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10 on behalf of the State of California,
11 and others similarly situated and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF KERN**

14 UVALDO DIAZ, on behalf of the State of
15 California, and others similarly situated and
16 aggrieved,

17 Plaintiff,

18 v.

19 EMPIRE AG, INC., a California
20 Corporation; and DOES 1-100, inclusive,

21 Defendants.

Case No.: BCV-23-102163

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, *et seq.***

1 Plaintiff, UVALDO DIAZ (“PLAINTIFF”), an individual on behalf of PLAINTIFF, the
2 State of California, and all other Aggrieved Employees (as defined below), hereby files this
3 Complaint against Defendants EMPIRE AG, INC., a California Corporation; and DOES 1-100,
4 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and
5 believes and thereon alleges as follows:

6 **INTRODUCTION**

7 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
8 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
9 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
10 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
11 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

12 **JURISDICTION AND VENUE**

13 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
14 California statutes, including but not limited to the PAGA, and decisional law and regulations.

15 3. Venue is proper in this judicial district and the County of Kern pursuant to California
16 Code of Civil Procedure section 395.5 because DEFENDANTS transact business within this judicial
17 district and conduct alleged by PLAINTIFF herein occurred in this this judicial district. *See also*
18 *Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a
19 PAGA action is proper in any county where the defendants committed Labor Code violations against
20 some of its employees).

21 **THE PARTIES**

22 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
23 California and a citizen of the State of California.

24 5. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
25 DEFENDANTS in Kern County as an agricultural worker and/or similar job title(s) and/or
26 position(s), from in or around February 2022, through on or around May 27, 2022. Based on
27 information and belief, PLAINTIFF was assigned to work at various farms, including but not limited
28 to, farm(s) operating under the name “West Coast Grape Farms” and/or “West Coast Grape

Farming.”

6. DEFENDANTS are a California corporation that, at all relevant times, were authorized to do business within the State of California and are doing business in the State of California.

7. DEFENDANTS own, operate, or otherwise manage a farm labor contractor and/or farming and/or agricultural business.

8. The true names and capacities of the DOE Defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this Complaint to reflect the true names and capacities of the Doe Defendants when such identities become known.

9. PLAINTIFF is further informed and believes that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

JOINT LIABILITY

10. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control

1 was to reach situations in which multiple entities control different aspects of the employment
2 relationship. Supervision of the work, in the specific sense of exercising control over how services
3 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
4 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
5 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
6 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
7 California, applying a less stringent standard to what constitutes sufficient control by a business
8 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
9 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
10 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
11 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
12 employment,” *Id.* at 875 [emphasis added].

13 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and other
14 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
15 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
16 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
17 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
18 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
19 and Aggrieved Employees to work for them.

20 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
21 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
22 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
23 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
24 policies and practices regardless of the location(s) where they worked. Among other things,
25 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
26 in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
27 over the day-to-day operations and employment matters, including the power to hire and fire, set
28 schedules, issue employee policies, and determine rates of compensation across its locations in

1 California; (3) DEFENDANTS utilize the same policies and procedures for all California
2 employees, including issuing the same employee handbooks and other form agreements; (4)
3 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
4 employment matters; and, (6) DEFENDANTS share employees.

5 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
6 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and Aggrieved
7 Employees upon whose behalf PLAINTIFF brings these allegations and cause of action, in that
8 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
9 wages, hours and working conditions, and/or suffered or permitted them to work so as to be
10 considered the joint employers of PLAINTIFF and Aggrieved Employees.

11 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
12 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
13 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
14 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
15 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
16 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
17 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
18 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
19 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
20 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
21 writing the details of their compensation, and the manner in which they were to take meal and rest
22 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
23 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
24 collectively would evaluate their wage rates.

25 15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
26 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
27 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
28 Employees' employment, including the instrumentality that resulted in the illegal conduct for which

1 PLAINTIFF seeks relief in this Complaint.

2 16. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
3 control over, applied the same policies and practices, and engaged in the same acts and omissions
4 with regard to the other Aggrieved Employees.

5 17. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
6 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
7 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
8 services from which they benefited, and furthermore that the aforementioned entities had the right
9 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
10 times herein, so as to be considered the joint employers of PLAINTIFF.

11 18. By reason of their status as joint employers of PLAINTIFF and Aggrieved
12 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
13 Code and applicable Wage Orders as to all Aggrieved Employees.

14 **PAGA ALLEGATIONS**

15 19. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
16 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
17 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include:

18 All current and former non-exempt employees of any one or more of
19 the DEFENDANTS that worked at any location in California at any
20 time from one year plus 65 days from the filing of the initial
21 Complaint through the present (“PAGA Period”).

22 20. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
23 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
24 limitations period and suffered one or more of the Labor Code violations set forth herein.
25 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
26 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
27 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
28 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by

one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations committed by the employer – regardless of whether Plaintiff experienced all violations personally. *Id.* at 760-761.

COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS

21. PLAINTIFF, on April 28, 2023, through counsel, gave written notice by online filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged in this Complaint (“PAGA Notice”).

22. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved Employees.

23. PLAINTIFF seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

FACTUAL ALLEGATIONS

24. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees worked for DEFENDANTS in the State of California. At all times referenced herein, DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or permitted them to work.

25. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee. PLAINTIFF worked for DEFENDANTS as an agricultural worker and/or similar job title(s) and/or position(s), from in or around February 2022, through on or around May 27, 2022. Based on information and belief, DEFENDANTS assigned PLAINTIFF to work at various farms, including but not limited to, farm(s) operating under the name “West Coast Grape Farms” and/or “West Coast Grape Farming.”

26. PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) days per week.

1 27. At all relevant times, PLAINTIFF was a non-exempt employee. At times during the
2 relevant period, PLAINTIFF was paid on an hourly basis for time counted by DEFENDANTS as
3 hours worked. Based on information and belief, at times during the PAGA Period, DEFENDANTS
4 compensated PLAINTIFF and other Aggrieved Employees on a strictly piece-rate basis (per unit
5 planted, produced, cultivated, harvested and/or packed).

6 28. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
7 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
8 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
9 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
10 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
11 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
12 below.

13 29. Based on information and belief, DEFENDANTS implemented a policy and/or
14 practice of rounding meal period start and end times and/or automatically deducting at least thirty
15 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
16 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
17 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
18 PLAINTIFF and Aggrieved Employees of all wages owed.

19 30. Based on information and belief, Aggrieved Employees were not paid for all hours
20 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
21 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
22 the clock work policies and/or practices. For example, DEFENDANTS required PLAINTIFF and
23 other Aggrieved Employees to forego recording all worktime by, for example, requiring
24 PLAINTIFF and other Aggrieved Employees to sign off on a daily written time sheet that merely
25 acknowledged their attendance for their scheduled work hours and/or listed their scheduled hours
26 for the day as opposed to actual hours worked. For example, DEFENDANTS' wage statements
27 and/or time records for PLAINTIFF for, including but not limited to, the following dates, show
28 exactly 8.00 regular hours worked: May 16, 2022, May 17, 2022, May 18, 2022, May 19, 2022, and

1 May 20, 2022.

2 31. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
3 consistently required to perform pre-shift and/or post-shift work that was neither recorded nor
4 compensated. For example, based on information and belief, Aggrieved Employees were required
5 to be at their field areas/respective workstations at their scheduled shift start time or face discipline.
6 As such, Aggrieved Employees typically arrived at work at least five (5) minutes prior to their
7 scheduled shift start times each day so that they could perform any required pre-shift work, including
8 but not limited to, bestowing their personal items in the employee storage area, retrieving/compiling
9 their work tools/equipment (e.g., knives, scissors, baskets/containers, tractors) making any
10 necessary adjustments to their tools/equipment and/or perform any required maintenance tasks, don
11 work clothing/their uniforms and protective equipment (aprons, gloves, hairnets and/or face masks),
12 and/or complete other work tasks so as to be ready to be at their respective work stations at their
13 scheduled shift start times as mandated by DEFENDANTS. This pre-shift off-the-clock work was
14 neither recorded nor compensated resulting in the substantial underpayment of wages owed to
15 PLAINTIFF and other Aggrieved Employees.

16 32. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
17 also required to perform post-shift off-the-clock work that was neither recorded nor compensated.
18 For example, based on information and belief, Aggrieved Employees put away their work
19 tools/equipment and/or changed out of their work clothing/uniform and/or protective gear after the
20 end time of their scheduled shifts and/or outside of their scheduled shift times.

21 33. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
22 required to perform additional off-the-clock work for which they were not compensated. For
23 example, based on information and belief, DEFENDANTS did not compensate Aggrieved
24 Employees for time spent donning and doffing personal protective equipment, safety equipment
25 and/or uniforms/work clothing (e.g., aprons, gloves, hairnets and/or face masks) during meal
26 periods, rest periods, before the start of a scheduled shift, and/or after completing a scheduled shift.
27 Based on information and belief, DEFENDANTS also required Aggrieved Employees to wash their
28 hands before clocking in for their shifts, during rest periods and/or before clocking back in from

1 meal periods, resulting in off-the-clock work and unpaid minimum wages and unpaid overtime
2 wages as well as meal and rest period violations.

3 34. In addition, based on information and belief, DEFENDANTS required Aggrieved
4 Employees to obtain Covid-related testing outside of their scheduled shift times without
5 compensating them for the time spent completing DEFENDANTS' testing requirements.

6 35. Based on information and belief, Aggrieved Employees were required to undergo
7 pre-shift/off-the-clock temperature screenings and/or answer screening questions related to COVID-
8 19, which resulted in at least a few minutes of off-the-clock work. This off-the-clock work was
9 uncompensated and resulted in unpaid wages.

10 36. Moreover, based on information and belief, at times, DEFENDANTS paid
11 PLAINTIFF and other Aggrieved Employees on a strictly piece-rate basis (e.g., per unit created
12 and/or harvested), at least during some pay periods, during the relevant time period. However, based
13 on information and belief, DEFENDANTS failed to separately compensate Aggrieved Employees
14 for all non-piece rate related activities/all non-productive time, including but not limited to, all rest
15 breaks and/or time spent preparing/setting up for tasks, waiting between jobs and tasks and/or other
16 waiting time, and/or performing work duties that otherwise fall outside of the piece-rate pay criteria.
17 DEFENDANTS' failure to separately compensate Aggrieved Employees for their rest periods and/or
18 other non-productive time and/or failure to compensate them at the correct rates for all non-
19 productive time including rest periods resulted in the failure to pay Aggrieved Employees for all
20 hours worked and violations of California wage and hour laws, including but not limited to, Labor
21 Code sections 226.2 and/or 1197. Based on information and belief, DEFENDANTS further failed
22 to include this information on these employees' wage statements required by Labor Code section
23 226.2.

24 37. Based on information and belief, DEFENDANTS failed to pay Aggrieved
25 Employees for time they were required to spend completing orientation, policy questionnaires,
26 and/or time spent completing the onboarding process including but not limited to reviewing various
27 documents and policies provided by DEFEDANTS. Based on information and belief, this work time
28 was completed off-the-clock and was not compensated.

1 38. Based in information and belief, DEFENDANTS implemented a time-rounding
2 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
3 compensable time because the time-rounding system implemented by DEFENDANTS would
4 almost always, if not always, result in understating actual compensable work time. For example, as
5 explained above, DEFENDANTS' wage statements and/or time records for PLAINTIFF evidence
6 DEFENDANTS' rounded PLAINTIFF's total hours worked to at least the nearest half and/or whole
7 hour. For example, DEFENDANTS' wage statements and/or time records for PLAINTIFF for
8 including but not limited to, the following dates, show precisely "8.00" regular hours worked: May
9 16, 2022, May 17, 2022, May 18, 2022, May 19, 2022, and May 20, 2022. Based on information
10 and belief, DEFENDANTS rounded PLAINTIFF's hours to at least the nearest half and/or whole
11 hour during most if not all pay periods during which PLAINTIFF was compensated by
12 DEFENDANTS on an hourly basis for time counted by DEFENDANTS as hours worked, resulting
13 in the consistent underpayment of minimum wages and overtime wages owed to PLAINTIFF. Based
14 on information and belief, DEFENDANTS also rounded to at least the nearest half and/or whole
15 hour the total hours worked of other Aggrieved Employees that were compensated on an hourly
16 basis, resulting in the consistent underpayment of minimum wages and overtime wages owed to
17 those Aggrieved Employees as well as wage statement violations described herein.

18 39. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
19 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
20 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
21 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
22 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
23 forty (40) hours in a week.

24 40. Based on information and belief, DEFENDANTS had actual and/or constructive
25 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
26 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
27 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
28 of California's minimum and overtime wage laws.

1 41. Based on information and belief, DEFENDANTS failed and continue to fail to pay
2 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
3 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
4 a work week, in violation of California's overtime laws.

5 42. Based on information and belief, DEFENDANTS failed to incorporate all non-
6 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
7 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
8 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
9 wages owed to PLAINTIFF and other Aggrieved Employees.

10 43. Based on information and belief, DEFENDANTS sometimes paid Aggrieved
11 Employees multiple rates of base pay in one workweek but failed to incorporate all multiple rates
12 of base pay into the regular rate of pay for purposes of calculating the owed overtime rate. For
13 example, on information and belief, at times, Aggrieved Employees earned multiple base pay rates
14 during the same workweek, yet DEFENDANTS failed to incorporate all/both base pay rates into
15 the regular rate of pay for purposes of calculating the owed overtime rate, resulting in the
16 miscalculation and underpayment of overtime wages owed to Aggrieved Employees.

17 44. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
18 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
19 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
20 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
21 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
22 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
23 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
24 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
25 completely. For example, based on information and belief, at times, Aggrieved Employees were
26 required to work through their meal periods and/or had their meal periods interrupted and/or cut
27 short due to lack of coverage, the need to keep up with production deadlines, respond to work-
28 related communications and/or complete other work tasks. Moreover, based on information and

1 belief, DEFENDANTS had no mechanism in place for with which PLAINTIFF and other Aggrieved
2 Employees could record the true start and end times of meal periods, and DEFENDANTS did not
3 record the true start and end times of PLAINTIFF's and other Aggrieved Employees' meal periods.
4 Rather, DEFENDANTS performed an automatic meal period deduction of at least thirty minutes
5 per shift per Aggrieved Employees even though DEFENDANTS had actual and/or constructive
6 knowledge that Aggrieved Employees were frequently required to take shortened and/or interrupted
7 meal periods and/or skip their meal periods completely due to lack of coverage, the need to keep up
8 with production deadlines, respond to work-related communications and/or complete other work
9 tasks.

10 45. Based on information and belief, other Aggrieved Employees were consistently
11 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
12 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
13 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
14 expectations.

15 46. Based on information and belief, DEFENDANTS implemented policies and/or
16 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
17 during unpaid meal periods.

18 47. Based on information and belief, DEFENDANTS required Aggrieved Employees to
19 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
20 into account when scheduling meal periods for Aggrieved Employees. Based on information and
21 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

22 48. Based on information and belief, despite DEFENDANTS' failure to provide lawful
23 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
24 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
25 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
26 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
27 Employees did not receive lawful meal periods.

28 49. Moreover, based on information and belief, Aggrieved Employees who worked shifts

1 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

2 50. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
3 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
4 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
5 did DEFENDANTS have any sort of compliant policy in practice.

6 51. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
7 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
8 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
9 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
10 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
11 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

12 52. Based on information and belief, DEFENDANTS had actual and/or constructive
13 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
14 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
15 violation of California's meal period laws.

16 53. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
17 additional hour of wages at their respective regular rates of compensation for each workday a lawful
18 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
19 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
20 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
21 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
22 compensation for purposes of calculating the owed meal period premium.

23 54. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
24 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
25 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
26 middle of the work period, as required by law.

27 55. PLAINTIFF and other Aggrieved Employees were not adequately informed,
28 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California

1 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
2 the taking or timing of duty-free rest periods.

3 56. Based on information and belief, DEFENDANTS did not have a have a compliant
4 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
5 practice. For example, based on information and belief, Aggrieved Employees were frequently
6 required to work through their rest periods and/or had their rest periods interrupted and/or cut short
7 due to lack of coverage, the need to keep up with production deadlines, respond to work-related
8 communications and/or complete other work tasks. For example, during many shifts, PLAINTIFF
9 was often required to work through both of his owed rest periods due to his workload, the need to
10 keep up with production deadlines and/or complete other work tasks, yet DEFENDANTS did not
11 pay PLAINTIFF rest period premiums for those missed rest periods.

12 57. Based on information and belief, any purported rest periods were interrupted, cut
13 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
14 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
15 completely and/or take non-compliant rest periods.

16 58. Moreover, based on information and belief, DEFENDANTS failed to provide any
17 form of a third rest period on shifts lasting longer than ten hours.

18 59. Based on information and belief, DEFENDANTS implemented policies and/or
19 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
20 DEFENDANTS' control during rest periods.

21 60. Based on information and belief, Aggrieved Employees were pressured to complete
22 their work duties according to a designated schedule such that rest periods were only taken once
23 tasks were completed, and/or as time permitted.

24 61. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
25 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
26 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
27 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
28 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,

1 shift differential pay, and/or other non-discretionary compensation into the regular rate of
2 compensation for purposes of calculating the owed rest period premium.

3 **62. Cooldown Recovery Period Violations.** California Code of Regulations, Title 8,
4 section 3395 mandates that all employers with “outdoor places of employment” implement a heat
5 illness prevention program that includes, among other requirements, providing workers “cool-
6 down” periods of at least five minutes in the shade. Specifically, section 3395 provides that
7 “employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of
8 no less than five minutes at a time when they feel the need to do so to protect themselves from
9 overheating” and that “such access to shade shall be permitted at all times.” Under California Labor
10 Code section 226.7, if an employer fails to provide an employee a recovery period, the employer
11 shall pay the employee one additional hour of pay at the employee’s regular rate of compensation
12 for each workday that the meal or rest or recovery period is not provided.

13 **63.** Based on information and belief, PLAINTIFF and other Aggrieved Employees were
14 required to spend multiple hours at a time outdoors in significantly high temperature heat conditions.
15 DEFENDANTS failed to provide proper heat illness prevention training and/or heat illness
16 policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8
17 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by
18 California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS
19 maintained a policy and practice of not permitting necessary time for cooldown recovery breaks,
20 and as a result, Aggrieved Employees were required to remain outdoors with little to no access to
21 shade for extended periods of time. In addition, DEFENDANTS, failed to pay PLAINTIFF and
22 other Aggrieved Employees with an additional hour of pay at PLAINTIFF’s regular rate of pay for
23 each missed cooldown recovery period.

24 **64. Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable
25 IWC Wage Orders, including but not limited to Wage Order 13, employees shall be provided with
26 suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
27 shall be provided in an area separate from the toilet rooms and shall be available to employees during
28 work hours.”

1 65. Based in information and belief, DEFENDANTS' locations/facilities are generally
2 similar in layout and design, and there was, and continues to be, space that allows for a resting
3 facility that employees may use to cease work and recover during meal or rest periods.
4 DEFENDANTS could have provided PLAINTIFF and Aggrieved Employees with a resting facility
5 within DEFENDANTS' facilities/locations with reasonable or no modification, but instead denied
6 and continues to deny, employees with suitable areas to rest (*e.g.* a break area). As a result,
7 PLAINTIFF and other Aggrieved Employees were forced to adjust to areas not conducive to resting,
8 including but not limited to leaning up against the wall, or search for facilities outside of
9 DEFENDANTS' premises which are not designated or reserved for their rest, such as their personal
10 vehicles.

11 66. Based on information and belief, DEFENDANTS did not provide Aggrieved
12 Employees assigned by DEFENDANTS to work at indoor facilities with suitable resting facilities
13 during their hours of work, particularly during meal and/or rest periods.

14 67. DEFENDANTS' failure to provide suitable resting facilities to PLAINTIFF and
15 Aggrieved Employees violated and continue to violate the applicable Wage Order, section 13(B)
16 and the California Labor Code, including but not limited to section 1198.

17 68. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
18 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
19 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
20 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
21 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
22 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
23 applicable hourly rates in effect during the pay period and the corresponding number of hours
24 worked at each hourly rate by the employee.

25 69. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
26 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
27 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
28 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal

1 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
2 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
3 other off-the-clock work policies and practices described above) which results in a violation of
4 Labor Code section 226(a).

5 70. Based on information and belief, wage statements issued by DEFENDANTS failed
6 to list all applicable hourly rates in effect during the pay period and the corresponding number of
7 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
8 Code section 226(a)(9). For example, as described herein, based on information and belief,
9 DEFENDANTS failed to incorporate all forms of non-discretionary compensation earned during
10 the pay period, including but not limited to, non-discretionary bonus/incentive pay and/or shift
11 differential pay and/or multiple base rates of pay and/or other non-discretionary compensation into
12 the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each
13 hour of overtime worked by Aggrieved Employees.

14 71. Based on information and belief, DEFENDANTS issued wage statements that failed
15 to list the number of piece rate units completed/earned during the pay period and the applicable rate
16 of pay for each piece rate unit.

17 72. Moreover, based on information and belief, DEFENDANTS issued wage statements
18 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
19 other things, failing to list the correct name and/or address of the legal entity that is the employer,
20 in violation of Labor Code section 226(a)(8).

21 73. Based on information and belief, wage statements issued by DEFENDANTS failed
22 to list the inclusive dates of the pay period for which the Aggrieved Employees is being paid.

23 74. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
24 not include all of the statutorily required information, including but not limited to, the correct name
25 and/or address of the legal entity that is the employer.

26 75. Based on further information and belief, DEFENDANTS issued wage statements to
27 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential
28 wages were paid in violation of Labor Code section 226.

1 76. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
2 Employees that were not accurate and did not include all of the statutorily required information. As
3 such, DEFENDANTS violated Labor Code section 226.

4 77. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
5 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
6 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
7 from Aggrieved Employees paychecks during the relevant period, including but not limited to,
8 deducting costs of uniforms and/or other business costs and/or deducting wages for purported
9 overpayments from previous pay periods and/or unlawfully deducting wages for negligently
10 damaged property and/or deducting costs advanced by DEFENDANTS from Aggrieved
11 Employees’ final paychecks. Such a practice is in violation of including but not limited to, Labor
12 Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section
13 2699.

14 78. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
15 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
16 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
17 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
18 required by law, including but not limited to the following records: total daily hours worked,
19 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
20 began and ended each work period, time records of meal periods, and accurate itemized wage
21 statements.

22 79. DEFENDANTS have failed and continue to fail to keep accurate and complete
23 records showing total hours worked by virtue of DEFENDANTS’ time rounding, automatic meal
24 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
25 employer control during unpaid meal periods, failure to record the true start and end times of meal
26 periods, shift start times and shift end times, and other off-the-clock work policies and practices
27 described herein.

28 80. **Violation of Labor Code Section 226.2.** Labor Code section 226.2 requires an

1 employer to pay employees compensated on a piece-rate basis separately for rest and recovery
2 periods and nonproductive time, apart from any piece-rate pay. This statute further requires an
3 employer to include on the wage statements for these employees the total hours of compensable rest
4 and recovery period, the total hours for other non-productive time, the rates of compensation for
5 these hours, and the gross wages paid for these hours. In addition, the statute requires that employees
6 shall be compensated for rest and recovery periods at a regular hourly rate that is no less than the
7 higher of: (i) an average hourly rate determined by dividing the total compensation for the
8 workweek, exclusive of compensation for rest and recovery periods and any premium compensation
9 for overtime, by the total hours worked during the workweek, exclusive of rest and recovery periods,
10 or (ii) The applicable minimum wage. Per case law, Labor Code section 226.2 also applies to
11 employees compensated on a commission basis.

12 81. Based on information and belief, DEFENDANTS failed to compensate Aggrieved
13 Employees who were paid solely on a piece rate and/or commission basis separately for the rest
14 periods and nonproductive time, and/or failed to pay them for this time at the correct rates. Based
15 on information and belief, DEFENDANTS further failed to include this information on Aggrieved
16 Employees' wage statements. As such, DEFENDANTS failed to comply with Labor Code section
17 226.2.

18 82. **Unreimbursed Business Expenses.** Based on information and belief,
19 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses
20 as a direct consequence of the performance of their job duties without providing reimbursement, in
21 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
22 Aggrieved Employees were improperly required to provide and maintain work tools that are
23 supposed to be the responsibility of the employer.

24 83. Based on information and belief, DEFENDANTS shifted the costs of doing business
25 onto Aggrieved Employees by requiring them to pay for business expenses. For example, based on
26 information and belief DEFENDANTS required Aggrieved Employees to pay for business expenses
27 including but not limited to personal mobile phones, cost of internet and/or data usage for work
28 related purposes, including but not limited to, to receive and respond to work related messages

1 and/or phone calls. For example, PLAINTIFF was required to receive and respond to work-related
2 calls and/or messages on his personal cell phone/mobile device without being provided any and/or
3 full reimbursement from DEFENDANTS for these business expenses.

4 84. Based on information, at times, Aggrieved Employees were required to supply their
5 own uniforms, work clothing/work shoes and/or safety/protective gear, such as, but not limited to,
6 work shoes, gloves, and work equipment including but not limited to hand tools (scissors, knives)
7 baskets/containers, ear plugs and/or face masks which DEFENDANTS required, yet Aggrieved
8 Employees were not reimbursed by DEFENDANTS for the business expenses they incurred in
9 connection therewith. For example, DEFENDANTS required PLAINTIFF to purchase work shoes
10 and gloves to wear for work without providing any and/or full reimbursement for these business
11 expenses. Based on information and belief, at times, DEFENDANTS failed to reimburse Aggrieved
12 Employees for expenses associated with having to purchase and/or maintain their own hand tools
13 and/or equipment required to perform their assigned job duties. For example, PLAINTIFF was
14 required to purchase his own razors and/or hand tools which were necessary to carry out his assigned
15 job duties but was not provided with any and/or full reimbursement for these business expenses.

16 85. Based on information and belief, at times, Aggrieved Employees were not
17 reimbursed for the business use of their personal vehicles, including mileage, wear and tear, and
18 cost of fuel when they were required to drive around and/or between job sites, and/or use their
19 personal vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS
20 failed to compensate Aggrieved Employees at the legally mandated Internal Revenue Service (IRS)
21 per mile compensation rates in effect during the relevant period. As explained above, based on
22 information and belief, Aggrieved Employees were not reimbursed for the cost of using their
23 personal phone for work related purposes and/or the cost of purchasing and/or maintaining work
24 uniforms/work clothing/work shoes, personal protective/safety gear.

25 86. Based on information and belief, DEFENDANTS regularly failed to reimburse and
26 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
27 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
28 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties

1 assigned by DEFENDANTS.

2 87. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
3 for all reasonable expenses associated with carrying out their duties required that Aggrieved
4 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
5 2802.

6 88. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
7 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
8 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
9 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
10 accrued sick leave hours on the correct number of hours worked (as a result of the
11 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
12 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
13 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
14 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
15 compensation into the sick leave pay rate calculation.

16 89. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
17 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
18 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
19 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
20 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
21 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
22 used sick leave and the balance of paid sick leave.

23 90. Based on information and belief, throughout the relevant time period,
24 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
25 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
26 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
27 prior to their respective separations, for as on several occasions thereafter, he or she would have
28 been entitled to use the banked sick leave and earn appropriate compensation.

1 91. Upon information and belief, DEFENDANTS failed and continue to fail to comply
2 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
3 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
4 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
5 wages.

6 92. As such, DEFENDANTS have violated California's paid sick leave laws and
7 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
8 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
9 unlawful practices and policies violate Labor Code sections 245-248.5.

10 93. **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides
11 that all employers with 26 or more employees are required to provide up to 80 hours for covered
12 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care
13 for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS
14 violated Labor Code § 248.2 by not providing Aggrieved Employees with required 2021 COVID-
15 19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to
16 provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

17 94. **Seating Violations.** Per section 14(A-B) of all applicable IWC Wage Orders,
18 employees shall be provided with suitable seats when the nature of the work reasonably permits the
19 use of seats and when they are not actively engaged in the work duties that would not permit them
20 to be seated.

21 95. Suitable seating is one of the worker protections covered by California's Wage
22 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
23 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
24 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

25 96. For example, IWC Wage Order No. 14 provides as follows: "When the nature of the
26 work reasonably permits the use of seats, suitable seats shall be provided for employees working on
27 or at a machine."

28 97. Based on information and belief, DEFENDANTS failed to provide Aggrieved

1 Employees with suitable seating, and when such employees were not engaged in duties which
2 required them to stand, no seating was placed in reasonable proximity to their workstations.

3 98. Moreover, based on information and belief, the nature of the work reasonably
4 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
5 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
6 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
7 of seats would not interfere with the performance of their duties. However, DEFENDANTS failed
8 to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation
9 of all applicable Wage Orders, including but not limited to IWC Wage Orders No. 13 and/or 14 and
10 Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code
11 sections 1199 and 2699.

12 99. **Failure to Pay Vested Vacation/Paid Time Off:** Based on information and belief,
13 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
14 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
15 failing to pay all vested, accrued paid time off to Aggrieved Employees upon separation of
16 employment, in violation of California law, including but not limited to, Labor Code section 227.3.

17 100. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
18 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
19 were due and owing upon termination or resignation. Based on information and belief,
20 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
21 requirements of Labor Code sections 201-202.

22 101. Upon separation of employment, Aggrieved Employees' final paychecks were not
23 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
24 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
25 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
26 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
27 accrued rates.

28 102. Based on further information and belief, DEFENDANTS failed to timely provide all

1 owed wages immediately upon discharge of employment. Based in information and belief, at times,
2 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
3 Aggrieved Employees would not be called in for work for longer than a single pay period due to
4 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
5 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
6 the end of such periods of employment, in violation of including but not limited to Labor Code
7 section 201-202.

8 103. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

9 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

10 104. Based on information and belief, DEFENDANTS required Aggrieved Employees to
11 agree in writing to unlawful conditions of employment including but not limited to unlawful
12 criminal and/or financial checks as a condition of obtaining and/or continuing employment in
13 violation of Labor Code section 432.5.

14 105. Based on information and belief, DEFENDANTS ordered unlawful financial credit
15 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
16 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
17 employment, in violation of California and Federal law, which results in a further violation of Labor
18 Code section 432.5.

19 106. Based on information and belief, DEFENDANTS also required Aggrieved
20 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as
21 a condition of obtaining and/or holding employment in violation of the Investigative Consumer
22 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit
23 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*). Based on information and belief,
24 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and
25 FCRA when conducting background screenings for applicants, including but not limited to
26 Aggrieved Employees that were subject to a background check as a condition of employment during
27 the application phase.

28 107. Based on information and belief, DEFENDANTS required Aggrieved Employees to

1 agree in writing to a background check which failed to abide by the requirements set forth in CA
2 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
3 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
4 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for
5 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,
6 failing to provide a way by which the individual could request a copy of the report, failing to disclose
7 the name, address, and telephone number of the third party preparing the report, and failing to
8 properly obtain authorization or consent to such a background check, and thus was an unlawful
9 background check.

10 108. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
11 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
12 section 432.5.

13 109. Based on further information and belief, DEFENDANTS also required Aggrieved
14 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
15 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
16 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
17 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

18 110. Based on further information and belief, DEFENDANTS knew that requiring
19 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
20 condition of obtaining and/or holding employment was unlawful.

21 111. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
22 condition of employment, DEFENDANTS violated Labor Code section 432.5.

23 Unlawful Inquires into Criminal History

24 112. Labor Code section 432.7 prohibits an employer from asking applicants about past
25 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
26 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
27 convictions on its employment application, in violation of California law.

28 113. Upon information and belief, DEFENDANTS, in violation of California law,

1 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
2 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
3 employment and/or otherwise impermissibly inquired into criminal history on its employment
4 application in violation of California law, and in violation of Labor code section 432.5.

5 Unlawful PAGA Waiver

6 114. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
7 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
8 to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

9 115. An action pursuant to PAGA “...is a representative action on behalf of the state”
10 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
11 purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and
12 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
13 (“We conclude that where, as here, an employment agreement compels the waiver of representative
14 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

15 116. Moreover, the California Supreme Court has ruled that a court cannot compel
16 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an
17 individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is
18 no individual component to a PAGA action because ‘every PAGA action ... is a representative
19 action on behalf of the state.’”)

20 117. Upon information and belief, at times DEFENDANTS required some Aggrieved
21 Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California
22 law. By requiring some Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver,
23 DEFENDANTS required written agreement to an unlawful provision as a condition of employment
24 which is a violation of labor code section 432.5.

25 118. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
26 engaged in these same herein described unlawful practices, which led to violations of the California
27 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
28 unlawful practices to all of its employees that it applied to PLAINTIFF.

FIRST CAUSE OF ACTION
**VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS
2698, ET SEQ.**

**(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all
Defendants)**

119. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

Failure to Keep Accurate Records

120. California Labor Code § 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by all non-exempt employees. All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the times during which all owed meal periods were provided each day.

121. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate and complete records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

122. DEFENDANTS’ failure to keep “accurate and complete” payroll records for PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay period during which the referenced statutes and Wage Order provisions were violated.¹

Meal Period Violations

123. California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and

¹ Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable wage orders, § 20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”) (emphasis added).

1 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
2 *Court* (2012) 53 Cal.4th 1004.

3 124. Employers must also provide employees with a second duty-free, uninterrupted thirty
4 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
5 be provided before the end of the 10th hour of work. *Ibid.*

6 125. Employers covered by any and all applicable IWC Wage Orders have an obligation
7 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
8 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
9 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
10 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
11 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
12 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
13 provided”).

14 126. Employers must pay employees an additional hour of wages at the employees’
15 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
16 meal period, first meal period provided after five (5) hours, second meal period provided after 10
17 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
18 provide an employee a meal period in accordance with the applicable provision of this Order, the
19 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
20 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

21 127. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
22 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
23 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
24 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
25 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
26 periods completely.

27 128. Based on information and belief, DEFENDANTS had and continue to have a policy
28 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty

1 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
2 Aggrieved Employees did not receive compliant meal periods.

3 129. Moreover, based on information and belief, Aggrieved Employees did not receive a
4 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

5 130. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
6 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
7 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
8 violation of California's meal period laws.

9 131. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
10 periods in violation of California law and/or failed to pay the proper meal period premium for failure
11 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
12 differential pay and/or other non-discretionary compensation into the regular rate or compensation
13 for purposes of calculating the owed meal period premium.

14 132. These unlawful meal period policies and practices result in violations of Labor Code
15 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
16 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
17 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
18 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

19 **Rest Period Violations**

20 133. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
21 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
22 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
23 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
24 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
25 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
26 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
27 1029). The rest period requirement obligates employers to permit and authorize employees to take
28 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control

1 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
2 257. If the employer fails to provide any required rest period, the employer must pay the employee
3 one hour of pay at the employee's regular rate of compensation for each workday the employer did
4 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
5 applicable IWC Wage Order, §12(B).

6 134. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
7 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
8 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
9 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
10 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
11 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
12 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
13 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
14 "onus is on the employer to clearly communicate the authorization and permission [to take rest
15 periods] to its employees.").

16 135. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
17 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
18 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
19 to DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,
20 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
21 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

22 136. Based on information and belief, DEFENDANTS implemented policies and/or
23 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
24 employer control during rest periods. Based on further information and belief, Aggrieved
25 Employees were pressured to complete their work duties according to a designated schedule such
26 that rest periods were only taken once tasks were completed, and/or as time permitted.

27 137. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
28 first, second, or third rest periods as required by California law.

1 138. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
2 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
3 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
4 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
5 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
6 the regular rate of compensation for purposes of determining the owed rest period premium.

7 139. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
8 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
9 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

10 **Cooldown Recovery Period Violations**

11 140. California Code of Regulations, Title 8, section 3395 mandates that all employers
12 with “outdoor places of employment” implement a heat illness prevention program that includes,
13 among other requirements, providing workers “cool-down” periods of at least five minutes in the
14 shade. Specifically, section 3395 provides that “employees shall be allowed and encouraged to take
15 a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the
16 need to do so to protect themselves from overheating” and that “such access to shade shall be
17 permitted at all times.” Under California Labor Code section 226.7, if an employer fails to provide
18 an employee a recovery period, the employer shall pay the employee one additional hour of pay at
19 the employee’s regular rate of compensation for each workday that the meal or rest or recovery
20 period is not provided.

21 141. Based on information and belief, PLAINTIFF and other Aggrieved Employees were
22 required to spend multiple hours at a time outdoors in significantly high temperature heat conditions.
23 DEFENDANTS failed to provide proper heat illness prevention training and/or heat illness
24 policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8
25 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by
26 California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS
27 maintained a policy and practice of not permitting necessary time for cooldown recovery breaks,
28 and as a result, Aggrieved Employees were required to remain outdoors with little to no access to

1 shade for extended periods of time. In addition, DEFENDANTS, failed to pay PLAINTIFF and
2 other Aggrieved Employees with an additional hour of pay at PLAINTIFF's regular rate of pay for
3 each missed cooldown recovery period.

4 **Failure to Provide Suitable Resting Facilities**

5 142. Per section 13 of all applicable IWC Wage Orders, including but not limited to Wage
6 Order 4, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage
7 Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet
8 rooms and shall be available to employees during work hours."

9 143. DEFENDANTS' locations/facilities are generally similar in layout and design, and
10 there was, and continues to be, space that allows for a resting facility (when working/assigned to
11 work in an indoor location) that employees may use to cease work and recover during meal or rest
12 periods. DEFENDANTS could have provided Aggrieved Employees with a resting facility within
13 work facilities/locations with reasonable or no modification, but instead denied and continues to
14 deny, employees with suitable areas to rest (e.g. a breakroom). As a result, Aggrieved Employees
15 were forced to adjust to areas not conducive to resting, including but not limited to leaning up against
16 the wall, or search for facilities outside of the work premises which are not designated or reserved
17 for their rest, such as their personal vehicles.

18 144. Aggrieved Employees worked in various positions. The nature of Aggrieved
19 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
20 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of all
21 applicable Wage Orders, including but not limited to IWC Wage Orders No. 13 and/or 14 and Labor
22 Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code
23 sections 1199 and 2699.

24 145. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved
25 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
26 California Labor Code, including but not limited to section 1198.

27 **Minimum and Overtime Wage Violations**

28 146. California law provides that employees in California must be paid for all hours

1 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
2 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
3 The minimum wage standard applies to each hour employees worked for which they were not paid.
4 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
5 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
6 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

7 147. California law also provides that employees in California must be paid overtime,
8 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
9 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
10 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
11 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
12 consecutive day of work in a work week. *Ibid.*

13 148. As explained above, DEFENDANTS violated California's minimum and overtime
14 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
15 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
16 start and end times and meal period start and end times), payment according to scheduled hours
17 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
18 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
19 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

20 149. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
21 Aggrieved Employees for all hours worked.

22 150. Based on information and belief, DEFENDANTS had actual or constructive
23 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
24 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
25 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
26 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
27 Employees.

28 151. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved

1 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
2 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
3 violation of California's overtime laws.

4 152. Based on information and belief, DEFENDANTS further violated California's
5 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
6 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
7 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
8 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
9 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
10 other Aggrieved Employees.

11 153. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
12 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
13 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
14 Wage Orders, section 20.

15 **Violation of Labor Code Section 226.2.**

16 154. Labor Code section 226.2 requires an employer to pay employees compensated on a
17 piece-rate basis separately for rest and recovery periods and nonproductive time, apart from any
18 piece-rate pay. This statute further requires an employer to include on the wage statements for these
19 employees the total hours of compensable rest and recovery period, the total hours for other non-
20 productive time, the rates of compensation for these hours, and the gross wages paid for these hours.
21 In addition, the statute requires that employees shall be compensated for rest and recovery periods at
22 a regular hourly rate that is no less than the higher of: (i) an average hourly rate determined by
23 dividing the total compensation for the workweek, exclusive of compensation for rest and recovery
24 periods and any premium compensation for overtime, by the total hours worked during the
25 workweek, exclusive of rest and recovery periods, or (ii) The applicable minimum wage. Per case
26 law, Labor Code section 226.2 also applies to employees compensated on a commission basis.

27 155. Based on information and belief, DEFENDANTS failed to compensate Aggrieved
28 Employees who were paid solely on a piece rate basis separately for the rest periods and

1 nonproductive time, and/or failed to pay them for this time at the correct rates. Based on information
2 and belief, DEFENDANTS further failed to include this information on Aggrieved Employees’
3 wage statements. As such, DEFENDANTS failed to comply with Labor Code section 226.2.

4 **Statutory Wage Violations**

5 156. California Labor Code section 223 makes it unlawful for an employer to secretly pay
6 wages lower than required by statute while purporting to pay legal wages. As described above,
7 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
8 earned minimum and overtime compensation for all hours worked which resulted in the payment of
9 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
10 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
11 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
12 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
13 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
14 Employees are entitled to recover penalties, attorney’s fees, costs, and interest thereon, pursuant to
15 Labor Code § 2699(f)-(g).

16 **Refusal to Make Payment**

17 157. Labor Code section 216 declares unlawful an employer’s refusal to pay wages due
18 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
19 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
20 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
21 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
22 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
23 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
24 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

25 **Standard Conditions of Labor Violations**

26 _____
27 ² Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

1 158. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
2 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
3 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
4 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS’
5 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
6 minimum/overtime wages and other violations described herein result in separate violations of
7 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
8 1197.1 and 2699.

9 **Business Expense Violations**

10 159. California law requires employers to indemnify their employees for all necessary
11 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
12 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
13 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
14 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
15 incurred by the employee enforcing the rights granted by this section.”

16 160. Among other things, under California law, when employees must use their personal
17 cellphones for work-related purposes, the employer must reimburse them for a reasonable
18 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
19 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
20 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
21 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
22 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
23 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

24 161. Further, “any contract or agreement, express or implied, made by any employee to
25 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
26 any employee or his personal representative of any right or remedy to which he is entitled to under
27 the laws of this State.” *See* Cal. Lab. Code section 2804.

28 162. As described above, PLAINTIFF and the Aggrieved Employees were improperly

1 required to pay for business expenses that are legally the responsibility of the employer.

2 163. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
3 full reimbursement for all reasonable expenses associated with carrying out their duties required
4 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
5 expenses in violation of Labor Code section 2802.

6 164. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
7 Employees have suffered injury in that they were not completely reimbursed as mandated by
8 California law.

9 165. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
10 full reimbursement for all reasonable expenses associated with carrying out their duties required
11 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
12 expenses in violation of Labor Code section 2802.

13 166. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
14 Employees have suffered injury in that they were not completely reimbursed as mandated by
15 California law.

16 167. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
17 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
18 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
19 Code § 2802 and the applicable Wage Order.

20 **Wage Statement Violations**

21 168. California law requires every employer semi-monthly or at the time of each payment
22 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
23 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
24 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
25 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
26 is paid; (7) the name of the employee and only the last four digits of his or her social security number
27 or an employee identification number other than a social security number; (8) the name and address
28 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay

1 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

2 169. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
3 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
4 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
5 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
6 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
7 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
8 effect during the pay period and the corresponding number of hours worked at each hourly rate by
9 the employee, in violation of Labor Code section 226(a)(9).

10 170. Moreover, due to violations detailed above, including but not limited to,
11 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
12 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
13 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
14 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
15 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
16 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
17 compensation earned during the pay period into the regular rate of pay for purposes of calculating
18 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
19 overtime worked by PLAINTIFF and other Aggrieved Employees.

20 171. As explained above, wage statements issued by DEFENDANTS failed to list the
21 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
22 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
23 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
24 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
25 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
26 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

27 172. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list all applicable hourly rates in effect during the pay period and the corresponding number of

1 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
2 Code section 226(a)(9).

3 173. Separately, and independent from the above allegations, based on information and
4 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
5 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
6 entity that is the employer.

7 174. Based on information and belief, wage statements issued by DEFENDANTS failed
8 to list the inclusive dates of the pay period for which the Class Member is being paid.

9 175. DEFENDANTS' failure to accurately list all hours worked on all wage statements
10 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
11 Employees over whether they received all wages owed to them.

12 176. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
13 they could not easily determine whether they received all wages owed to them and whether they
14 were paid for all hours worked.

15 177. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
16 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
17 injury as they could not contact their employer regarding any question(s) they had about wages paid.

18 178. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
19 Aggrieved Employees with accurate, itemized wage statements.

20 179. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
21 Employees have suffered injury. The absence of accurate information on their wage statements has
22 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
23 mathematical computations to determine the amount of wages owed, and will cause difficulty and
24 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
25 submission of inaccurate information about wages and amounts deducted from wages to state and
26 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
27 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
28 and pay records than if DEFENDANT had complied with its legal obligations.

1 180. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
2 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
3 during which the statute provisions were violated.³

4 **Unlawful Deductions**

5 181. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from
6 an employee any part of wages theretofore paid by said employer to said employee.” Based on
7 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
8 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
9 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
10 Section 2699.

11 182. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
12 each pay period during which the statute provisions were violated. See Lab. Code §225.5
13 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
14 provided in this article, every person who unlawfully withholds wages due any employee in
15 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure
16 to pay each employee”).

17 **Seating Violations**

18 183. Wage Order No. 14 provides as follows: “When the nature of the work reasonably
19 permits the use of seats, suitable seats shall be provided for employees working on or at a machine.”

20 184. Per section 14(A-B) of all IWC Wage Order 13, employees shall be provided with
21 suitable seats when the nature of the work reasonably permits the use of seats and when they are not
22 actively engaged in the work duties that would not permit them to be seated.

23 185. Wage Order 13, section 14 provides:

24 (A) All working employees shall be provided with suitable seats when the nature of the
25 work reasonably permits the use of seats.

26 (B) When employees are not engaged in the active duties of their employment and the
27 nature of the work requires standing, an adequate number of suitable seats shall be placed in

28 ³ Labor Code § 226.3 (establishing that the civil penalty is “per employee per violation”).

1 reasonable proximity to the work area and employees shall be permitted to use such seats when it
2 does not interfere with the performance of their duties.

3 186. Suitable seating is one of the worker protections covered by California's Wage
4 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
5 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
6 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

7 187. Based on information and belief, DEFENDANTS assigned Aggrieved Employees to
8 work at locations that did not provide Aggrieved Employees with suitable seating, and when such
9 employees were not engaged in duties which required them to stand, no seating was placed in
10 reasonable proximity to their workstations.

11 188. Moreover, based on information and belief, the nature of the work reasonably
12 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
13 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
14 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
15 of seats would not interfere with the performance of their duties.

16 189. The Aggrieved Employees worked in various positions. The nature of Aggrieved
17 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
18 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of all
19 applicable Wage Orders, including but not limited to IWC Wage Orders No. 13 and/or 14 and Labor
20 Code sections 1198 and 1199, subjecting EMPLOYER to civil penalties under Labor Code sections
21 1199 and 2699.

22 190. Each violation of each Labor Code section and IWC Wage Order provision, for each
23 Aggrieved Employee, results in a separate civil penalty.

24 **Sick Leave Violations**

25 191. DEFENDANTS violated California's paid sick leave laws including, Labor Code
26 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
27 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
28 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to

1 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
2 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
3 compensation into the sick leave pay rate calculation.

4 192. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
5 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
6 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
7 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
8 Aggrieved Employees’ intelligent exercise of their paid sick leave.

9 193. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
10 their paid sick leave at least prior to their respective separations, for as on several occasions
11 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
12 compensation.

13 194. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
14 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
15 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
16 were entitled to the maximum number of hours accruable.

17 195. Upon information and belief, DEFENDANTS failed and continue to fail to comply
18 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
19 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
20 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
21 wages.

22 196. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

23 197. On information and belief, PLAINTIFF alleges that all of these practices were
24 experienced and continue to be experienced by other Aggrieved Employees.

25 198. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
26 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
27 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

28 **Failure To Provide Supplemental Paid Sick Leave**

1 199. Labor Code § 248.2 provides that all employers with 26 or more employees are
2 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
3 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
4 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved
5 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
6 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
7 Labor Code section 248.6.

8 **Failure to Pay Vested Vacation/Paid Time Off**

9 200. California Labor Code section 227.3 provides that when an employer policy provides
10 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
11 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
12 employee's final rate in accordance with such contract of employment or employer policy respecting
13 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
14 off upon termination.

15 201. Based on information and belief, DEFENDANTS had and continue to have a
16 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
17 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
18 to Aggrieved Employees upon separation of employment, in violation of California law, including
19 but not limited to, Labor Code section 227.3.

20 **Untimely Payment of Final Wages**

21 202. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
22 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
23 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
24 employee not having a written contract for a definite period quits his or her employment, his or her
25 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
26 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
27 to his or her wages at the time of quitting."

28 203. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages

1 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
2 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
3 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
4 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
5 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

6 204. Based in information and belief, DEFENDANTS failed and continue to fail to timely
7 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
8 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
9 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
10 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
11 sick leave and/or paid time off wages at the properly accrued rates.

12 205. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
13 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
14 256.

15 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

16 206. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
17 require any employee or applicant for employment to agree, in writing, to any term or condition
18 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
19 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
20 conditions of employment including but not limited to unlawful criminal and/or financial checks as
21 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

22 207. The California Labor Code places certain procedural and substantive limits on an
23 employers’ ability to conduct employee background checks and on how employers can use the
24 information they obtain through those background checks. Labor Code section 1024.5 states that
25 employers, except for financial institutions, may order a credit check only if the individual works
26 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
27 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
28 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15

1 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
2 background check, including but not limited to identifying an appropriate reason for the background
3 check, a separate consent form with required disclosures and certain formatting requirements,
4 additional forms such as a summary of rights, a way by which to request a copy of the report, as
5 well as proper notice of adverse actions taken, among other statutory requirements.

6 208. Based on information and belief, DEFENDANTS ordered unlawful financial credit
7 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to
8 provide ongoing written consent to the unlawful credit checks as a condition of employment, in
9 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

10 209. Based on information and belief, DEFENDANTS required Aggrieved Employees to
11 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
12 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

13 210. Based on further information and belief, DEFENDANTS required Aggrieved
14 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
15 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
16 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
17 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

18 211. Based on further information and belief, DEFENDANTS knew that requiring
19 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
20 condition of obtaining and/or holding employment was unlawful.

21 212. By requiring that Aggrieved Employees sign off on the illegal background and/or
22 financial checks, DEFENDANTS violated Labor Code section 432.5.

23 Unlawful Inquires into Criminal History

24 213. Labor Code section 432.7 prohibits an employer from asking applicants about past
25 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
26 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
27 convictions on its employment application, in violation of California law.

28 214. Upon information and belief, DEFENDANTS, in violation of California law,

1 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
2 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
3 employment and/or otherwise impermissibly inquired into criminal history on its employment
4 application in violation of California law.

5 215. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
6 Code section 432.7. By asking about convictions at the application phase or prior to extending an
7 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
8 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
9 disclose arrests and/or convictions as a condition of employment.

10 Unlawful PAGA Waiver

11 216. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
12 PLAINTIFF and other Aggrieved Employees to agree in writing to other unlawful agreements,
13 including but not limited to, an unlawful waiver of PAGA and/or representative actions as a
14 condition of employment.

15 217. An action pursuant to PAGA “...is a representative action on behalf of the state”
16 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements
17 purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and
18 unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384
19 (“We conclude that where, as here, an employment agreement compels the waiver of representative
20 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

21 218. Moreover, the California Supreme Court has ruled that a court cannot compel
22 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an
23 individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is
24 no individual component to a PAGA action because ‘every PAGA action ... is a representative
25 action on behalf of the state.’”)

26 219. Upon information and belief, at times during the relevant period, DEFENDANTS
27 required some Aggrieved Employees to agree in writing to waive their right to a trial of PAGA
28 claims in violation of California law. By requiring written agreement to an unlawful PAGA waiver,

1 DEFENDANTS required written agreement to an unlawful provision as a condition of employment
2 which is a violation of labor code section 432.5.

3 220. Under the provisions of PAGA and the above mentioned Labor Code sections,
4 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
5 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
6 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
7 interpretations of these laws by California Courts and administrative bodies, as well as any other
8 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 9 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
10 relevant California Labor Code provisions listed herein only if permitted by the
11 PAGA statute, pursuant to Labor Code section 2699(a); and
12 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
13 violations without a civil penalty recoverable under the PAGA, all in the default
14 amounts provided by Labor Code section 2699(f).
15 c. The proper measure of penalties under PAGA is the number of violations,
16 whether those violations were committed as against PLAINTIFF or any
17 Aggrieved Employee, whether a party to this action or not.

18 221. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
19 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of PLAINTIFF, the State of California, and all Aggrieved Employees:

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: July 5, 2023

CROSNER LEGAL, PC

By: 
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