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13 As an individual and on behalf of all others similarly situated

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF ALAMEDA**

16 JAMAL ALI, as an individual and on behalf
17 of all others similarly situated,

18 Plaintiff,

19 v.

20 DIESEL DIRECT WEST, LLC, a
21 California Limited Liability Company; and
22 DOES 1-100, inclusive,

23 Defendants.

Case No.: 23CV031181

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

1. **Recovery of Unpaid Wages and Liquidated Damages**
2. **Failure to Furnish Accurate Itemized Wage Statements**
3. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
4. **Failure to Reimburse Business Expenses**
5. **Unfair Competition and**
6. **Violation of the Private Attorneys General Act of 2004**

DEMAND FOR JURY TRIAL

1 Plaintiff, JAMAL ALI (“PLAINTIFF”), as an individual and on behalf of all other
2 similarly situated Class Members (as defined below) and Aggrieved Employees (defined below),
3 hereby files this First Amended Complaint against Defendants DIESEL DIRECT WEST, LLC,
4 a California Limited Liability Company; and DOES 1-100, inclusive, (collectively referred to
5 herein as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as
6 follows:

7 **JURISDICTION AND VENUE**

8 1. This court possesses original subject matter jurisdiction over this matter. Venue is
9 proper in the County of Alameda pursuant to California Code of Civil Procedure section 395.5
10 because DEFENDANTS transact business within this judicial district, and DEFENDANTS’
11 principal place of business is in this judicial district, and some of the acts, omissions, and conduct
12 alleged by PLAINTIFF herein occurred in this this judicial district. *See also Crestwood*
13 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action
14 is proper in any county where the defendants committed Labor Code violations against some of
15 its employees).

16 **THE PARTIES**

17 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State
18 of California and a citizen of the State of California. PLAINTIFF was employed by
19 DEFENDANTS in the State of California as a non-exempt employee during the Class Period
20 (defined below).

21 3. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
22 PLAINTIFF worked for DEFENDANTS as a driver, truck driver and/or similar title(s) and/or
23 position(s) from on or around January 8, 2019, through on or around April 29, 2022. PLAINTIFF
24 regularly completed routes for DEFENDANTS in various cities and/or counties throughout
25 California, including but not limited to, Alameda County, where PLAINTIFF had a regular
26 pickup/drop off location assigned to him by DEFENDANTS. PLAINTIFF regularly worked at
27 least eight (8) hours per day, at least (5) days per week. DEFENDANTS paid PLAINTIFF an
28 hourly rate for time counted by DEFENDANTS₂ as hours worked.

1 4. DEFENDANTS are a California limited liability company that, at all relevant
2 times, were authorized to do business within the State of California and are doing business in the
3 State of California.

4 5. DEFENDANTS own, operate, or otherwise manage a diesel fuel distribution
5 and/or transportation business. Based on information and belief, DEFENDANTS provide
6 renewable diesel fuel delivery in California for fleet and equipment fueling, tank fueling, cleaner
7 fuel systems, fuel intelligence customer experience portal, among other related services. Based
8 on information and belief, DEFENDANTS own, operate and/or otherwise manage location(s),
9 yard(s), and/or facilities and/or serve customers throughout California, including but not limited
10 to, in Richmond, California, Anaheim, California, Bakersfield, California, Fresno, California,
11 Hayward, California, Livermore, California, Long Beach, California, Los Angeles, California,
12 Oakland, California, Sacramento, California, San Diego, California, San Francisco, California,
13 San Jose, California, San Leandro, California, Shafter, California, Stockton, California, Tracy,
14 California, Visalia, California, and Wilmington, California, among other cities and/or towns in
15 California.¹

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

22 7. PLAINTIFF is further informed and believes that, at all relevant times, each
23 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
24 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
25 predecessor in interest of some or all of the other Defendants, and was engaged with some or all
26 of the other defendants in a joint enterprise for profit, and bore such other relationships to some
27 or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged

28

¹ See <https://dieseldirect.com/locations/california> (Last visited on April 10, 2023).

1 in this complaint. PLAINTIFF is further informed and believes and thereon alleges that each
2 Defendant acted pursuant to and within the scope of the relationships alleged above, and that at
3 all relevant times, each Defendant knew or should have known about, authorized, ratified,
4 adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

5 **JOINT LIABILITY**

6 8. Under California law, the definition of the terms “to employ” are broadly
7 construed
8 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
9 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or
10 (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*,
11 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising
12 control was to reach situations in which multiple entities control different aspects of the
13 employment relationship. Supervision of the work, in the specific sense of exercising control over
14 how services are properly performed, is properly viewed as one of the “working conditions”
15 mentioned in the wage order. *Id.* at 76. A joint employer relationship exists, for example, when
16 one entity (such as a temporary employment agency) hires and pays a worker, and the other entity
17 supervises the work. *Id.* Moreover, the California Court of Appeal recently broadened the test
18 for joint employment in California, applying a less stringent standard to what constitutes
19 sufficient control by a business over its vendor’s employees’ wages and working conditions to
20 render that business liable as a joint employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal.
21 App. 5th 868 (2021); “[i]f the putative joint employer instead exercises enough control over the
22 intermediary entity to *indirectly* dictate the wages, hours, or working conditions of the employee,
23 that is a sufficient showing of joint employment,” *Id.* at 875 [emphasis added].

24 9. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
25 Class
26 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
27 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
28 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,

1 hours and working conditions of PLAINTIFF and the Class Members and Aggrieved Employees;
2 (2) suffered or permitted PLAINTIFF and Class Members and Aggrieved Employees to work for
3 them; and (3) engaged PLAINTIFF and Class Members and Aggrieved Employees to work for
4 them.

5 10. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
6 DEFENDANTS operated as a single integrated enterprise with common ownership and
7 centralized human resources. As a result, DEFENDANTS utilized the same unlawful policies
8 and practices across all of their locations/facilities and subjected all of the Class Members and
9 Aggrieved Employees to these same policies and practices regardless of the location(s) where
10 they worked. Among other things, PLAINTIFF is informed and believes that: (1) there is
11 common ownership in, and financial control, in DEFENDANTS' companies, (2)
12 DEFENDANTS utilize common management, who have control over the day-to-day operations
13 and employment matters, including the power to hire and fire, set schedules, issue employee
14 policies, and determine rates of compensation across its locations in California; (3)
15 DEFENDANTS utilize the same policies and procedures for all California employees, including
16 issuing the same employee handbooks and other form agreements; (4) DEFENDANTS use at
17 least some of the same Human Resources personnel and attorneys to oversee employment
18 matters; and, (6) DEFENDANTS share employees.

19 11. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
20 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class
21 Members and Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and
22 causes of action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the
23 Class Members and Aggrieved Employees' wages, hours and working conditions, and/or suffered
24 or permitted PLAINTIFF and the Class Members and Aggrieved Employees to work so as to be
25 considered the joint employers of PLAINTIFF and the Class Members and Aggrieved
26 Employees. For example, based on information and belief, DEFENDANTS, and each of them
27 maintain the same principal place of business and/or maintain the same corporate/business
28 headquarters and/or utilize some of the same attorneys and/or human resources personnel to

1 oversee employment-related matters.

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

18 13. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
19 and working conditions of PLAINTIFF and Class Members and Aggrieved Employees. As such,
20 DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and
21 the Class Members and Aggrieved Employees' employment, including the instrumentality that
22 resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

23 14. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
24 control over, applied the same policies and practices, and engaged in the same acts and omissions
25 with regard to the other Class Members and Aggrieved Employees.

26 **CLASS ALLEGATIONS**

27 15. PLAINTIFF brings this action on behalf of himself, and all others similarly
28 situated

1 as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks
2 to represent are defined as follows and referred to as the “Class” or “Class Members”:

3 All current and former non-exempt employees that worked either
4 directly or via a staffing agency for any one or more of the
5 DEFENDANTS at any location in California at any time within the
6 four years prior to the filing of the initial Complaint (“Class
7 Period”).

8 a. Numerosity. While the exact number of Class Members is unknown to
9 PLAINTIFF at this time, the Class is so numerous that the individual joinder
10 of all members is impractical under the circumstances of this case.
11 PLAINTIFF is informed and believes the Class consists of at least 100
12 individuals.

13 b. Common Questions of Law and Fact. This lawsuit is suitable for class
14 treatment because common questions of law and fact predominate over
15 individual issues. Common questions include, but are not limited to, the
16 following: (1) whether DEFENDANTS understated hours worked and failed
17 to pay all amounts due to PLAINTIFF and the Class Members for wages
18 earned, including minimum and straight time wages, under California law;
19 (2) whether DEFENDANTS provided PLAINTIFF and Class Members with
20 accurate, itemized wage statements in compliance with California law,
21 displaying, including but not limited to, the total hours worked during the pay
22 period; (3) whether DEFENDANTS timely paid PLAINTIFF and the Class
23 Members all wages due upon separation of employment; (4) whether
24 DEFENDANTS failed to reimburse PLAINTIFF and the Class Members for
25 all business expenses; and (5) whether DEFENDANTS violated California
26 Business and Professions Code sections 17200, *et seq.*

27 c. Ascertainable Class. The proposed Class is ascertainable as members can be
28 identified and located using information in DEFENDANTS’ business,

1 payroll and personnel records.

2 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class
3 Members. PLAINTIFF suffered a similar injury as members of the Class as
4 a result of DEFENDANTS' common practices regarding, *inter-alia*, failure
5 to calculate and pay all owed wages, failure to provide accurate wage
6 statements, failure to reimburse business expenses, and failure to timely pay
7 all wages due upon separation of employment.

8 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
9 Class Members. PLAINTIFF has no interests adverse to the interests of the
10 other Class Members. Counsel who represent PLAINTIFF are competent and
11 experienced in litigating similar class action cases and are California lawyers
12 in good standing. Counsel for PLAINTIFF have the experience and resources
13 to vigorously prosecute this case.

14 f. Superiority. A class action is superior to other available means for the fair
15 and efficient adjudication of this controversy since individual joinder of all
16 members of the class is impractical. Class action treatment will permit a large
17 number of similarly situated persons to prosecute their common claims in a
18 single forum simultaneously, efficiently, and without the unnecessary
19 duplication of effort and expense that numerous individual actions would
20 engender. Furthermore, as the damages suffered by each individual member
21 of the Class may be relatively small, the expenses and burden of individual
22 litigation would make it difficult or impossible for individual members of the
23 Class to redress the wrongs done to them, while an important public interest
24 will be served by addressing the matter as a class action. The cost to the court
25 system of adjudication of such individualized litigation would be substantial.
26 Individualized litigation would also present the potential for inconsistent or
27 contradictory judgments. Finally, the alternative of filing a claim with the
28 California Labor Commissioner is not superior, given the lack of discovery

1 in such proceedings, the fact that there are fewer available remedies, and the
2 losing party has the right to a trial de novo in the Superior Court.

3 **FACTUAL AND LEGAL ALLEGATIONS**

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

8 17. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
9 PLAINTIFF worked for DEFENDANTS as a driver, truck driver and/or similar title(s) and/or
10 position(s) from on or around January 8, 2019, through on or around April 29, 2022.
11 DEFENDANTS regularly assigned PLAINTIFF to work out of DEFENDANTS' location(s),
12 yard(s) and/or facilities located in Richmond, California, and PLAINTIFF regularly completed
13 routes for DEFENDANTS in various cities and/or counties throughout California, including but
14 not limited to, Alameda County, where PLAINTIFF had a regular pickup/drop off location
15 assigned to him by DEFENDANTS.

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

18 19. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on
19 an hourly basis for time counted by DEFENDANTS as hours.

20 20. **Unpaid Minimum and Straight Time Wages.** DEFENDANTS failed to
21 compensate PLAINTIFF and Class Members and Aggrieved Employees for all hours worked,
22 resulting in the underpayment of minimum and straight time wages. DEFENDANTS failed to
23 compensate PLAINTIFF and Class Members and Aggrieved Employees for all hours worked by
24 virtue of, DEFENDANTS' automatic deduction policies, payment according to scheduled hours
25 rather than actual hours worked, and/or time rounding policies, and failure to relieve employees
26 of all duties/employer control and/or suffering, permitting and/or requiring Class Members and
27 Aggrieved Employees to perform work during unpaid meal periods, as explained below.

28 21. Based on information and belief, DEFENDANTS implemented a policy and/or

1 practice of rounding meal period start and end times and/or automatically deducting at least thirty
2 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
3 PLAINTIFF and other Class Members and Aggrieved Employees were subject to
4 DEFENDANTS' control during purported meal periods and/or were otherwise required to work
5 through unpaid meal periods, depriving PLAINTIFF and Class Members and Aggrieved
6 Employees of all wages owed. For example, PLAINTIFF was at times required to clock out for
7 meal periods but to continue driving and/or completing other work tasks during unpaid meal
8 periods as PLAINTIFF's assigned routes and/or delivery schedule as designated by
9 DEFENDANTS often prohibited the taking of a full thirty-minute uninterrupted off-duty meal
10 period. Based on information and belief, other Class Members and Aggrieved Employees were
11 also required to clock out for meal periods but to continue working due to lack of relief workers,
12 the need to meet distribution deadlines, respond to work-related communications and/or complete
13 other work tasks. Moreover, based on information and belief, PLAINTIFF and other Class
14 Members and Aggrieved Employees were required to monitor and be responsive to work
15 communication devices during unpaid meal periods and therefore were not relieved of all duties
16 and DEFENDANTS' control during unpaid meal periods, resulting in off-the-clock work and the
17 underpayment of minimum wages and straight time wages to Class Members and Aggrieved
18 Employees.

19 22. Based on information and belief, Class Members and Aggrieved Employees were
20 not paid for all hours worked due to DEFENDANTS' policy and/or practice of rounding time
21 entries or paying according to scheduled hours worked instead of actual time worked, and/or
22 mandated off-the clock work policies and/or practices.

23 23. For example, PLAINTIFF was regularly required to perform pre-shift and/or post-
24 shift off-the-clock work. For example, oftentimes, after PLAINTIFF had completed his
25 scheduled shift, DEFENDANTS would clock out PLAINTIFF for the end of his shift but require
26 PLAINTIFF to continue working, resulting in consistent off-the-clock work and the substantial
27 underpayment of minimum wages and straight time wages owed to PLAINTIFF. Based on
28 information and belief, DEFENDANTS engaged¹⁰ in systemic time record manipulation to shave

1 time worked off PLAINTIFF's and other Class Members and Aggrieved Employees' workdays,
2 by, for example, manually clocking out PLAINTIFF and other Class Members and Aggrieved
3 Employees but requiring them to continue working and/or editing electronic and/or handwritten
4 time records to delete portions of total hours worked and/or otherwise understate actual hours
5 worked by PLAINTIFF and other Class Members and Aggrieved Employees.

6 24. DEFENDANTS further failed to compensate Class Members and Aggrieved
7 Employees for additional pre-shift and/or post-shift work. For example, based on information
8 and belief, at times, prior to beginning a scheduled shift, PLAINTIFF and other Class Members
9 and Aggrieved Employees were required to spend time starting, booting and/or logging into a
10 vehicle onboarding system before they could clock in for the start of their shifts. As such, at
11 times, Class Members and Aggrieved Employees spent at least several minutes before each
12 scheduled shift starting, booting and/or logging into the vehicle onboarding system in order to
13 clock in and begin their shifts. At the end of their shifts, based on information and belief, Class
14 Members and Aggrieved Employees were required to first clock out for the end of their shifts
15 before spending at least several minutes to shut down and/or log out of the vehicle system. This
16 pre-shift and post-shift work was off-the-clock and uncompensated resulting in unpaid minimum
17 wages and straight time wages.

18 25. Based on information and belief, Class Members and Aggrieved Employees were
19 also not compensated for off-the-clock work tasks, such as, but not limited to, all time spent
20 performing pre-trip and/or post-trip vehicle and/or equipment inspections, time spent performing
21 vehicle maintenance tasks, time spent completing paperwork and/or waiting/standby time at pick-
22 up/delivery locations, time spent donning and/or doffing uniforms/safety gear/protective
23 equipment, and/or all time spent completing deliveries, which resulted in the underpayment of
24 minimum wages and straight time wages owed to Class Members and Aggrieved Employees.
25 For example, DEFENDANTS frequently required PLAINTIFF to make pre-trip and/or post-trip
26 vehicle and/or equipment inspections while off the clock, resulting in consistent off-the-clock
27 work, DEFENDANTS' failure to pay PLAINTIFF for all hours worked, and the substantial
28 underpayment of minimum wages and straight time wages owed to PLAINTIFF.

1 26. Based on information and belief, at times, DEFENDANTS' electronic employee
2 time-keeping system/app malfunctioned such that Class Members and Aggrieved Employees
3 were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to
4 clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from
5 meal periods, resulting in off-the-clock work and the underpayment of wages owed to Class
6 Members and Aggrieved Employees. Based on information and belief, Class Members and
7 Aggrieved Employees experienced the same issues when clocking out for shifts and/or back in
8 for meal periods. This time spent under DEFENDANTS' control was not recorded and not
9 compensated and resulted in unpaid minimum wages owed to Class Members and Aggrieved
10 Employees.

11 27. Based on information and belief, Class Members and Aggrieved Employees were
12 also required to complete off-the-clock work outside of scheduled shifts due to work-related
13 phone calls and/or messages they received and were required to respond to, including but not
14 limited to, communications from supervisors regarding scheduling and/or other work tasks,
15 resulting in the underpayment of minimum wages and straight time wages owed to Class
16 Members and Aggrieved Employees.

17 28. Based on information and belief, DEFENDANTS failed to pay Class Members
18 and Aggrieved Employees for time they were required to spend completing orientation, policy
19 questionnaires, training, obtaining certifications, completing required classes and/or testing
20 and/or time spent completing the onboarding process including but not limited to reviewing
21 various documents and policies provided by DEFENDANTS. Based on information and belief,
22 this work time was completed off-the-clock and was not compensated.

23 29. Based on further information and belief, DEFENDANTS implemented a time-
24 rounding system that as applied systematically deprived PLAINTIFF and other Class Members
25 and Aggrieved Employees of compensable time because the time-rounding system implemented
26 by DEFENDANTS would almost always, if not always, result in understating actual compensable
27 work time. For example, based on information and belief, DEFENDANTS' issued wage
28 statements and/or pay records evidence the rounding of PLAINTIFF's and other Class Members

1 and Aggrieved Employees' total hours worked to at least the nearest tenth, quarter, half and/or
2 whole hour, resulting in the consistent failure to pay PLAINTIFF and other Class Members and
3 Aggrieved Employees for all time worked.

4 30. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
5 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
6 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
7 minimum wages and/or straight time wages owed to PLAINTIFF and Class Members and
8 Aggrieved Employees.

9 31. Based on information and belief, DEFENDANTS had actual and/or constructive
10 knowledge that its time rounding policies/practices, auto-deduction policies and practices and/or
11 other off-the-clock work resulted in the underpayment of minimum and straight time wages owed
12 to PLAINTIFF and other Class Members and Aggrieved Employees, in violation of, including
13 but not limited to, California's minimum wage laws.

14 32. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed
15 to provide PLAINTIFF and other Class Members and Aggrieved Employees with accurate wage
16 statements that complied with Labor Code section 226.

17 33. DEFENDANTS issued wage statements to PLAINTIFF and Class Members and
18 Aggrieved Employees that failed to indicate the earned gross and net wages earned during the
19 pay period, the correct applicable rates of pay for all hours worked, and the total hours worked
20 by PLAINTIFF and Class Members and Aggrieved Employees (by virtue of rounded time entries,
21 automatic deduction for meal periods/failure to relieve Class Members and Aggrieved Employees
22 of all duties and employer control during unpaid meal periods, payment according to scheduled
23 hours worked rather than actual hours worked, and/or other off-the-clock work policies and
24 practices) which results in a violation of Labor Code section 226(a).

25 34. Based on information and belief, wage statements issued by DEFENDANTS
26 failed to list all applicable hourly rates in effect during the pay period and the corresponding
27 number of hours worked at each hourly rate by the employee, in violation of Labor Code section
28 226(a)(9).

1 35. Moreover, based on information and belief, DEFENDANTS issued wage
2 statements to PLAINTIFF and Class Members and Aggrieved Employees that further violate
3 Labor Code section 226(a), by among other things, failing to list the correct name and/or address
4 of the legal entity that is the employer.

5 36. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
6 Members and Aggrieved Employees that were not accurate and did not include all of the
7 statutorily required information. As such, DEFENDANTS violated Labor Code section 226.

8 37. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
9 information and belief, DEFENDANTS failed to timely pay Class Members and Aggrieved
10 Employees all wages that were due and owing upon termination or resignation. Based on
11 information and belief, DEFENDANTS untimely provide final wages to Class Members and
12 Aggrieved Employees without regard to the timing requirements of Labor Code sections 201-
13 202.

14 38. Upon separation of employment, Class Members and Aggrieved Employees' final
15 paychecks were not timely provided and/or were not timely provided with all owed vacation pay
16 and/or paid time off. Moreover, PLAINTIFF's and Class Members and Aggrieved Employees'
17 final paychecks, once provided, did not include all wages owed as they were devoid of, including
18 but not limited to, all owed minimum wages, straight time wages, reporting time pay wages,
19 vacation pay, and all owed sick leave and/or paid time off wages at the properly accrued rates.

20 39. Moreover, DEFENDANTS failed to timely provide all owed wages immediately
21 upon discharge of employment. For example, based on information and belief, at times, Class
22 Members and Aggrieved Employees experienced breaks in their employment caused by
23 DEFENDANTS whereby Class Members and Aggrieved Employees would not be called in for
24 work for longer than a single pay period due to including but not limited to DEFENDANTS' lack
25 of work or lack of assignments. Such instances qualify as a discharge of employment. Yet,
26 DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment,
27 in violation of including but not limited to Labor Code section 201-202.

28 40. These violations subject DEFENDANTS to civil penalties under Labor Code

1 section 203, 210, and/or 256.

2 41. **Unreimbursed Business Expenses.** Based on information and belief,
3 DEFENDANTS required PLAINTIFF and Class Members and Aggrieved Employees to incur
4 business expenses as a direct consequence of the performance of their job duties without
5 providing reimbursement, in violation of Labor Code section 2802. Based on information and
6 belief, PLAINTIFF and Class Members and Aggrieved Employees were improperly required to
7 provide and maintain work tools that are supposed to be the responsibility of the employer.

8 42. Based on information and belief, DEFENDANTS shifted the costs of doing
9 business onto Class Members and Aggrieved Employees by requiring them to pay for business
10 expenses, including but not limited to, uniforms and/or protective/safety equipment, and/or the
11 use of Class Members and Aggrieved Employees' personal mobile phones and data usage for
12 work-related purposes, including but not limited to, to receive and respond to work related
13 messages and/or phone calls. For example, DEFENDANTS regularly required PLAINTIFF to
14 use his personal cell phone to perform his job duties, including but not limited to, to make and/or
15 receive calls and/or messages to/from PLAINTIFF's supervisors and/or other Class Members and
16 Aggrieved Employees. DEFENDANTS did not reimburse PLAINTIFF for DEFENDANTS'
17 business use of PLAINTIFF's personal cell phone as required under California law.

18 43. Based on information and belief, Class Members and Aggrieved Employees were
19 improperly required to pay for additional business expenses that are supposed to be the
20 responsibility of DEFENDANTS, including but not limited to, hand tools/equipment and/or cost
21 of fuel, costs of vehicle/equipment maintenance and/or repairs, and/or work-related fees/fines,
22 incurred as a direct consequence of the discharge of their assigned job duties without receiving
23 any and/or full reimbursement from DEFENDANTS for these expenses.

24 44. Based on information and belief, at times, Class Members and Aggrieved
25 Employees were also required to use their personal vehicles for work but were not provided any
26 and/or full reimbursement by DEFENDANTS for these expenses including but not limited to,
27 reimbursement for mileage, cost of fuel, and/or other costs related to the use of their personal
28 vehicles for work purposes.

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

5 46. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
6 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
7 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

8 **FIRST CAUSE OF ACTION**

9 **Recovery of Unpaid Wages and Liquidated Damages**
10 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

11 47. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 48. It is fundamental that an employer must pay its employees for all time worked.
13 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
14 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 223
15 prohibits the pay of less than a statutory or contractual wage scale. Pursuant to California Labor
16 Code sections 1194 and 1197, and the Industrial Wage Commission ("IWC") Wage Orders, an
17 employer must pay its employees for all hours worked, up to 40 hours per week or 8 hours per
18 day, at a regular rate no less than the mandated minimum wage. Payment to an employee of less
19 than the applicable minimum wage for all hours worked in a payroll period is unlawful. Labor
20 Code section 224 only permits deductions from wages when the employer is required or
21 empowered to do so by state or federal law or when the deduction is expressly authorized in
22 writing by the employee for specified purposes that do not have the effect of reducing the agreed
23 upon wage.

24 49. DEFENDANTS violated the above-described laws by failing to compensate
25 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
26 DEFENDANTS' time rounding, automatic deduction for meal periods, off-the-clock/unpaid
27 work completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock
28 work, and/or payment according to scheduled hours worked rather than actual hours worked
(described above), which resulted in the failure to account for all hours worked and thus the denial

1 of all owed straight time wages.

2 50. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF
3 and Class Members for all hours worked.

4 51. Based on information and belief, DEFENDANTS had actual or constructive
5 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
6 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
7 periods, policy and practice of payment according to scheduled work time rather than actual work
8 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
9 owed to PLAINTIFF and other Class Members.

10 52. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
11 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
12 attorney's fees and costs, in an amount to be proved at trial.

13 **SECOND CAUSE OF ACTION**

14 **Failure to Furnish Accurate Itemized Wage Statements
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

15 53. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

16 54. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the
17 Class

18 Members were entitled to receive, semimonthly or at the time of each payment of wages, an
19 itemized wage statement accurately stating the following:

20 (1) gross wages earned, (2) total hours worked by the employee,
21 except for any employee whose compensation is solely based on a
22 salary and who is exempt from payment of overtime under
23 subdivision (a) of Section 515 or any applicable order of the
24 Industrial Welfare Commission, (3) the number of piece-rate units
25 earned and any applicable piece rate if the employee is paid on a
26 piece-rate basis, (4) all deductions, provided that all deductions
27 made on written orders of the employee may be aggregated and
28 shown as one item, (5) net wages earned, (6) the inclusive dates of
the period for which the employee is paid, (7) the name of the
employee and his or her social security number, except that by
January 1, 2008, only the last four digits of his or her social
security number or an employee identification number other than
a social security number may be shown on the itemized statement,
(8) the name and address of the legal entity that is the employer,
and (9) all applicable hourly rates in effect during the pay period

and the corresponding number of hours worked at each hourly rate by the employee.

55. Due to violations detailed above, including but not limited to, DEFENDANTS' failure to pay straight time wages and minimum wages for all hours worked, and failure to pay all sick leave wages at the proper rates, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross and net wages earned and the correct applicable rates of pay for all hours worked.

56. As explained above, wage statements issued by DEFENDANTS failed to list the "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class Members of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices all described in greater detail *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

57. Separately, and independent from the above allegations, as explained above, DEFENDANTS issued wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal entity that is the employer.

58. DEFENDANTS' failure to accurately list all hours worked on all wage statements caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class Members over whether they received all wages owed to them.

59. As a result, PLAINTIFF and other Class Members have suffered injury as they could not easily determine whether they received all wages owed to them and whether they were paid for all hours worked.

60. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered

1 injury as they could not contact their employer regarding any question(s) they had about wages
2 paid.

3 61. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
4 Class Members with accurate, itemized wage statements.

5 62. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class
6 Members have suffered injury. The absence of accurate information on their wage statements has
7 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery
8 and mathematical computations to determine the amount of wages owed, and will cause difficulty
9 and expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to
10 the submission of inaccurate information about wages and amounts deducted from wages to state
11 and federal government agencies. As a result, PLAINTIFF and Class Members are required to
12 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
13 and pay records than if DEFENDANT had complied with its legal obligations.

14 63. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class
15 Members are entitled to recover fifty dollars per employee for the initial pay period in which a
16 Section 226 violation occurred and one hundred dollars per employee per violation for each
17 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars per employee.

18 64. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
19 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
20 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue
21 to provide currently employed Class Members with inaccurate wage statements in violation of
22 California Labor Code § 226(a). Currently employed Class Members have no adequate legal
23 remedy for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing
24 unlawful conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS'
25 compliance with California Labor Code § 226(a).

26 65. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
27 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
28 attorneys' fees, and costs of suit.

THIRD CAUSE OF ACTION

Failure to Timely Pay All Wages Due Upon Separation of Employment

(By PLAINTIFF and the Class Members Against all DEFENDANTS)

66. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

67. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

68. California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

69. Based on information and belief, DEFENDANTS failed and continue to fail to timely pay final wages to Class Members upon separation of employment in violation of Labor Code section 201-202. Moreover, final paychecks once provided to Class Members do not include all wages owed as they are devoid of, including but not limited to, all owed minimum wages, straight time wages, reporting time pay wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly accrued rates.

70. Moreover, DEFENDANTS failed to timely provide all owed wages immediately upon discharge of employment. For example, based on information and belief, at times, Class Members experienced breaks in their employment caused by DEFENDANTS whereby Class Members would not be called in for work for longer than a single pay period due to including but not limited to DEFENDANTS’ lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

71. Under Labor Code section 203, PLAINTIFF and the Class Members who are no longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days’ pay, plus attorney’s fees and costs, in an amount to be proved at trial.

FOURTH CAUSE OF ACTION
Failure to Reimburse Business Expenses
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

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

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

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

75. As described above, PLAINTIFF and the Class Members were improperly required to pay for business expenses that are legally the responsibility of the employer.

76. DEFENDANTS’ failure to provide PLAINTIFF and the Class Members with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

77. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class Members have suffered injury in that they were not completely reimbursed as mandated by California law.

78. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class

1 Members are entitled to recover the full amount of reimbursable expenses due, in addition to
2 reasonable attorneys' fees, and costs of suit.

3 **FIFTH CAUSE OF ACTION**

4 **Unfair Competition**

5 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

6 79. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 80. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
8 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
9 conduct includes all unlawful conduct alleged herein, including but not limited to:
10 DEFENDANTS' failure to pay minimum and straight time wages by virtue of its illegal policies
11 and practices; DEFENDANTS' failure to furnish complete and accurate itemized wage
12 statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure to
13 timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to
14 provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to,
15 including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
16 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
17 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies
18 and practices, payment according to scheduled hours worked and/or other off-the-clock work
19 policies and practices).

20 81. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
21 California Labor Code, DEFENDANTS have gained a competitive advantage over other
22 comparable companies doing business in the State of California that properly accrue and pay sick
23 time benefits, to provide complete and accurate itemized wage statements, to reimburse
24 employees for all business expenses, to pay all owed wages and during employment and due
25 upon separation of employment of their employees.

26 82. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
27 and Class Members have suffered injury in fact and lost money or property, as described in more
28 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
PLAINTIFF and Class Members are entitled to restitution of all wages and other monies

1 rightfully belonging to them that DEFENDANTS failed to pay and wrongfully retained by means
2 of their unlawful and unfair business practices.

3 83. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the
4 Class Members, enjoining DEFENDANTS and any and all persons acting in concert with them
5 from engaging in each of the unlawful practices and policies set forth herein.

6 84. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc
7 Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted
8 by law.

9 **SIXTH CAUSE OF ACTION**
10 **Violation of the Private Attorneys General Act of 2004**
11 **(By PLAINTIFF and the Aggrieved Employees Against All DEFENDANTS)**

12 85. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

13 86. PLAINTIFF brings this action under the Private Attorneys General Act of 2004,
14 Labor Code sections 2698, et seq., ("PAGA"), as a representative action on behalf of
15 PLAINTIFF, the State of California and Aggrieved Employees, regarding violations of the
16 California Labor Code as set forth herein as to all Aggrieved Employees. Said "Aggrieved
17 Employees" include:

18 All current and former non-exempt employees that worked either
19 directly or via a staffing agency for DEFENDANTS at any location
20 in California at any time from one year plus 65 days from the filing
21 of the initial Complaint through the present ("PAGA Period").

22 87. 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
24 statutory limitations period and suffered one or more of the Labor Code violations set forth
25 herein. Accordingly, PLAINTIFF seeks to recover on behalf of the State of California and all
26 Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and
27 costs. PLAINTIFF has standing to bring a PAGA cause of action on behalf of PLAINTIFF, the
28 State of California, and all Aggrieved Employees, as PLAINTIFF was jointly employed by
DEFENDANTS and is thereby affected by one or more of the alleged violations. See *Huff v.*

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

4 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

5 88. On April 10, 2023, PLAINTIFF, through counsel, gave written notice by online
6 filing with the California Labor and Workforce Development Agency ("LWDA") informing it
7 that DEFENDANTS failed to comply with California's labor laws with regard to the allegations
8 alleged in this Complaint ("PAGA Notice").

9 89. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
10 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of
11 the alleged violations were curable, DEFENDANTS failed to cure within the time allotted by
12 PAGA. Accordingly, PLAINTIFF has exhausted the administrative remedies as required by
13 Labor Code section 2699.3. Consequently, PLAINTIFF's right to file the instant lawsuit against
14 DEFENDANTS has duly accrued.

15 90. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
16 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009)
17 46 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

18 91. From one year prior to PLAINTIFF's filing of the required PAGA notice with
19 the LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated
20 California Labor Code sections, 201-203, 204, 216, 221-223, 226, 245-248.5, 432, 432.5, 432.7,
21 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all
22 applicable Wage Orders.

23 92. As set forth herein, DEFENDANTS have committed numerous violations of the
24 California Labor Code due to including but not limited to their failure to pay all owed minimum
25 wages, failure to provide accurate wage statements, failure to reimburse business expenses, and
26 failure to pay all wages owed upon separation of employment as alleged above. PAGA penalties
27 are in addition to any other relief available under the Labor Code.

28 93. Additionally, DEFENDANTS have violated the following Labor Code sections

1 and provisions of the applicable Wage Order as to the PLAINTIFF and other Aggrieved
2 Employees.

3 **Failure to Keep Accurate Records**

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

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

13 96. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
14 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
15 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties
16 under Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section
17 and Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for
18 each pay period during which the referenced statutes and Wage Order provisions were violated.²

19 **Unpaid Overtime Wages**

20 97. Employees in California must be paid overtime, equal to one and one-half times
21 the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and
22 including 12 hours in any workday, and for the first eight (8) hours worked on the seventh
23 consecutive day of work in a workweek, and they must be paid double the regular rate of pay for
24 all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight

25 ² Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”);
26 Labor Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for
27 which the employee was underpaid”); All applicable wage orders, § 20 (establishing that “[i]n addition to any
28 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 (8) on the seventh consecutive day of work in a workweek, unless they are exempt.

2 98. Aggrieved Employees that did not work as drivers were entitled to overtime
3 wages. Such non-driver Aggrieved Employees worked overtime hours for which they were not
4 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time
5 rounding, automatic deduction for meal periods, off-the-clock/unpaid work completed during
6 meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment
7 according to scheduled hours worked rather than actual hours worked (described above), and/or
8 other unlawful policies and/or practices described above which resulted in unpaid minimum and
9 overtime wages which resulted in the failure to account for all hours worked and thus the denial
10 of all owed overtime wages.

11 99. Based on information and belief, DEFENDANTS failed to pay non-driver
12 Aggrieved Employees' twice the regular rate of pay for time worked beyond twelve (12) hours
13 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work
14 in a work week, in violation of California's overtime laws.

15 100. Based on information and belief, DEFENDANTS further violated California's
16 overtime wage laws by failing to incorporate all non-discretionary compensation, including but
17 not limited to, non-discretionary bonus compensation, shift differentials, and/or other non-
18 discretionary compensation into the regular rate of pay used to calculate the overtime rate of pay.
19 Failing to include non-discretionary compensation into the regular rate of pay resulted in a
20 miscalculation of the overtime wage rate, resulting in the underpayment of overtime wages owed
21 to Aggrieved Employees that worked for DEFENDANTS in a non-driver position.

22 101. DEFENDANTS' conduct described above is in violation of California Labor
23 Code sections 510 and 1194 and all applicable Wage Orders.

24 **Meal Period Violations**

25 102. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
26 DEFENDANTS were required to provide Aggrieved Employees that worked in a non-driver
27 position with one 30-minute meal break free from all duties and employer control for all shifts
28 longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts longer

1 than 10 hours. Meal periods can be waived, but only under the following circumstances: (1) if an
2 employee's total work period in a day is over five (5) hours but no more than six (6) hours, the
3 required meal period may be waived by mutual consent of the employer and employee, and (2)
4 if an employee's total work period in a day is over ten (10) hours but no more than twelve (12)
5 hours, the required second meal period may be waived by mutual consent of the employer and
6 employee, but only if the first meal period was not waived. Employers covered by the Wage
7 Orders have an obligation to both (1) relieve their employees for at least one meal period for
8 shifts over five hours (see above), and (2) to record having done so.

9 103. Employers must pay employees an additional hour of wages at the employees'
10 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
11 meal period, first meal period provided after five (5) hours, second meal period provided after 10
12 hours). Lab. Code § 226.7.

13 104. Aggrieved Employees that worked in a non-driver position were entitled to meal
14 periods, yet based on information and belief, such Aggrieved Employees were consistently
15 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
16 being forced to take late meal periods, interrupted meal periods, and/or work through part or all
17 of their meal periods due to understaffing, the nature and constraints of their job duties, and/or
18 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
19 periods completely.

20 105. Based on information and belief, DEFENDANTS had and continue to have a
21 policy of rounding the start and end times of employees' meal periods and/or automatically
22 deducting thirty minutes per shift despite having actual and/or constructive knowledge that
23 Aggrieved Employees that worked in a non-driver position did not receive compliant meal
24 periods.

25 106. Based on information and belief, non-driver Aggrieved Employees were required
26 to clock out for meal periods but to continue working due to lack of relief workers, the need to
27 meet distribution deadlines, respond to work-related communications and/or complete other work
28 tasks. Moreover, based on information and ²⁷belief, non-driver Aggrieved Employees were

1 required to monitor and be responsive to work communication devices during unpaid meal
2 periods and therefore were not relieved of all duties and DEFENDANTS' control during unpaid
3 meal periods, resulting in meal period law violations and the underpayment of minimum wages
4 and straight time wages to Aggrieved Employees employed in a non-driver position.

5 107. Moreover, based on information and belief, these Aggrieved Employees did not
6 receive a timely, uninterrupted second meal period when working shifts over ten (10) hours in a
7 workday.

8 108. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS
9 had actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
10 practices, other unlawful policies and practices resulted in the denial of compliant meal periods
11 owed to Aggrieved Employees that worked in a non-driver position, in violation of California's
12 meal period laws.

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

18 **Rest Period Violations**

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

1 *ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

2 111. If the employer fails to provide any required rest period, the employer must pay
3 the employee one hour of pay at the employee's regular rate of compensation for each workday
4 the employer did not provide at least one legally required rest period, pursuant to Labor Code
5 section 226.7.

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

16 113. Aggrieved Employees that worked in a non-driver position were entitled to rest
17 periods, yet based on information and belief, such Aggrieved Employees did not receive legally
18 compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction
19 thereof. Any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise
20 subject to DEFENDANTS' control due to the nature and constraints of non-driver Aggrieved
21 Employees' job duties, understaffing, and/or commentary from supervisors pressuring such non-
22 driver Aggrieved Employees to skip rest periods completely or otherwise take non-compliant rest
23 periods.

24 114. Based on information and belief, DEFENDANTS implemented policies and/or
25 practices that failed to relieve non-driver Aggrieved Employees of all duties and employer control
26 during rest periods. Based on further information and belief, non-driver Aggrieved Employees
27 were pressured to complete their work duties according to a designated schedule such that rest
28 periods were only taken once tasks were completed, and/or as time permitted. For example, based

1 on information and belief, non-driver Aggrieved Employees were frequently required to work
2 through their owed rest periods due to lack of relief workers, the need to meet distribution
3 deadlines, respond to work-related communications and/or complete other work tasks.

4 115. As a result, Aggrieved Employees that worked in a non-driver position were
5 entitled to rest periods, but did not receive legally compliant first, second, or third rest periods as
6 required by California law.

7 116. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
8 period premium to these non-driver Aggrieved Employees for each workday in which there was
9 a missed or otherwise unlawful rest period. Based on further information and belief, when a rest
10 premium was paid, DEFENDANTS failed to include non-discretionary compensation including
11 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation
12 into the regular rate of compensation for purposes of determining the owed rest period premium.

13 117. DEFENDANTS are therefore liable to non-driver Aggrieved Employees one hour
14 of additional pay at the regular rate of compensation for each workday that a required rest period
15 was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
16 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
17 trial.

18 **Statutory Wage Violations**

19 118. California Labor Code section 223 makes it unlawful for an employer to secretly
20 pay wages lower than required by statute while purporting to pay legal wages. As described
21 above, DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved
22 Employees of all earned minimum and overtime compensation for all hours worked which
23 resulted in the payment of less than statutorily required wages. DEFENDANTS acted with the
24 intent to deprive them of statutory wages, including, but not limited to, minimum and overtime
25 wages, to which they were entitled to under California law. Thus, DEFENDANTS paid
26 PLAINTIFF and other Aggrieved Employees lower wages than those they were entitled to while
27 purporting that PLAINTIFF and other Aggrieved Employees were properly paid. As a result,
28 PLAINTIFF and other Aggrieved Employees are entitled to recover penalties, attorney's fees,

costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Refusal to Make Payment

119. Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all hours worked at the proper wage rate and by failing to pay an additional hour of pay for each meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation results in a separate civil penalty, for each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

Standard Conditions of Labor Violations

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

Unlawful Deductions

121. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee." Based on information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees paychecks during the relevant period, including but not limited to deducting costs of

³ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty 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 uniforms and/or other business costs and/or deducting wages for purported overpayments from
2 previous pay periods and/or deductions for costs and/or fees for services and/or tools required to
3 perform assigned job duties and/or unlawfully deducting wages for negligently damaged property
4 and/or deducting costs advanced by DEFENDANTS from Aggrieved Employees' final
5 paychecks. Such a practice is in violation of including but not limited to, Labor Code Sections
6 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

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

13 **Reporting Time Pay Violations**

14 123. Section 4 and/or section 5 of all applicable IWC Wage Orders, provides as
15 follows:

16 124. (A) Each workday an employee is required to report for work and does report, but
17 is not put to work or is furnished less than half said employee's usual or scheduled day's work,
18 the employee shall be paid for half the usual or scheduled day's work, but in no event for less
19 than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which
20 shall not be less than the minimum wage. (B) If an employee is required to report for work a
21 second time in any one workday and is furnished less than two (2) hours of work on the second
22 reporting said employee shall be paid for two hours at the employee's regular rate of pay, which
23 shall not be less than the minimum wage.

24 125. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees
25 were not paid reporting time wages in accordance with California law, including but not limited
26 to the applicable IWC Wage Order, including but not limited to, Wage Order No. 9. For example,
27 at times, Aggrieved Employees reported to work for their scheduled shift but were sent home
28 and/or were not put to work and were not paid their owed reporting time pay wages in accordance

1 with California law.

2 126. Based on information and belief, DEFENDANTS have a policy and practice of
3 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
4 including but not limited to, the applicable IWC Wage Order. DEFENDANTS' failure to pay all
5 reporting time wages to PLAINTIFF and Aggrieved Employees violated and continues to violate
6 the applicable Wage Order, and the California Labor Code, including but not limited to section
7 1198.

8 **Sick Leave Violations**

9 127. DEFENDANTS violated California's paid sick leave laws including, Labor Code
10 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
11 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
12 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure
13 to incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including
14 but not limited to, non-discretionary bonuses, shift differential pay, and/or other non-
15 discretionary compensation into the sick leave pay rate calculation.

16 128. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved
17 Employees notice of their paid sick leave rights – or thereby putting their entitlement to sick leave
18 in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate
19 records of used sick leave and the balance of paid sick leave left to the employees, which affected
20 PLAINTIFF and Aggrieved Employees' intelligent exercise of their paid sick leave.

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

25 130. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain
26 records documenting the hours worked and paid sick days accrued and used by PLAINTIFF and
27 all Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved
28 Employees were entitled to the maximum number of hours accruable.

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

6 132. These practices violated California's sick leave laws, Labor Code section 245, *et*
7 *seq.*

8 133. On information and belief, PLAINTIFF alleges that all of these practices were
9 experienced and continue to be experienced by other Aggrieved Employees.

10 134. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
11 aforementioned code provisions including but not limited to Labor Code section 233 and 234,
12 and seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

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

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

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

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

28 137. Based on information and belief, DEFENDANTS had and continue to have a

1 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
2 vacation/paid time off during their employment and failing to pay all vested, accrued paid time
3 off to Aggrieved Employees upon separation of employment, in violation of California law,
4 including but not limited to, Labor Code section 227.3.

5 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

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

13 139. The California Labor Code places certain procedural and substantive limits on an
14 employers’ ability to conduct employee background checks and on how employers can use the
15 information they obtain through those background checks. Labor Code section 1024.5 states that
16 employers, except for financial institutions, may order a credit check only if the individual works
17 (or is applying to work) in certain positions (e.g., managerial positions, financially-related
18 positions, and certain government positions). Additionally, the Investigative Consumer
19 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit
20 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to
21 and following an employee background check, including but not limited to identifying an
22 appropriate reason for the background check, a separate consent form with required disclosures
23 and certain formatting requirements, additional forms such as a summary of rights, a way by
24 which to request a copy of the report, as well as proper notice of adverse actions taken, among
25 other statutory requirements.

26 140. Based on information and belief, DEFENDANTS ordered unlawful financial
27 credit checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required
28 them to provide ongoing written consent to₃₅ the unlawful credit checks as a condition of

1 employment, in violation of California and Federal law, which results in a violation of Labor
2 Code section 432.5.

3 141. Based on information and belief, DEFENDANTS required Aggrieved Employees
4 to submit and/or agree to submit in writing to unlawful criminal background checks as a condition
5 of obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged
6 above.

7 142. Based on further information and belief, DEFENDANTS required Aggrieved
8 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
9 background checks throughout the duration of employment, in violation of the ICRAA and/or
10 FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5,
11 by requiring applicants and employees to agree to an unlawful provision as a condition of
12 employment.

13 143. Based on further information and belief, DEFENDANTS knew that requiring
14 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
15 condition of obtaining and/or holding employment was unlawful.

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

18 Unlawful Inquires into Criminal History

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

23 146. Upon information and belief, DEFENDANTS, in violation of California law,
24 including but not limited to the Fair Chance Act/the California Fair Employment and Housing
25 Act ("FEHA"), asked Aggrieved Employees about convictions prior to extending an offer of
26 employment and/or otherwise impermissibly inquired into criminal history on its employment
27 application in violation of California law.

28 147. By asking about arrests not resulting in convictions, DEFENDANTS violated

1 Labor Code section 432.7. By asking about convictions at the application phase or prior to
2 extending an employment offer, DEFENDANTS violated California's Fair Chance Act, and
3 thereby violated Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to
4 agree in writing to disclose arrests and/or convictions as a condition of employment.

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

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

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

22 **PRAYER FOR RELIEF**

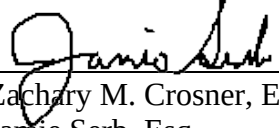
23 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and
24 Class Members and Aggrieved Employees as follows:

- 25 1. For an order that the action be certified as a class action;
- 26 2. For an order that PLAINTIFF be appointed as class representative;
- 27 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
- 28 4. For compensatory damages according to proof;

- 1 5. For liquidated damages according to proof;
2 6. For penalties according to proof;
3 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
4 withheld from PLAINTIFF and the Class Members;
5 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of
6 section 17200, *et seq.*, of the California Business and Professions Code;
7 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
8 10. For pre-judgment interest as permitted by law;
9 11. For attorney's fees and costs reasonably incurred;
10 12. For civil penalties according to proof, including PAGA penalties (75% payable to
11 the LWDA and 25% payable to Aggrieved Employees); and
12 13. For such other and further relief that the Court deems just and proper.

13 Dated: January 2, 2024

CROSNER LEGAL, PC

14 By: 
15 _____

Zachary M. Crosner, Esq.

Jamie Serb, Esq.

Nikki Trenner, Esq.

Attorneys for Plaintiff

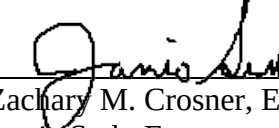
JAMAL ALI

18 **DEMAND FOR JURY TRIAL**

19 PLAINTIFF demands a trial by jury on all claims so triable.

20 Dated: January 2, 2024

CROSNER LEGAL, PC

21 By: 
22 _____

Zachary M. Crosner, Esq.

Jamie Serb, Esq.

Nikki Trenner, Esq.

Attorneys for Plaintiff

JAMAL ALI

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PROOF OF SERVICE
JAMAL ALI V. DIESEL DIRECT WEST, LLC ET AL.
Alameda Superior Court Case No. 23CV031181

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210.

On January 2, 2024, I served true copies of the following document(s) described as

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

☐ BY ELECTRONIC TRANSMISSION. I transmitted copies of the above-referenced document(s) on the interested parties in this action by electronic transmission. Said electronic transmission was reported as complete and without error.

☐ BY FACSIMILE TRANSMISSION. I transmitted copies of the above-referenced document(s) on the interested parties in this action by facsimile transmission from (310) 510-6429. A transmission report was properly issued by the transmitting facsimile machine and the transmission was reported as complete and without error.

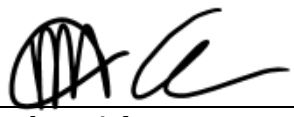
☒ BY UNITED STATES POSTAL SERVICE. I enclosed the documents in electronic pdf format and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal (letterstream.com) to be mailed addressed to the entities and/or persons listed in the Service List as set forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to be mailed by First Class Mail, following our law firm and Letterstream, Inc.'s ordinary business practices. I am readily familiar with our business practices and the business practices of Letterstream, Inc. for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. Pursuant to that practice, the above-referenced document(s) were sealed in an envelope, with postage paid, and deposited with a post office, mail box, sub-post office, substation, mail chute, or other facility or postal pick up/drop off regularly maintained by the United States Postal Service or an affiliate thereof, at or near Phoenix, Arizona.

☐ BY OVERNIGHT MAIL SERVICE. I enclosed the documents in electronic pdf format and submitted them electronically into the mail provider, Letterstream, Inc.'s, online mail portal (letterstream.com) addressed to the entities and/or persons listed in the Service List as set forth herein. I caused an envelope containing the documents to be placed for collection and mailing and to be mailed by Overnight Mail via Federal Express, following our law firm and Letterstream, Inc.'s ordinary business practices. I am readily familiar with our business practices and the business practices of Letterstream, Inc. for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with Federal Express, an express carrier, in Phoenix, Arizona, or delivered with any and all delivery fees to an authorized courier or driver authorized by the express service carrier to receive documents.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on January 2, 2024, at Los Angeles, California.



Mathew Adame

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SERVICE LIST
JAMAL ALI V. DIESEL DIRECT WEST, LLC ET AL.
Alameda Superior Court Case No. 23CV031181

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