is further informed and believes, and based thereon alleges,

1 that Defendant's conduct above gave rise to such violations and was malicious, fraudulent, or
2 oppressive. Defendant would also be liable for civil penalties pursuant to Labor Code sections 210
3 (for failure to timely pay these wages), 558, 1197.1, 1198 and 2699, or injunctive relief under sections
4 2699(e)(1) and 2699(k). Defendant would further be liable for civil penalties pursuant to Labor Code
5 section 2699(f)(2)(B)(ii).

6 44. Moreover, Plaintiff is informed and believes, and based thereon alleges, that Defendant
7 further violated Labor Code sections 223, 551, 552, 1194, 1198, and applicable Wage Orders based
8 on its practice of providing total compensation that is less than the required legal overtime
9 compensation for the overtime worked, entitling Plaintiff and other Aggrieved Employees to damages,
10 including, without limitation, unpaid overtime wages each day worked by each Aggrieved Employee
11 during the PAGA Period. Plaintiff is further informed and believes, and based thereon alleges, that
12 Defendant's conduct above gave rise to such violations and was malicious, fraudulent, and/or
13 oppressive. Defendant would also be liable for civil penalties pursuant to Labor Code sections 210
14 (for failure to timely pay these wages), 558, 1198 and 2699, or injunctive relief under sections
15 2699(e)(1) and 2699(k). Defendant would further be liable for civil penalties pursuant to Labor Code
16 section 2699(f)(2)(B)(ii).

17 **Non-Compliant Meal Periods**

18 45. Plaintiff is informed and believes, and based thereon alleges, that Defendant had and
19 has a policy or practice of compelling Plaintiff and other Aggrieved Employees during the PAGA
20 Period to work every day in excess of five (5) and ten (10) hours per day, without being afforded
21 uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof. By way
22 of example, Defendant regularly denied Plaintiff and Aggrieved Employees lawful meal periods by
23 interrupting meal periods; not providing timely meal periods; failing to provide first and second meal
24 periods; providing short meal periods, including without, limitation meal periods that were recorded
25 for less than thirty minutes, and meal periods that may appear on the record to be thirty minutes or
26 longer but in practice were shorter than thirty minutes due to walking time to get to a designated break
27 area and time spent having to wait in line to clock back in. This is due, in part, to the fact that, upon
28 information and belief, Defendant has a policy and practice of scheduling breaks to "accommodate

1 business needs” rather than comply with the law. Given Plaintiff personally suffered these violations
2 of the meal period laws, Plaintiff also seeks to represent Aggrieved Employees in connection with
3 other violations of the meal period laws, including potential violations for unprovided meals, late
4 meals, short meals, interrupted meals, auto-deducted meals, meals for which Aggrieved Employees
5 were not relieved of all duties, and meals for which Aggrieved Employees were not permitted to leave
6 the premises, if any of these should be found. Consequently, Plaintiff is informed and believes, and
7 based thereon alleges, that Defendant violated Labor Code 512 and 1198 each day for each Aggrieved
8 Plaintiff during the PAGA Period, and that, thus each Aggrieved Employee was owed one hour of
9 premium pay at his or her regular rate of pay for each day worked during the PAGA Period under
10 Labor Code section 226.7. However, Plaintiff is informed and believes that those premium payments
11 under Labor Code section 226.7 were not made for these non-compliant meal periods, either at all or
12 at the proper regular rate of pay. Defendant would thus be liable for civil penalties pursuant to Labor
13 Code sections 210 (for failure to timely pay these wages), 558, 1198 and 2699 for both failing to
14 authorize the taking of compliant meal periods and for failing to provide premium pay under Labor
15 Code section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
16 informed and believes, and based thereon alleges, that Defendant’s conduct above gave rise to such
17 violations and was malicious, fraudulent, and/or oppressive. Thus, Defendant would further be liable
18 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

19 **Non-Compliant Rest Periods**

20 46. Plaintiff is informed and believes, and based thereon alleges, that Defendant maintains
21 policies or practices of compelling Plaintiff and other Aggrieved Employees every day to, including,
22 without limitation, work over four-hour periods (or major fractions thereof) without authorizing and
23 permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely, and complete ten-
24 minute rest periods in which the Aggrieved Employees are completely relieved of all of their duties,
25 including, without limitation by failing to provide rest periods all together; failing to provide rest
26 periods that were at least ten minutes in length, including rest periods that were shorter than ten
27 minutes, or rest periods that may have encompassed a total of ten minutes but were in practice less
28 than ten uninterrupted minutes due to, without limitation, walking time to get to a designated break

1 area. Given Plaintiff personally suffered these violations of the rest period laws, Plaintiff also seeks
2 to represent Aggrieved Employees in connection with other violations of the rest period laws,
3 including potential violations for unprovided rest periods, short rest periods, interrupted rest periods,
4 rest periods where Aggrieved Employees are required to clock-out, rest periods for which Aggrieved
5 Employees were not relieved of all duties, and rest periods for which Aggrieved Employees were not
6 permitted to leave the premises, if any of these should be found. Plaintiff is informed and believes,
7 and based thereon alleges, that Defendant violated the applicable Wage Order(s) each day for each
8 Aggrieved Employee during the PAGA Period, and that, thus each Aggrieved Plaintiff was owed one
9 hour of premium pay at their regular rate of pay for each day worked during the PAGA Period under
10 Labor Code section 226.7. However, Plaintiff is informed and believes that those premium payments
11 under Labor Code section 226.7 were not made for these non-compliant rest periods, either at all or
12 at the proper regular rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendant would
13 thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these
14 wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant rest periods and for
15 failing to provide premium pay under Labor Code section 226.7, or injunctive relief under sections
16 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that
17 Defendant's conduct above gave rise to such violations and was malicious, fraudulent, or oppressive.
18 Defendant would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

19 **Inaccurate and Inadequate Recordkeeping Practices**

20 47. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
21 that Defendant failed and continues to fail to keep adequate or accurate time records including wage
22 statements and similar payroll documents under Labor Code section 226, documents signed to obtain
23 or hold employment under Labor Code section 432, personnel records under Labor Code section
24 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and other
25 aggrieved employees to calculate their unpaid wages and/or premium payments. Defendant also failed
26 to provide time record documents to Employee, and upon information and belief other Aggrieved
27 Employees, upon request in violation of these Labor Code sections. Plaintiff and the Aggrieved
28 Employees personally suffered these violations, which in turn entitles Plaintiff and other Aggrieved

1 Employees to penalties prescribed by Labor Code sections 226 and 1198.5. Defendant would also be
2 liable for civil penalties pursuant to Labor Code sections 558, 1174.5, and 2699. Plaintiff is further
3 informed and believes, and based thereon alleges, that Defendant's conduct above gave rise to such
4 violations and was malicious, fraudulent, or oppressive. Defendant would further be liable for civil
5 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

6 **Inaccurate Itemized Wage Statements**

7 48. Both independently and as a result of, among other things, Defendant's herein-
8 described policies or practices, Defendant also intentionally failed and continues to fail to furnish
9 Aggrieved Employees, including, without limitation, Plaintiff, with itemized wage statements that
10 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; all
11 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
12 at each hourly rate by the employee, piece rate information, and the legal name and address of the
13 employer. Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendant
14 violated Labor Code sections 226 and 1198 each day for each Aggrieved Employee during the PAGA
15 Period, and that, thus Plaintiff and each Aggrieved Employee personally suffered these violations and
16 was owed penalties under Labor Code section 226 for each pay period worked during the PAGA
17 Period. However, Plaintiff is informed and believes that those penalties under Labor Code section 226
18 were not paid for these violations of Labor Code sections 226. Defendant would thus be liable for
19 civil penalties pursuant to Labor Code sections 226.3, 558, 1198, and 2699. Plaintiff is further
20 informed and believes, and based thereon alleges, that Defendant's conduct above gave rise to such
21 violations and was malicious, fraudulent, and/or oppressive. Thus, Defendant would also be liable for
22 civil penalties pursuant to Labor Code sections 226.2, 226.3, 558, and 2699, or injunctive relief under
23 sections 2699(e)(1) and 2699(k). Defendant would further be liable for civil penalties pursuant to
24 Labor Code section 2699(f)(2)(B)(ii).

25 49. Plaintiff is informed and believes, and based thereon alleges, that Defendant maintains
26 policies or practices of failing to pay the minimum amounts required under Labor Code section 226.2
27 for non-productive time in violation of the above-referenced minimum wage law. For these
28 employees, Defendant violated Labor Code section 226.2 by failing to provide the information on

1 wage statements required by Labor Code section 226.2 to the extent it does not include for piecework
2 work the information required therein including, without limitation, the quantity, rate and units
3 worked per piece, as well as separately itemized non-productive time and rest and recovery periods.
4 In addition, Defendant failed to provide Aggrieved Employees with paid rest and recovery periods as
5 required under Labor Code section 226.2.

6 **Failure to Timely Pay All Wages Owed**

7 50. Plaintiff is informed and believes, and based thereon alleges, that Defendant, both
8 independently and for the reasons stated above, also willfully and/or intentionally failed and refused,
9 and continues to fail and refuse, to timely pay compensation to Plaintiff and other terminated or
10 resigned Aggrieved Employees, including but not limited to, all overtime wages owed, all minimum
11 wages owed; and all premium pay owed. Consequently, Plaintiff is informed and believes, and based
12 thereon alleges, that Defendant violated Labor Code sections 201, 202 203, and 1198 each pay period
13 for each Aggrieved Employee during the PAGA Period, and that, thus Plaintiff and each Aggrieved
14 Employee personally suffered these violations and was owed penalties under Labor Code section 203
15 for each pay period worked during the PAGA Period. Plaintiff further informed and believes, and
16 based thereon alleges, that Defendant's conduct above gave rise to such violations and was malicious,
17 fraudulent, or oppressive. Defendant would also be liable for civil penalties pursuant to Labor Code
18 sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(j). Defendant
19 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

20 51. Plaintiff is further informed and believes, and based thereon alleges that Defendant
21 failed and refused, and continues to fail and refuse, to comply with the notice requirements of Labor
22 Code section 2810.5 (i.e., the Wage Theft Protection Act of 2011) by, among other things, failing to
23 provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
24 applicable to their employment, allowances claimed as part of the minimum wage, the regular payday
25 designated by Defendant, the name of the employer, including any "doing business as" names used,
26 the name, address and telephone number of the workers' compensation insurance carrier, information
27 regarding paid sick leave, and other pertinent information required to be disclosed by Defendant under
28 Labor Code section 2810.5. Plaintiff is informed and believes that failure to provide such information,

1 including rates of pay that are in effect, has permitted Defendant to pay employees at rates of pay that
2 were not agreed upon and violate minimum wage and overtime wage laws in California. Plaintiff is
3 additionally informed and believes that the notice requirement of Labor Code section 2810.5 involves
4 a mandatory payroll or workplace injury reporting. Plaintiff is informed and believes that Defendant
5 violated Labor Code sections 1198 and 2810.5. Plaintiff is further informed and believes, and based
6 thereon alleges, that Defendant's conduct above gave rise to such violations and was malicious,
7 fraudulent, and/or oppressive. Among other relief, Aggrieved Employees may collect from Defendant
8 in connection with these violations' civil penalties pursuant to Labor Code sections 558, 1198 and
9 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendant would further be liable
10 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii). Plaintiff is informed and believes,
11 and based thereon alleges that Defendant had and has a policy or practice of failing to pay Aggrieved
12 Employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor
13 performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
14 the 16th and 26th day of the month during which the labor was performed, and labor performed
15 between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st
16 and 10th day of the following month." Plaintiff is informed and believes and based thereon alleges
17 that Defendant did not and do not pay Plaintiff and other Aggrieved Employees every day and every
18 workweek in accordance with Labor Code sections 204 and 1198 due to, among other things, the
19 violations set forth above, the derivative nature of which is an implicit consequence of the rationale
20 in Camp v. Home Depot USA, Inc. (2022) 84 Cal.App.5th 638. As such, Plaintiff is informed and
21 believes, and based thereon alleges that Defendant violated Labor Code section 204 and that Plaintiff
22 and other Aggrieved Employees have personally suffered these violations. Plaintiff is further informed
23 and believes, and based thereon alleges, that Defendant's conduct above gave rise to such violations
24 and was malicious, fraudulent, and/or oppressive. Thus, Defendant would be liable for civil penalties
25 pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections
26 2699(e)(1) and 2699(k). Defendant would further be liable for civil penalties pursuant to Labor Code
27 section 2699(f)(2)(B)(ii).
28 ///

Quota Violations

52. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew or should have known it imposed systematic quota and production demands on Plaintiff and other Aggrieved Employees which violated the rights of Plaintiff and Aggrieved Employees under Labor Code sections 2100, et seq. Specifically, Plaintiff is informed and believes, and based thereon alleges, that Defendant had a duty to ensure its production demands/quotas did not prevent Plaintiff and Aggrieved Employees from complying with laws pertaining to meal periods, rest periods, bathroom breaks (including, without limitation, reasonable travel time to and from bathroom facilities), and/or exposing them to safety or Occupational Safety and Health Administration (“OSHA”) hazards. Defendant is a “covered employer” and its warehouse employees are “covered employees.” Defendant implements quotas as defined in Labor Code section 2100, subdivision (h) and subjects Plaintiff and Aggrieved Employees to adverse employment actions as defined in Labor Code section 2102. Furthermore, Defendant willfully, knowingly and intentionally established quotas that harmed Plaintiff and Aggrieved Employees all to increase Defendant’s profits without concern for employee safety. Defendant, in fact, tracked meals, rest, and recovery periods, that were not provided and did nothing to change its policies and practices. Defendant also restricted and monitored the use of bathroom facilities and charged the time Plaintiff and Aggrieved Employees used the bathroom against their quota. In other words, Plaintiff and Aggrieved Employees who did not wait to use the restroom during meal or rest periods or before or after their shift, were penalized for not meeting the quota either through reprimands, warnings, and termination. Defendant maintained a system designed to prevent Plaintiff and Aggrieved Employees from complying with California law as alleged in this Notice and systematically used to punish Plaintiff and Aggrieved Employees. Furthermore, Defendant prevented compliance with California’s meal and rest break laws and failed to consider meal and rest breaks as productive time when Plaintiff and Aggrieved Employees were required to remain on call in violation of Labor Code section 2103, subdivision (b). Plaintiff and Aggrieved Employees were not permitted to take compliant meal breaks, rest breaks, and/or rest and recovery periods when requested, due to Defendant’s unlawful policy and practice to favor production goals over the rights of Plaintiff and Aggrieved Employees. Consequently, Plaintiff and other Aggrieved Employees were not

1 provided with meal periods (or second meal periods); and/or authorized or permitted to take rest
2 periods (including second or third rest periods); and/or recovery periods; and Defendant's policies
3 prevented Aggrieved Employees from taking these meal, rest and/or recovery periods as required by
4 California law. Furthermore, Defendant did not provide to Plaintiff and Aggrieved Employees a
5 written description of each quota that was applicable to Plaintiff and Aggrieved Employees;
6 maintained secret (undisclosed) quotas; and failed to provide written disclosures each and every time
7 quotas changed either seasonally, daily, hourly, weekly and/or monthly. This includes the number of
8 tasks to be performed or materials that must be produced or handled within a time period, and any
9 potential adverse employment action that could result from failing to meet the quota. This information
10 has not been given by Defendant to Plaintiff and Aggrieved Employees, including when hired,
11 commencing on January 1, 2022 to the present. Additionally, Defendant changed the "quota" regularly
12 without notice, as often as per pay period. Defendant was also required to provide a new written quota
13 disclosure each and every time the quota changed and failed to do so since the Notice was provided.
14 Defendant failed to produce Employee's written quota disclosure upon written request pursuant to
15 Labor Code sections 2100 through 2112, and failed to provide written disclosures to Plaintiff and
16 Aggrieved Employees, including new hires, since January 1, 2022, as well as to current employees
17 each time the quota changed. Defendant had and has a policy and practice of taking adverse
18 employment action against Plaintiff and Aggrieved Employees for failing to meet a quota that does
19 not allow Plaintiff and Aggrieved Employees to comply with meal and rest periods, or occupational
20 health and safety laws in the Labor Code or Division Standards, or for failure to meet a quota that has
21 not been disclosed to Plaintiff and Aggrieved Employees pursuant to Labor Code section 2101.
22 Defendant thus violated Labor Code sections 2100 through 2112. Plaintiff and the Aggrieved
23 Employees personally suffered these violations, which in turn would entitle Plaintiff and other
24 Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5. Defendant
25 would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5, 1695.55, 1198
26 and 2699. Plaintiff further informed and believes, and based thereon alleges, that Defendant's conduct
27 above gave rise to such violations and was malicious, fraudulent, or oppressive, particularly given,
28 among other reasons, Defendant has been sued for these violations in the past. Thus, Defendant would

1 further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

2 **CLASS ACTION ALLEGATIONS**

3 53. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action
4 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current and
5 former non-exempt employees of Defendants within the State of California at any time commencing
6 four (4) years preceding the filing of Plaintiff's complaint up until the time that notice of the class
7 action is provided to the class (collectively referred to as "Class Members").

8 54. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)
9 to amend or modify the class description with greater specificity, further divide the defined class into
10 subclasses, and to further specify or limit the issues for which certification is sought.

11 55. This action has been brought and may properly be maintained as a class action under
12 the provisions of Code of Civil Procedure section 382 because there is a well-defined community of
13 interest in the litigation and the proposed Class is easily ascertainable.

14 **A. Numerosity**

15 56. The potential Class Members as defined are so numerous that joinder of all the
16 members of the Class is impracticable. While the precise number of Class Members has not been
17 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members
18 employed by Defendants within the State of California.

19 57. Accounting for employee turnover during the relevant periods necessarily increases
20 this number. Plaintiff alleges Defendants' employment records would provide information as to the
21 number and location of all Class Members. Joinder of all members of the proposed Class is not
22 practicable.

23 **B. Commonality**

24 58. There are questions of law and fact common to Class Members. These common
25 questions include, but are not limited to:

26 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
27 worked at a proper overtime rate of pay?

28 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for

all other time worked at the employee's regular rate of pay and a rate of pay that is greater than the applicable minimum wage?

C. Did Defendants violate Labor Code section 512 by not authorizing or permitting Class Members to take compliant meal periods?

D. Did Defendants violate Labor Code section 226.7 by not providing Class Members with additional wages for missed or interrupted meal periods?

E. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class Members to take compliant rest periods?

F. Did Defendants violate Labor Code section 226.7 by not providing Class Members with additional wages for missed rest periods?

G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class Members upon termination or resignation all wages earned?

H. Are Defendants liable to Class Members for waiting time penalties under Labor Code section 203?

I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing Class Members with accurate wage statements?

J. Did Defendants fail to pay Class Members in a timely fashion as required under Labor Code section 204?

K. Did Defendants' practices and policies violate Labor Code sections 2100 through 2105 for requiring warehouse employees to meet excessive and unlawful quotas thereby preventing them from complying with rest, recovery and meal periods, their ability to use restroom facilities, travel to and from restroom facilities, an/or expose them to safety and Occupational Safety and Health Administration ("OSHA") violations?

L. Did Defendants violate the Unfair Competition Law, Business and Professions Code section 17200, *et seq.*, by their unlawful practices as alleged herein?

M. Are Class Members entitled to restitution of wages under Business and Professions Code section 17203?

N. Are Class Members entitled to costs and attorneys' fees?

O. Are Class Members entitled to interest?

C. Typicality

59. The claims of Plaintiff herein alleged are typical of those claims which could be alleged by any Class Members, and the relief sought is typical of the relief which would be sought by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged herein.

D. Adequacy of Representation

60. Plaintiff will fairly and adequately represent and protect the interest of Class Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class actions.

E. Superiority of Class Action

61. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to Class Members predominate over any questions affecting only individual Class Members. Class Members, as further described therein, have been damaged and are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the violation of the Labor Code at times, as set out herein.

62. Class action treatment will allow Class Members to litigate their claims in a manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

F. Public Policy Considerations

63. Employees in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or means. Class actions provide class members who are not named in the complaint with a type of anonymity that allows for the vindication

1 of their rights while affording them privacy protections.

2 64. The quota laws clearly state that "... an employee cannot be required to meet a quota
3 that prevents compliance with meal or rest breaks, use of bathroom facilities (including reasonable
4 travel time to and from bathrooms), or compliance with occupational health and safety standards. A
5 quota that prevents compliance with meal or rest breaks, use of bathroom facilities, including
6 reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the
7 Labor Code or division standards is unlawful and may not be the basis for an adverse employment
8 action. A quota may be illegal if it directly or indirectly precludes employees from exercising these
9 statutory rights. For example, a quota that requires that employees always be engaged in productive
10 activity during work hours would be unlawful as it would directly prevent employees from taking
11 meal and rest periods to prevent them from using bathroom facilities during work hours or exercising
12 their rights regarding health and safety standards. Similarly, a quota may be so high that if an employee
13 takes meals and rests, goes to the bathroom, or attempts to exercise their rights under occupational
14 health and safety standards, they will fail to meet the quota. Such a quota indirectly precludes an
15 employee from exercising these statutory rights and is also unlawful. An employer cannot take adverse
16 employment action against an employee for failing to meet an unlawful quota or a quota that has not
17 been disclosed to the employee. (*See* Lab. Code, § 2103; *see* DLSE FAQ summary and description
18 of California's quota laws at https://www.dir.ca.gov/dlse/FAQ_warehousequotas.htm/.)

19 **FIRST CAUSE OF ACTION**

20 **(Failure to Pay Minimum Wages – Against All Defendants)**

21 65. Plaintiff realleges and incorporates by reference all of the allegations contained in the
22 preceding paragraphs as though fully set forth hereat.

23 66. At all relevant times, Plaintiff and Class Members were employees or former
24 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

25 67. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and Class
26 Members were entitled to receive minimum wages for all hours worked or otherwise under
27 Defendants' control.

28 68. For four (4) years prior to the filing of the Complaint in this Action through the present,

1 Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular
2 rate of pay that is above the minimum wage to the detriment of Plaintiff and Class Members.

3 69. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
4 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for
5 all hours worked or otherwise due.

6 Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections 1021.5 and
7 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full amount
8 of unpaid minimum wages, interest and penalties thereon, liquidated damages, reasonable attorneys'
9 fees and costs of suit

10 **SECOND CAUSE OF ACTION**

11 **(Failure to Pay Overtime Wages -Against All Defendants)**

12 70. Plaintiff realleges and incorporates by reference all of the allegations contained in the
13 preceding paragraphs as though fully set forth hereat.

14 71. At all relevant times, Plaintiff and Class Members were employees or former
15 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable
16 Wage Orders.

17 72. At all times relevant to this Complaint, Labor Code section 510 was in effect and
18 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
19 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated at
20 the rate of no less than one and one-half times the regular rate of pay for an employee."

21 73. At all times relevant to this Complaint, Labor Code section 510 further provided that
22 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
23 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
24 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay."

25 74. Four (4) years prior to the filing of the Complaint in this action through the present,
26 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more
27 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
28 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a

1 result of, including but not limited to, and Defendants failing to accurately track and/or pay for all
2 hours actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Class
3 Members.

4 75. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater than
5 eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays
6 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on
7 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and
8 applicable IWC Wage Orders, and California law.

9 76. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have been
10 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
11 interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and
12 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

13 **THIRD CAUSE OF ACTION**

14 **(Failure to Provide Meal Periods – Against All Defendants)**

15 77. Plaintiff realleges and incorporates by reference all of the allegations contained in the
16 preceding paragraphs as though fully set forth hereat.

17 78. At all relevant times, Plaintiff and Class Members were employees or former
18 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

19 79. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall
20 employ an employee for a work period of more than five (5) hours without a timely meal break of not
21 less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore,
22 no employer shall employ an employee for a work period of more than ten (10) hours per day without
23 providing the employee with a second timely meal period of not less than thirty (30) minutes in which
24 the employee is relieved of all of his or her duties.

25 80. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
26 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,
27 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of
28 compensation for each workday that the meal period is not provided.

81. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

82. By their failure to provide Plaintiff and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing, at times, to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 512 and applicable Wage Orders.

83. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

84. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

85. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

86. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

87. California law and applicable Wage Orders require that employers “authorize and permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest

1 period, and employees who work shifts of more than ten (10) hours must be provided thirty (30)
2 minutes of paid rest period.

3 88. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
4 with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare
5 Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's
6 regular rate of compensation for each work day that the rest period is not provided.

7 89. For four (4) years prior to the filing of the Complaint in this Action through the present,
8 Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 10-
9 minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof.
10 Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's
11 regular rate of compensation on the occasions that Class Members were not authorized or permitted
12 to take compliant rest periods.

13 90. By their failure, at times, to authorize and permit Plaintiff and Class Members to take
14 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's
15 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants willfully
16 violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

17 91. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
18 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
19 for rest periods that they were not authorized or permitted to take.

20 92. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
21 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus interest
22 and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of
23 Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

24 **FIFTH CAUSE OF ACTION**

25 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

26 93. Plaintiff realleges and incorporates by reference all of the allegations contained in the
27 preceding paragraphs as though fully set forth hereat.

28 94. At all relevant times, Plaintiff and Class Members were employees or former

1 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable
2 Wage Orders.

3 95. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
4 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
5 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to discharge
6 immediately upon termination. Class Members who resigned were entitled to payment of all wages
7 earned and unpaid prior to resignation within 72 hours after giving notice of resignation or, if they
8 gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid at the
9 time of resignation.

10 96. Plaintiff is informed and believes, and based thereon alleges, that in the three (3) years
11 before the filing of the Complaint in this Action through the present, Defendants, due to the failure,
12 at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class Members all
13 wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

14 97. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and
15 Class Members all wages earned prior to termination or resignation in accordance with Labor Code
16 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff and
17 Class Members at the time of termination in accordance with Labor Code sections 201 and 202, but
18 intentionally adopted policies or practices incompatible with the requirements of Labor Code sections
19 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or
20 resignation.

21 98. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
22 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
23 resignation, until paid, up to a maximum of thirty (30) days.

24 99. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
25 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned
26 prior to termination or resignation.

27 100. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
28 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover

1 waiting time penalties, interest, and their costs of suit, as well.

2 **SIXTH CAUSE OF ACTION**

3 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

4 101. Plaintiff realleges and incorporates by reference all of the allegations contained in the
5 preceding paragraphs as though fully set forth hereat.

6 102. At all relevant times, Plaintiff and Class Members were employees or former
7 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

8 103. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members were
9 entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized
10 statement that accurately reflects, among other things, gross wages earned; total hours worked; net
11 wages earned; all applicable hourly rates in effect during the pay period and the corresponding number
12 of hours worked at each hourly rate; and the name and address of the legal entity that is the employer,
13 among other things.

14 104. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
15 before the filing of the Complaint in this Action through the present, Defendants failed to comply with
16 Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
17 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that
18 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all
19 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
20 at each hourly rate; piece rate information; and the name and address of the legal entity that is the
21 employer, among other things.

22 105. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate
23 wage statements was knowing, intentional, and willful. Defendants had the ability to provide Plaintiff
24 and the other Class Members with accurate wage statements, but, at times, willfully provided wage
25 statements that Defendants knew were not accurate.

26 106. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have
27 suffered injury. The absence of accurate information on Class Members' wage statements at times
28 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and

1 mathematical computations to determine the amount of wages owed; causes difficulty and expense in
2 attempting to reconstruct time and pay records; and led to submission of inaccurate information about
3 wages and amounts deducted from wages to state and federal governmental agencies, among other
4 things.

5 107. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members are
6 entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code
7 section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay
8 period, not to exceed an aggregate \$4,000.00 per employee.

9 108. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure
10 section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to recover the full
11 amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees,
12 and costs of suit.

13 **SEVENTH CAUSE OF ACTION**

14 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

15 109. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
16 incorporate each by reference as though fully set forth hereat.

17 110. At all relevant times, Plaintiff and Class Members were employees or former
18 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

19 111. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th days,
20 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
21 which the labor was performed, and labor performed between the 16th and the last day, inclusive, of
22 any calendar month, shall be paid for between the 1st and 10th day of the following month.”

23 112. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
24 independent and apart from, any other penalty provided in this article, every person who fails to pay
25 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and
26 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars
27 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful
28 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25

1 percent of the amount unlawfully withheld.”

2 113. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year
3 before the filing of the Complaint in this Action through the present, Defendants employed policies
4 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with
5 Labor Code section 204.

6 114. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
7 recover penalties for Defendants’ violations of Labor Code section 204, in the amount of one hundred
8 dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200) for each
9 subsequent violation in connection with each payment that was made in violation of Labor Code
10 section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

11 115. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
12 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,
13 interest, and their costs of suit, as well.

14 **EIGHTH CAUSE OF ACTION**

15 **(Violation of California’s Quota Law –Against All Defendants)**

16 116. Plaintiff realleges each and every allegation set forth in the preceding paragraphs and
17 incorporate each by reference as though fully set forth hereat.

18 117. At all relevant times, Defendants had a duty to comply with Labor Code sections 2100
19 *et seq.*

20 **Defendants Failed to Disclose Quotas & Enforces Undisclosed Quotas**

21 118. Starting January 1, 2022, Defendants were required to provide each new hire a written
22 description of each quota the Defendants required Plaintiff and Class Members to work under. This
23 includes the number of tasks to be performed or materials that must be produced or handled within a
24 time period, and any potential adverse employment action that could result from failing to meet quotas
25 as defined by Labor Code 2100 *et. seq.*

26 119. Plaintiff and Class Members routinely worked more than twelve hours in Defendants’
27 warehouses and logistics centers throughout California and strictly enforced its unlawful quotas.
28 Defendants knew they had a duty to disclose written quotas in compliance with California’s quota

1 laws and failed to comply with its legal duty despite the advice of its legal counsel.

2 120. Defendants had and have the financial ability to comply with California's quota laws,
3 but willfully, knowingly and intentionally refuse to comply despite its profit and financial strength.
4 Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants
5 were advised by skilled lawyers, employees, and other professionals who were knowledgeable about
6 California's wage and hour laws, employment and personnel practices, and the requirements of
7 California law.

8 121. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
9 have known they imposed systematic quota and production demands on Plaintiff and Class Members
10 which violated the rights of employees pursuant to Labor Code sections 2100 *et. seq.* Defendants, and
11 each of them, know and have known at all times herein referenced that it requires and required Plaintiff
12 and Class Members "...to meet a quota that prevents compliance with meal or rest breaks, use of
13 bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational
14 health and safety laws in the Labor Code or division standards" in violation of Labor Code section
15 2102.

16 Illegal Quotas Created Safety/OSHA Risks and/or Increased Injury Rates

17 122. On information and belief, hundreds of employees have suffered quota related injuries
18 since January 1, 2022. On information and belief, Defendants, and each of them, have an unwritten
19 policy which is implemented through supervisors and managers that eliminates injured employees.
20 While Defendants, and each of them, sometimes offer light duty positions and tasks, the reality is
21 injured employees were targeted for elimination for one well known reason: the perception and false
22 belief that injured employees could not meet Defendants' illegal quotas. Ultimately, injured
23 employees are categorized as unproductive employees and are terminated for "low performance."

24 123. Defendants, and each of them, willfully, knowingly and intentionally failed to establish
25 quotas that did not harm Plaintiff and Class Members in order to increase Defendants' profits without
26 concern for employee safety. Defendants' quotas required Plaintiff and Class Members, to meet
27 quantified work and production targets and quotas relating to their warehouse duties.

28 Defendants' Warehouse Employees are Covered Employees

1 124. Defendants, and each of them, are covered employers and maintain, implement, and
2 enforces illegal quotas. Plaintiff and Class Members are subject to quotas and are protected by Labor
3 Code section 2100, subdivision (h), which states that a "quota" means a work standard under which
4 an employee is assigned or required to perform at a specified productivity speed, or perform a
5 quantified number of tasks, or to handle or produce a quantified amount of material, within a defined
6 time period and under which the employee may suffer an adverse employment action if they fail to
7 complete the performance standard.”

8 125. Defendants, and each of them, measure, analyze, store, evaluate and/or rate warehouse
9 employees’ performance based on employee work speed data and subsequently takes adverse action
10 against them for failing to meet undisclosed quotas. Labor Code section 2100 states at subdivision
11 (e)(1) that “‘employee work speed data’ means information an employer collects, stores, analyzes, or
12 interprets relating to an individual employee's performance of a quota, including, but not limited to,
13 quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of
14 tasks performed, measurements or metrics of employee performance in relation to a quota, and time
15 categorized as performing tasks or not performing tasks.” Under section (e)(2), “‘employee work
16 speed data’ does not include qualitative performance assessments, personnel records, or itemized
17 wage statements pursuant to Section 226, except for any content of those records that includes
18 employee work speed data as defined in this part.”

19 126. Defendants store, track, and analyze employees’ speed data to measure performance
20 and takes adverse employment action against employees in violation of Labor Code section 2102,
21 which states that “[a]n employee shall not be required to meet a quota that prevents compliance with
22 meal or rest breaks, use of bathroom facilities, including reasonable travel time to and from bathroom
23 facilities, or occupational health and safety laws in the Labor Code or division standards. An employer
24 shall not take adverse employment action against an employee for failure to meet a quota that does
25 not allow a worker to comply with meal and rest breaks, or occupational health and safety laws in the
26 Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the
27 employee pursuant to Section 2101.”

28 127. Plaintiff and Class Members, as alleged throughout this complaint, were required to

1 meet excessive quotas. Defendants could comply with the law by complying with the law and refuse
2 to do so. Defendants claim they do not have, maintain, implement, or require quotas of any of its
3 warehouse employees.

4 Defendants Changes Quotas Regularly and Fail to Disclose New Quotas

5 128. Defendants failed to advise and/or disclose to new hires the written quota description
6 as required by Labor Code section 2101. Moreover, Defendants, and each of them, change their quotas
7 regularly and do not provide (a) written disclosure(s) to warehouse employees after each quota is
8 updated or changed.

9 129. Defendants, and each of them, failed to disclose Plaintiff's quota after Plaintiff
10 demanded Plaintiff's written disclosures pursuant to Labor Code section 2104, which states at (a)(1)
11 that "[i]f a current or former employee believes that meeting a quota caused a violation of their right
12 to a meal or rest break or required them to violate any occupational health and safety laws in the Labor
13 Code or division standards, they have the right to request, and the employer shall provide, a written
14 description of each quota to which the employee is subject and a copy of the most recent 90 days of
15 the employee's own personal work speed data." Subdivision (a)(2) states that "[i]f a former employee
16 requests a written description of the quotas to which they were subject and a copy of their own
17 personal work speed data pursuant to paragraph (1), the employer shall provide 90 days of the former
18 employee's quotas and personal work speed data for the 90 days prior to the date of the employee's
19 separation from the employer. Subdivision (a)(3) states that "[a] former employee is limited to one
20 request pursuant to this subdivision." Subdivision (b) states that "[a]n employer that receives a written
21 or oral request for information pursuant to subdivision (a) shall comply with the request as soon as
22 practicable, but no later than 21calendar days from the date of the request. Plaintiff, through their
23 Counsel of record, served on Defendants a demand for a written description of the quotas they were
24 subject to. Defendants ignored their request. More than 21 days have passed since the request for a
25 written description and Defendants refuses to comply with the law. As such, Plaintiff is forced to
26 both file a lawsuit and/or file for injunctive relief for Plaintiff and on behalf of Class Members.

27 Quotas Interfered with Employees' Use of Bathroom Facilities

28 130. Plaintiff and Class Members were restricted in their ability to use the bathroom

1 facilities as a result of Defendants’ (and each of their) unlawful quota requirements, as alleged herein
2 and above. Employees were monitored by Defendants’ leads and/or supervisors and were instructed
3 to minimize the use of the bathroom facilities or were restricted to use bathroom facilities until the
4 designated break time. As such, Defendants, and each of them, violated Labor Code sections 2100 *et*.
5 *seq.*

6 Illegal Quotas Created Safety/OSHA Risks and/or Increased Injury Rates

7 131. On information and belief, hundreds of employees have suffered quota related injuries.
8 On information and belief, Defendants’ (and each of their) unwritten policies, which are implemented
9 through supervisors and managers, is to eliminate injured employees. While Defendants, and each of
10 them, sometimes offer light duty positions and tasks the reality is injured employees were targeted for
11 elimination for one well known reason: the perception and false belief that injured employees could
12 not meet Defendants’ illegal quotas. Ultimately, injured employees are categorized as unproductive
13 employees and are terminated for “low performance.”

14 Quotas Adversely Impacted Meal & Rest Periods

15 132. Defendants knew that Plaintiff, Class Members, and Class Members were entitled to
16 receive legal meal periods. Defendants, and each of them, enacted quotas that prevented Plaintiff and
17 Class Members from complying with California’s meal period laws. Plaintiff and Class Members
18 regularly worked in excess of five (5) and/or 10 hours per workday. In violation of the Labor Code
19 and IWC Wage Orders, Plaintiff and Class Members did not receive compliant lunches because of
20 Defendants’ unlawful quotas.

21 133. Defendants, and each of them, maintained excessive quota demands which interfered
22 with Plaintiff and Class Members’ ability to take legal meal periods and in fact it prevented them from
23 complying with California law regarding lunches. For example, employees were monitored,
24 reprimanded, and discouraged from taking meal periods. Employees were required under the penalty
25 of reprimand or termination to clock in and out for meal periods. This ruse was implemented and
26 required by Defendants for unlawful purposes. In reality, the unwritten meal period policy was to
27 work through meal period or be punished. If Defendants can demonstrate employees clocked in and
28 out for lunch, then it can falsely argue that they complied with California law in defending the many

1 lawsuits accusing them of violating California break laws. The reality was, is, and will continue to be
2 that Defendants' quotas are excessive and can only be met if Plaintiff and Class Members work
3 through meal periods or take shortened meal periods.

4 On Duty/On Call Breaks

5 134. Defendants also violated Labor Code section 2103 because it required and continues
6 to require on duty or on call breaks and routinely interrupted breaks. Defendants, and each of them,
7 know when warehouse employees are working through breaks to meet quotas in violation of Labor
8 Code section 2103 which states, "(n)otwithstanding subdivision (a), consistent with existing law, meal
9 and rest breaks are not considered productive time unless the employee is required to remain on call.

10 135. Plaintiff and Class Members were regularly and routinely required to remain on call to
11 meet quotas. Defendants required employees to regularly monitor quota statistics and receive and
12 respond to messages when on breaks.

13 Quotas Adversely Impacted Class Members Right to Take Legal Rest Breaks

14 136. Defendants knew that Plaintiff, and Class Members were entitled to legal rest breaks.
15 Defendants enacted quotas that prevented Plaintiff and Class Members from complying with
16 California rest period laws.

17 137. On information and belief, Defendants, and each of them, take adverse employment
18 action against employees who choose and/or insist on a legal rest break. Class Members were
19 monitored, reprimanded, and discouraged from using bathroom facilities until their designated time
20 for rest breaks. However, this policy and practice was implemented and encouraged by Defendants'
21 (and each of their) supervisory and/or managerial personnel such that if Class Members worked
22 through rest break or took shortened rest breaks, they could meet Defendants' (and each of their) quota
23 requirements.

24 138. Defendants also implemented an illegal policy requiring Plaintiff and Class Members
25 to "waive" meal periods. Plaintiff and Class Members were required to sign meal period waivers when
26 in fact many employees did not want to sign waivers because they wanted a break. Plaintiff and, on
27 information and belief, Class Members also complained about Defendants' unlawful breaks policies,
28 as evidenced by the dozens of lawsuits for breaks violations, and faced retaliation and termination in

1 violation of Labor Code section 2105 which states that “[f]or purposes of this part, there shall be a
2 rebuttable presumption of unlawful retaliation if an employer in any manner discriminates, retaliates,
3 or takes any adverse action against any employee within 90 days of the employee doing either of the
4 following: (a) Initiating the employee's first request in a calendar year for information about a quota
5 or personal work speed data pursuant to subdivision (a) of Section 2104; (b) Making a complaint
6 related to a quota alleging any violation of Sections 2101 to 2104, inclusive, to the commissioner, the
7 division, other local or state governmental agency, or the employer.

8 Injunctive Relief

9 139. Plaintiff and Class Members were and continue to labor under the constant threat of
10 Defendants’ adverse employment action in violation of Labor Code sections 2100 *et. seq.*

11 140. Defendants knew or should have known that its quotas were and continue to be illegal.
12 Defendants new and know its quotas require Plaintiff and Class Members to expose themselves to
13 OSHA hazards and other safety hazards. Defendants have been sued many times for violating
14 California’s wage and hour laws. Despite prior, current and future litigation, Defendants, and each of
15 them, will continue to violate California’s quota laws absent a jury award in Plaintiff and Class
16 Members’ favor

17 141. Plaintiff and Class Members are entitled to injunctive relief under California Labor
18 Code section 2108, compelling Defendants to comply with California Labor Code sections 2100 *et.*
19 *seq.*, and seek the recovery of attorneys’ fees and costs incurred in obtaining this
20 injunctive relief.

21 NINTH CAUSE OF ACTION

22 **(Unfair Competition – Against All Defendants)**

23 142. Plaintiff realleges and incorporates by reference all of the allegations contained in the
24 preceding paragraphs as though fully set forth hereat.

25 143. Plaintiff is informed and believes and based thereon alleges that the unlawful conduct
26 of Defendants alleged herein constitutes unfair competition within the meaning of Business and
27 Professions Code section 17200. Plaintiff is further informed and believes and based thereon alleges
28 that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, for at least

1 four (4) years prior to the filing of this action and continuing to the present, Defendants have had a
2 consistent policy of failing to provide Plaintiff and similarly situated employees or former employees
3 within the State of California with the rights provided to them under the Healthy Workplace Healthy
4 Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their unlawful business
5 practices in violation of the Labor Code, Defendants have gained a competitive advantage over other
6 comparable companies doing business in the State of California that comply with their obligations to
7 compensate employees in accordance with the Labor Code.

8 144. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class
9 Members have suffered injury in fact and lost money or property.

10 145. Pursuant to Business and Professions Code section 17203, Plaintiff and Class Members
11 are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor Code and
12 requiring the establishment of appropriate and effective means to prevent further violations, as well
13 as restitution of all wages and other monies owed to them under the Labor Code, including interest
14 thereon, in which they had a property interest and which Defendants nevertheless failed to pay them
15 and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff and
16 Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure
17 to comply with the Labor Code.

18 146. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure
19 section 1032 and interest under Civil Code section 3287.

20 **TENTH CAUSE OF ACTION**

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

22 147. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
23 preceding paragraphs as though fully set forth hereat.

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

25 148. At all relevant times herein, Labor Code section 204, requires and required that:
26 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
27 between the 16th and 26th day of the month during which the labor was performed, and labor
28

1 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
2 between the 1st and 10th day of the following month.”

3 149. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
4 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this
5 article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204,
6 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial
7 violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For each
8 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each
9 failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

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

19 Civil Penalties Under Labor Code § 226.3

20 151. Defendants had and have a policy or practice of failing to comply with Labor Code
21 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with
22 itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages
23 earned; the name and address of each employer with whom they have been placed to work; all
24 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
25 at each hourly rate; the legal name of the employer and/or the name and address of the legal entity
26 securing the employer’s services if the employer is a farm labor contractor; and other such information
27 as required by Labor Code section 226, subdivision (a) and/or Labor Code section 226.2 to the extent
28 it does not include for piece-rate work the information required therein including, without limitation,

1 the quantity, rate and units worked per piece, as well as separately itemized non-productive time and
2 rest and recovery periods.

3 152. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a) of
4 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
5 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
6 violation in a subsequent citation, for which the employer fails to provide the employee a wage
7 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

8 153. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
9 this section are in addition to any other penalty provided by law.”

10 154. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and
11 have a policy or practice of failing to furnish Aggrieved Employees with itemized wage statements as
12 set forth in the preceding paragraphs.

13 155. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
14 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
15 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for
16 the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period
17 for each subsequent violation.

18 Violation of Labor Code § 558

19 156. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
20 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
21 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil penalty
22 as follows:

23 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for
24 each pay period for which the employee was underpaid in addition to an amount
25 sufficient to recover underpaid wage;

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

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

2 157. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each
3 of them, violated, or caused to be violated, the Labor Code sections described herein, including
4 causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime
5 rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the
6 regular payday designated by employer, the name of the employer, including any “doing business as”
7 names used, the name, address, and telephone number of the workers’ compensation insurance carrier,
8 information regarding paid sick leave, and other pertinent information.

9 158. 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

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

22 160. 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.”

25 161. 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 plants
27 or establishments at which employees are employed, payroll records showing the hours worked daily
28 by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid

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

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

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

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

19 Violation of Labor Code § 1197.1

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

- 26 (1) For any initial violation that is intentionally committed, one hundred dollars
27 (\$100) for each underpaid employee for each pay period for which the employee
28 is underpaid. This amount shall be in addition to an amount sufficient to recover

1 underpaid wages, liquidated damages pursuant to Section 1194.2, and any
2 applicable penalties imposed pursuant to Section 203.

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

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

12 166. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
13 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without
14 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ minimum wages for all
15 hours worked or otherwise under Defendants’ control due to, without limitation, routinely failing to
16 accurately track and/or pay for all hours actually worked; detrimental rounding or manipulation of
17 time entries; paying straight pay instead of overtime or otherwise failing to pay overtime hours at the
18 proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,
19 entitling Plaintiff and other Aggrieved Employees to actual and liquidated damages.

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

26 Civil Penalties Under Labor Code § 2699

27 168. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
28 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed and

1 collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
2 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil action
3 brought by an aggrieved employee on behalf of himself or herself and other current or former
4 employees pursuant to the procedures specified in Labor Code section 2699.3.

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

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

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

14 171. To the extent Defendant previously used the notice and cure provision of Labor Code
15 section 2699.3 within the last twelve months, under section 2699.3(d), Defendant is not eligible to
16 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
17 conference process pursuant to section 2699.3(f).

18 172. In the event that Defendant is determined to have satisfied sections 2699(g), 2699(h),
19 or otherwise 2699(d)(1), Defendant is also, in the alternative, liable for civil penalties pursuant to
20 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

21 173. In the event that Defendant is determined to have, prior to this notice or a request for
22 records pursuant to Labor Code section 226, 432, or 1198.5, from Employee or his/her counsel,
23 adequately taken all reasonable steps to be in compliance with all provisions identified in this notice,
24 Defendant is still liable for civil penalties pursuant to section 2699(g)(1)-(3).

25 174. In the event that Defendant is deemed to have adequately taken all reasonable steps to
26 be in compliance with all provisions identified in this notice within 60 days of receiving this notice,
27 Defendant is still liable for civil penalties pursuant to Labor Code section 2699(h)(1)-(3).

28 175. If within five (5) years of any of violations described above, the LWDA or a court has

1 issued a finding or determination to the Defendant that its policy or practice giving rise to such
2 violations was unlawful, Defendant would be further liable for civil penalties pursuant to Labor Code
3 section 2699(f)(2)(B)(i). To the extent Defendant was found to have unlawfully committed some or
4 all of the above-related Labor Code violations, Defendant would thus be subject to increased penalties,
5 as applicable, under Labor Code sections 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3), and is not
6 eligible for reduced penalties under either Labor Code sections 2699(g) or 2699(h) for remedying
7 violations either prior to or after the serving of this notice. Regardless, as the Defendant's conduct
8 giving rise to the violations detailed herein was and is malicious, fraudulent, and/or oppressive, the
9 Defendant thus is subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and, per
10 Labor Code sections 2699(g)(3) and 2699(h)(3), is not eligible for reduced penalties under either
11 2699(g) or 2699(h), for remedying violations either prior to or after the Defendant's receipt of this
12 notice.

13 **DEMAND FOR JURY TRIAL**

14 176. Plaintiff demands a trial by jury on all causes of action contained herein.

15 **PRAYER**

16 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
17 against Defendants as follows:

- 18 A. An order certifying this case as a Class Action;
- 19 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff's
20 counsel as class counsel;
- 21 C. Damages for all wages earned and owed, including minimum and overtime wages,
22 under Labor Code sections 510, 558.1, 1194, 1197, 1199;
- 23 D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- 24 E. Damages for unpaid premium wages from missed meal and rest periods under,
25 among other Labor Code sections, 512, 558.1 and 226.7;
- 26 F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision
27 (e) and 558.1;
- 28 G. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5,

1197.1, and 2699;

H. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;

I. Waiting time penalties under Labor Code sections 203 and 558.1;

J. Penalties for failing to produce records under Labor Code § 226(e) and 1198.5;

K. Penalties to timely pay wages under Labor Code section 210;

L. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations, including, without limitation, under Labor Code sections 17200, *et seq.* and 2100, *et seq.*;

M. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;

N. Prejudgment and post-judgment interest at the maximum rate allowed by law;

O. For attorneys' fees in prosecuting this action;

P. For costs of suit incurred herein; and

Q. For such other and further relief as the Court deems just and proper.

Dated: June 25, 2026

BIBIYAN LAW GROUP, P.C.

BY: /s/ Camryn L. Melanson

Jason W. Rothman

Guido E. Toscano

Camryn L. Melanson

Attorney for Plaintiff HUMBERTO TAPIA and
on behalf of all others similarly situated

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1460 Westwood Boulevard, Los Angeles, California 90024.

On June 25, 2026, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** to be served by electronic transmission to the below-referenced electronic e-mail address as follows:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 25, 2026, at Thousand Oaks, California.

/s/ Stacy Sussman
STACY SUSSMAN