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Electronically
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by Superior Court of California, County of San Mateo
ON **7/18/2023**
By /s/ Ashlee Nelson
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

OMARI ROBINSON, individually, and on
behalf of other members of the general
public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

MC GEE AIR SERVICES, INC., a
Delaware corporation; and DOES 1 through
10, inclusive,

Defendants.

Case No.: 23-CIV-00922

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (5) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (6) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (7) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (8) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (9) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Omari Robinson, individually and on behalf of all other members of the
2 public similarly situated, and as an aggrieved employee and on behalf of all aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

23 3. Venue is proper in this Court because Defendants employ persons in this
24 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
25 and occurrences related to this action occurred in this county.

26 THE PARTIES

27 4. Plaintiff Omari Robinson is a resident of Oakland, in Alameda County,
28 California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from

1 August 2022 to October 2022. Plaintiff worked as a Cabin Cleaner at Defendants' location in
2 the San Francisco International Airport. During his employment, Plaintiff typically worked
3 eight (8) hours or more per day and five (5) days per week. Plaintiff's primary job duties
4 included, without limitation, cleaning and disinfecting designated areas of the aircraft such as
5 the galley, lavatories, seats, floors, etc.

6 5. MCGEE AIR SERVICES, INC. was and is, upon information and belief, a
7 Delaware corporation, and at all times hereinafter mentioned, an employer whose employees
8 are engaged throughout this county and the State of California.

9 6. Plaintiff is unaware of the true names or capacities of the Defendants sued
10 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
11 amend the complaint and serve such fictitiously named Defendants once their names and
12 capacities become known.

13 7. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
14 were the partners, agents, owners, or managers of MCGEE AIR SERVICES, INC. at all
15 relevant times.

16 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the
17 acts and omissions alleged herein was performed by, or is attributable to, MCGEE AIR
18 SERVICES, INC. and/or DOES 1 through 10 (collectively, "Defendants" or "MCGEE AIR
19 SERVICES"), each acting as the agent, employee, alter ego, and/or joint venturer of, or
20 working in concert with, each of the other co-Defendants and was acting within the course and
21 scope of such agency, employment, joint venture, or concerted activity with legal authority to
22 act on the others' behalf. The acts of any and all Defendants were in accordance with, and
23 represent, the official policy of Defendants.

24 9. At all relevant times, Defendants, and each of them, ratified each and every act
25 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
26 and abetted the acts and omissions of each and all the other Defendants in proximately causing
27 the damages herein alleged.

28 10. Plaintiff is informed and believes, and thereon alleges, that each of said

Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

11. Defendants operate an aviation services company providing ground handling, aircraft cleaning, airport mobility services, and check-in/gate services at four (4) airports in California. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their company headquarters in Renton, Washington, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal period policies, to employees throughout California.

12. In particular, Plaintiff, class members, and other aggrieved employees pursuant to PAGA, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee’s time of hire.

13. Upon information and belief, Defendants maintain a centralized Payroll department at their company headquarters in Renton, Washington, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee’s employment ends.

14. Defendants continue to employ non-exempt or hourly paid employees in California.

15. Plaintiff is informed and believes, and thereon alleges, that at all times herein

1 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
2 and advisors knowledgeable about California labor and wage law, employment and personnel
3 practices, and about the requirements of California law.

4 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff, class
5 members, and other aggrieved employees pursuant to PAGA were not paid for all hours
6 worked because all hours worked were not recorded.

7 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
9 PAGA were entitled to receive certain wages for overtime compensation and that they were
10 not receiving certain wages for overtime compensation.

11 18. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
13 PAGA were entitled to receive at least minimum wages for compensation and that they were
14 not receiving at least minimum wages for work that was required to be done off-the-clock. In
15 violation of the California Labor Code, Plaintiff, class members, and other aggrieved
16 employees pursuant to PAGA were not paid at least minimum wages for work done off-the-
17 clock.

18 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
20 PAGA were entitled to meal periods in accordance with the California Labor Code and
21 applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates
22 of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal
23 periods and that Plaintiff, class members, and other aggrieved employees pursuant to PAGA
24 were not provided with all meal periods or payment of one (1) additional hour of pay at their
25 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
26 period.

27 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff, class members, and other aggrieved employees pursuant to

1 PAGA were entitled to be paid at a regular rate of pay, and corresponding rates of pay for
2 meal period premiums, that included as eligible income all remuneration required by law,
3 including but not limited to, all income derived from incentive pay, nondiscretionary bonuses,
4 and/or other forms of compensation, but failed to include all forms of remuneration in
5 calculating the regular rate of pay for Plaintiff, class members, and other aggrieved employees
6 pursuant to PAGA.

7 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and/or other aggrieved employees pursuant to PAGA were
9 entitled to rest periods in accordance with the California Labor Code and applicable IWC
10 Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when
11 they were not authorized and permitted to take a compliant rest period and that Plaintiff and/or
12 other aggrieved employees pursuant to PAGA were not authorized and permitted to take
13 compliant rest periods or provided with payment of one (1) additional hour of pay at their
14 regular rates of pay when they were not authorized and permitted to take a compliant rest
15 period.

16 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
18 PAGA were entitled to receive complete and accurate wage statements in accordance with
19 California law. In violation of the California Labor Code, Plaintiff and class members were
20 not provided complete and accurate wage statements.

21 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that they had a duty to maintain accurate and complete payroll records in
23 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
24 knowingly, and intentionally failed to do so.

25 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
27 PAGA were entitled to timely payment of all wages earned upon termination of employment.
28 In violation of the California Labor Code, Plaintiff, class members, and other aggrieved

1 employees pursuant to PAGA did not receive payment of all wages due, including, but not
2 limited to, overtime wages, minimum wages, and/or meal period premiums, within
3 permissible time periods.

4 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
6 PAGA were entitled to timely payment of wages during their employment. In violation of the
7 California Labor Code, Plaintiff, class members, and other aggrieved employees pursuant to
8 PAGA did not receive payment of all wages, including, but not limited to, overtime wages,
9 minimum wages, and/or meal period premiums, within permissible time periods.

10 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and/or other aggrieved employees pursuant to PAGA were
12 entitled to receive sick leave benefits to be paid at a regular rate of pay, that included, as
13 eligible income, all income derived from incentive pay, nondiscretionary bonuses, and/or
14 other forms of compensation, but failed to include all forms of remuneration in calculating the
15 regular rate of pay for sick leave pay.

16 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff, class members, and other aggrieved employees pursuant to
18 PAGA were entitled to receive full reimbursement for all business-related expenses and costs
19 they incurred during the course and scope of their employment and that they did not receive
20 full reimbursement of applicable business-related expenses and costs incurred.

21 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
22 mentioned, Defendants knew or should have known that Defendants had a duty to provide
23 Plaintiff, class members, and other aggrieved employees pursuant to PAGA with written
24 notice of the material terms of their employment with Defendants as required by the
25 California Wage Theft Prevention Act, but failed to do so.

26 29. Plaintiff is informed and believes, and thereon alleges, that at all times herein
27 mentioned, Defendants knew or should have known that they had a duty to compensate
28 Plaintiff, class members, and other aggrieved employees pursuant to PAGA for all hours

1 worked, and that Defendants had the financial ability to pay such compensation, but willfully,
2 knowingly, and intentionally failed to do so, and falsely represented to Plaintiff, class
3 members, and other aggrieved employees pursuant to PAGA that they were properly denied
4 wages, all in order to increase Defendants' profits.

5 **PAGA REPRESENTATIVE ALLEGATIONS**

6 30. At all times herein set forth, PAGA provides that any provision of law under
7 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
8 assessed and collected by the LWDA for violations of the California Labor Code and
9 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
10 civil action brought on behalf of themselves and other current or former employees pursuant
11 to procedures outlined in California Labor Code section 2699.3.

12 31. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
13 person who was employed by the alleged violator and against whom one or more of the
14 alleged violations was committed."

15 32. Plaintiff and other current and former employees of Defendants are "aggrieved
16 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
17 or former employees and one or more of the alleged violations were committed against them.

18 33. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
19 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
20 following requirements have been met:

21 (a) The aggrieved employee or representative shall give written notice by
22 online filing with the LWDA and by certified mail to the employer of
23 the specific provisions of the California Labor Code alleged to have
24 been violated, including the facts and theories to support the alleged
25 violation.

26 (b) An aggrieved employee's notice filed with the LWDA pursuant to
27 2699.3(a) and any employer response to that notice shall be
28 accompanied by a filing fee of seventy-five dollars (\$75).

1 (c) The LWDA shall notify the employer and the aggrieved employee or
2 representative by certified mail that it does not intend to investigate the
3 alleged violation (“LWDA Notice”) within sixty (60) calendar days of
4 the postmark date of the aggrieved employee’s notice. Upon receipt of
5 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
6 (65) calendar days of the postmark date of the aggrieved employee’s
7 notice, the aggrieved employee may commence a civil action pursuant
8 to California Labor Code section 2699 to recover civil penalties.

9 34. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
10 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
11 provision other than those listed in Section 2699.5 after the following requirements have been
12 met:

- 13 (a) The aggrieved employee or representative shall give written notice by
14 online filing with the LWDA and by certified mail to the employer of
15 the specific provisions of the California Labor Code alleged to have
16 been violated (other than those listed in Section 2699.5), including the
17 facts and theories to support the alleged violation.
- 18 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
19 2699.3(c) and any employer response to that notice shall be
20 accompanied by a filing fee of seventy-five dollars (\$75).
- 21 (c) The employer may cure the alleged violation within thirty-three (33)
22 calendar days of the postmark date of the notice sent by the aggrieved
23 employee or representative. The employer shall give written notice
24 within that period of time by certified mail to the aggrieved employee or
25 representative and by online filing with the LWDA if the alleged
26 violation is cured, including a description of actions taken, and no civil
27 action pursuant to Section 2699 may commence. If the alleged violation
28 is not cured within the 33-day period, the aggrieved employee may

1 commence a civil action pursuant to Section 2699.

2 35. On April 5, 2023, Plaintiff provided written notice by online filing to the
3 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
4 Code alleged to have been violated, including facts and theories to support the alleged
5 violations, in accordance with California Labor Code section 2699.3. Plaintiff’s written
6 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
7 LWDA PAGA Administrator confirmed receipt of Plaintiff’s written notice and assigned
8 Plaintiff PAGA Case Number LWDA-CM-946714-23. A true and correct copy of Plaintiff’s
9 written notice to the LWDA and Defendants is attached hereto as “Exhibit 1.”

10 36. As of the filing date of this complaint, over 65 days have passed since Plaintiff
11 sent the notice described above to the LWDA, and the LWDA has not responded that it
12 intends to investigate Plaintiff’s claims and Defendants have not cured the violations.

13 37. Thus, Plaintiff has satisfied the administrative prerequisites under California
14 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
15 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a),
16 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

17 38. Labor Code section 558(a) provides “[a]ny employer or other person acting on
18 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
19 provision regulating hours and days of work in any order of the Industrial Welfare
20 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
21 dollars (\$50) for each underpaid employee for each pay period for which the employee was
22 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
23 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
24 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
25 to any other civil or criminal penalty provided by law.”

26 39. Defendants, at all times relevant to this complaint, were employers or persons
27 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
28 rights by violating various sections of the California Labor Code as set forth above.

40. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

41. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

CLASS ACTION ALLEGATIONS

42. Plaintiff brings this action on his own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

43. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

44. Plaintiff's proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California, at any time from February 7, 2021, until the date of trial (“Class”).

45. Plaintiff's proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial (“Subclass”).

46. Members of the Class and Subclass are referred to herein as “class members.”

47. Plaintiff reserves the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

48. There are common questions of law and fact as to class members that predominate over questions affecting only individual members, including, but not limited to:

- 1 (a) Whether Defendants required Plaintiff and class members to work over
2 eight (8) hours per day, over twelve (12) hours per day, or over forty
3 (40) hours per week and failed to pay all legally required overtime
4 compensation to Plaintiff and class members;
- 5 (b) Whether Defendants failed to pay Plaintiff and class members at least
6 minimum wages for all hours worked;
- 7 (c) Whether Defendants failed to provide Plaintiff and class members with
8 meal periods;
- 9 (d) Whether Defendants failed to include all forms of remuneration in the
10 “regular rate” of pay as required by law for purposes of paying meal
11 period premiums to Plaintiff and class members;
- 12 (e) Whether Defendants provided Plaintiff and class members with
13 complete and accurate wage statements as required by California Labor
14 Code section 226(a);
- 15 (f) Whether Defendants maintained accurate payroll records as required by
16 California Labor Code section 1174(d);
- 17 (g) Whether Defendants failed to pay earned overtime wages, minimum
18 wages, and/or meal period premiums due to Plaintiff and class members
19 upon their discharge;
- 20 (h) Whether Defendants failed timely to pay overtime wages, minimum
21 wages, and/or meal period premiums due to Plaintiff and class members
22 during their employment;
- 23 (i) Whether Defendants failed to reimburse Plaintiff and class members for
24 necessary and required business-related expenditures and/or losses
25 incurred by them in the scope of their employment;
- 26 (j) Whether Defendants failed to provide written notice of information
27 material to Plaintiff’s and class members’ employment with Defendants;
- 28 (k) Whether Defendants engaged in unlawful and unfair business practices

1 in violation of California Business & Professions Code sections 17200,
2 *et seq.*; and

- 3 (l) The appropriate amount of damages, restitution, or monetary penalties
4 resulting from Defendants' violations of California law.

5 49. There is a well-defined community of interest in the litigation and the class
6 members are readily ascertainable:

- 7 (a) Numerosity: The class members are so numerous that joinder of all
8 members would be unfeasible and impractical. The membership of the
9 entire class is unknown to Plaintiff at this time; however, the class is
10 estimated to be greater than one hundred (100) individuals and the
11 identity of such membership is readily ascertainable by inspection of
12 Defendants' employment records.
- 13 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
14 protect the interests of each class member with whom he has a well-
15 defined community of interest, and Plaintiff's claims (or defenses, if
16 any) are typical of all class members as demonstrated herein.
- 17 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
18 protect the interests of each class member with whom he has a well-
19 defined community of interest and typicality of claims, as demonstrated
20 herein. Plaintiff acknowledges that he has an obligation to make known
21 to the Court any relationship, conflicts or differences with any class
22 member. Plaintiff's attorneys, the proposed class counsel, are versed in
23 the rules governing class action discovery, certification, and settlement.
24 Plaintiff has incurred, and throughout the duration of this action, will
25 continue to incur costs and attorneys' fees that have been, are, and will
26 be necessarily expended for the prosecution of this action for the
27 substantial benefit of each class member.
- 28 (d) Superiority: The nature of this action makes the use of class action

1 adjudication superior to other methods. A class action will achieve
2 economies of time, effort, and expense as compared with separate
3 lawsuits, and will avoid inconsistent outcomes because the same issues
4 can be adjudicated in the same manner and at the same time for the
5 entire class.

6 (e) Public Policy Considerations: Employers in the State of California
7 violate employment and labor laws every day. Current employees are
8 often afraid to assert their rights out of fear of direct or indirect
9 retaliation. Former employees are fearful of bringing actions because
10 they believe their former employers might damage their future
11 endeavors through negative references and/or other means. Class
12 actions provide the class members who are not named in the complaint
13 with a type of anonymity that allows for the vindication of their rights
14 while simultaneously protecting their privacy.

15 **FIRST CAUSE OF ACTION**

16 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

17 **(Against all Defendants)**

18 50. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 51. Labor Code section 1198 makes it illegal to employ an employee under
21 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
22 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
23 shall be the . . . standard conditions of labor for employees. The employment of any employee
24 . . . under conditions of labor prohibited by the order is unlawful.”

25 52. California Labor Code section 1198 and the applicable IWC Wage Order
26 provide that it is unlawful to employ persons without compensating them at a rate of pay
27 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
28 number of hours worked by the person on a daily or weekly basis.

1 53. Specifically, the applicable IWC Wage Order provides that Defendants are and
2 were required to pay Plaintiff and class members working more than eight (8) hours in a day
3 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
4 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
5 workweek.

6 54. The applicable IWC Wage Order further provides that Defendants are and were
7 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
8 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
9 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
10 employee, including nondiscretionary bonuses and incentive pay.

11 55. California Labor Code section 510 codifies the right to overtime compensation
12 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
13 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
14 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
15 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
16 in a day on the seventh (7th) day of work.

17 56. During the relevant time period, Defendants willfully failed to pay all overtime
18 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
19 class members were not paid overtime premiums for all of the hours they worked in excess of
20 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
21 hours in a week, because all hours worked were not recorded.

22 57. First, Defendants had, and continue to have, a company-wide policy and/or
23 practice of discouraging and impeding Plaintiff and class members from recording hours
24 worked that were outside of their scheduled shifts in order to limit the amount of overtime
25 employees could accrue. Because Defendants discouraged overtime accrual by, among other
26 things, altering and/or falsifying timesheets, Plaintiff and class members were required to
27 complete assigned tasks outside of their scheduled shifts without being compensated for the
28 time they worked.

1 58. For example, Plaintiff spent time working before his shifts preparing for the
2 shift by gathering cleaning supplies such as trash bags and towels to clean the airplane seats.
3 As a further example, Plaintiff spent time working after his scheduled shift time ended
4 completing any outstanding cleaning tasks that had to be finished prior to him leaving for the
5 day. Plaintiff attempted to record this time spent working, but, on information and belief,
6 Defendants' management would subsequently alter his timesheets and shave off time spent
7 preparing for the shift or finishing cleaning at the end of the shifts to avoid payment of
8 additional wages to Plaintiff and class members.

9 59. Second, during the relevant time period, Defendants had, and continue to have,
10 a company-wide policy and/or practice of understaffing their locations while assigning heavy
11 workloads, resulting in a failure to provide Plaintiff and class members with adequate meal
12 period coverage. As a result of this lack of meal period coverage, Plaintiff and class members
13 were not always afforded uninterrupted 30-minute meal periods during shifts when they were
14 entitled to receive a meal period. For example, Plaintiff was sometimes required to continue
15 performing his duties during his unpaid meal periods. Additionally, Defendants, on a
16 company-wide basis, had a practice of failing to schedule meal periods which, in conjunction
17 with the assignment of heavy workloads, further caused Plaintiff and class members to not be
18 relieved of their duties for compliant meal periods. Thus, Plaintiff and class members worked
19 through meal periods or had them interrupted or shortened to complete their assigned
20 workloads. Defendants did not pay Plaintiff and class members for the time they continued to
21 perform tasks during meal periods.

22 60. Third, on information and belief, because Defendants frowned upon employees
23 accruing meal period penalties, Defendants' management pressured employees to clock out
24 for meal periods, on threat of discipline, and/or adjusted their time records to reflect compliant
25 meal periods regardless of whether they had received a compliant meal period or not, in order
26 to limit the meal penalties that Defendants would otherwise owe. In addition, Defendants'
27 company-wide timekeeping system prevented Plaintiff and class members from recording all
28 hours worked when their meal periods were shortened or interrupted, because the system

1 locked out Plaintiff and class members once they clocked out for a meal period, and did not
2 permit them to clock back in from a meal period before 30 minutes elapsed. Thus, Defendants
3 did not record all hours worked during meal periods, and Plaintiff and class members
4 performed work during meal periods for which they were not paid.

5 61. Defendants knew or should have known that as a result of these company-wide
6 practices and/or policies, Plaintiff and class members were performing their assigned duties
7 off-the-clock before and after their shifts and during meal periods, and were suffered or
8 permitted to perform work for which they were not paid. Because Plaintiff and class members
9 sometimes worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more,
10 some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
11 class members were not paid overtime wages for all of the overtime hours they actually
12 worked.

13 62. Defendants' failure to pay Plaintiff and class members the balance of overtime
14 compensation as required by California law, violates the provisions of California Labor Code
15 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
16 members are entitled to recover from Defendants their unpaid overtime compensation, as well
17 as interest, costs, and attorneys' fees.

18 **SECOND CAUSE OF ACTION**

19 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 20 **Minimum Wages** 21 **(Against all Defendants)**

22 63. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 64. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
25 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
26 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
27 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 9-2001 as "the
28 time during which an employee is subject to the control of an employer, and includes all the

1 time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
2 Code Regs. tit. 8, § 11090(2)(H) (defining “Hours Worked”).

3 65. As set forth above, due to Defendants’ restrictions on overtime accrual,
4 Defendants systematically failed to pay Plaintiff and class members for actual hours worked
5 before and after their scheduled shifts, because these hours were not accurately recorded.
6 Thus, Plaintiff and class members were required to perform work off-the-clock prior to the
7 start of their shifts and after their shifts, including preparing for the shift by gathering
8 necessary cleaning supplies and completing outstanding cleaning tasks before leaving for the
9 day. As also stated, on information and belief, Defendants had, and continue to have, a
10 company-wide policy of adjusting or shaving down Plaintiff’s and class members’ hourly
11 clock-in and clock-out times in their timekeeping system, further resulting in the failure to pay
12 Plaintiff and class members minimum wages for all hours actually worked.

13 66. Moreover, as stated above, due to Defendants’ policies and/or practices of
14 understaffing their locations, assigning heavy workloads, and failing to schedule meal periods,
15 Plaintiff and class members were forced to forego meal periods, have their meal periods
16 interrupted, and/or were otherwise not relieved of all duties during meal periods. Also, as
17 stated, in order to prevent employees from accruing meal period penalties, upon information
18 and belief, Defendants’ management pressured employees to record compliant meal periods
19 when meal periods were missed, short, and/or interrupted, and/or adjusted their time records
20 to reflect compliant meal periods. In addition, as stated, Defendants’ company-wide
21 timekeeping system prevented Plaintiff and class members from entering time worked during
22 meal periods because the system locked out Plaintiff and class members for a full 30 minutes.
23 Thus, Defendants systematically failed to pay Plaintiff and class members for actual hours
24 worked during unpaid meal periods because these hours were not always correctly recorded.

25 67. Defendants did not pay minimum wages for all hours worked by Plaintiff and
26 class members. To the extent that these off-the-clock hours did not qualify for overtime
27 premium payment, Defendants did not pay at least minimum wages for those hours worked
28 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and

1 1198.

2 68. Defendants' failure to pay Plaintiff and class members minimum wages violates
3 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
4 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from
5 Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and
6 interest thereon.

7 **THIRD CAUSE OF ACTION**

8 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**
9 **Violations**
10 **(Against all Defendants)**

11 69. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
12 and every allegation set forth above.

13 70. At all relevant times herein set forth, California Labor Code section 512(a)
14 provides that an employer may not require, cause, or permit an employee to work for a period
15 of more than five (5) hours per day without providing the employee with a meal period of not
16 less than thirty (30) minutes, except that if the total work period per day of the employee is
17 not more than six (6) hours, the meal period may be waived by mutual consent of both the
18 employer and the employee. Under California law, first meal periods must start after no more
19 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

20 71. At all relevant times herein set forth, California Labor Code sections 226.7,
21 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
22 meal period mandated by an applicable order of the IWC.

23 72. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a),
24 and the applicable IWC Wage Order also require employers to provide a second meal period
25 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
26 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
27 total hours worked is no more than twelve (12) hours, the second meal period may be waived
28 by mutual consent of the employer and the employee only if the first meal period was not

1 waived.

2 73. First, as stated above, on information and belief, Defendants had, and continue
3 to have, company-wide policies and/or practices of understaffing their locations, assigning
4 heavy workloads, and failing to schedule meal periods, which have resulted in a lack of meal
5 period coverage and prevented Plaintiff and class members from taking all timely,
6 uninterrupted meal periods to which they were entitled. As a result, Plaintiff and class
7 members would be forced to work in excess of five (5) hours before taking a meal period and,
8 at times, had to forgo their meal periods altogether. For example, because of Defendants'
9 policy and/or practice of understaffing and assigning heavy workloads, Plaintiff sometimes
10 had to forgo his meal periods; on the days Plaintiff was able to take his meal periods, he
11 sometimes took his meal periods late, after the end of his fifth hour of work. Moreover,
12 Plaintiff's meal periods were occasionally cut short by his supervisors asking him to return to
13 work and complete cleaning tasks pursuant to Defendants' expectations.

14 74. Second, as stated above, on information and belief, because Defendants
15 frowned upon employees accruing meal period penalties, Defendants' management pressured
16 employees to clock out for meal periods, upon threat of discipline, or adjusted their time
17 records to reflect compliant meal periods, regardless of whether they had received a compliant
18 meal period, in order to limit meal penalties that would need to be paid by Defendants. For
19 example, Plaintiff was required to clock out for his meal period to record that he had received
20 compliant meal periods on shifts when he had not, in fact, received these timely meal periods.

21 75. Also, as stated, Defendants' company-wide timekeeping system prevented
22 Plaintiff and class members from recording all hours worked when their meal periods were
23 shortened or interrupted, because the system locked out Plaintiff and class members once they
24 clocked out for a meal period, and would not permit them to clock back in from a meal period
25 before 30 minutes had elapsed. For example, Plaintiff was unable to record when his meal
26 periods were interrupted or cut short by management asking him to return to work to finish
27 cleaning the aircraft.

28 76. Plaintiff and class members did not sign valid meal period waivers on days that

1 they were entitled to meal periods and were not relieved of all duties.

2 77. At all times herein mentioned, Defendants knew or should have known that, as
3 a result of these policies, Plaintiff and class members were prevented from being relieved of
4 all duties and required to perform some of their assigned duties during meal periods.
5 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
6 members all meal period premiums when meal periods were late, interrupted, shortened,
7 and/or missed.

8 78. Moreover, Defendants engaged in a company-wide practice and/or policy of
9 not paying all meal period premiums owed when compliant meal periods are not provided.
10 Because of this practice and/or policy, Plaintiff and class members have not received all
11 premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that
12 Defendants did pay meal period premiums to Plaintiff and class members, they did so at the
13 incorrect rates. In addition to an hourly wage, Defendants paid Plaintiff and class members
14 incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in
15 violation of the California Labor Code, Defendants failed to include all forms of
16 compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of
17 remuneration, in the regular rate of pay. Therefore, during times when Plaintiff and class
18 members received meal period premiums and these other forms of pay, Defendants failed to
19 pay full meal period premiums by paying a lower rate than required. Specifically, Defendants
20 paid Plaintiff and class members meal period premiums at their straight hourly rate of pay
21 instead of at their regular rate of pay. As a result, Defendants failed to provide Plaintiff and
22 class members compliant meal periods in violation of California Labor Code sections 226.7,
23 512(a), and 516 and failed to pay the full meal period premiums due.

24 79. Defendants' conduct violates the applicable IWC Wage Order, and California
25 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
26 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
27 rate of compensation for each work day that the meal period was not provided.

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FOURTH CAUSE OF ACTION
Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage
Statements and Failure to Maintain Accurate Payroll Records
(Against all Defendants)

80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

81. At all relevant times herein set forth, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

82. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

83. Because Defendants did not record the time Plaintiff and Subclass members spent working off the clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Subclass members in compliance with sections 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and Subclass members, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

1 84. Additionally, because Defendants did not calculate Plaintiff’s and Subclass
2 members’ regular rate of pay correctly for purposes of paying meal period premiums,
3 Defendants did not list the correct amount of gross wages in compliance with section
4 226(a)(1). For the same reason, Defendants failed to list the correct amount of net wages in
5 violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly
6 rates in effect during the pay period, namely, correct rates of pay for meal premiums, in
7 violation of section 226(a)(9).

8 85. The wage statement deficiencies also include, among other things, failing to list
9 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
10 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
11 for which employees were paid; failing to list the name of the employee and only the last four
12 digits of his or her social security number or an employee identification number other than a
13 social security number; failing to list the name and address of the legal entity that is the
14 employer; and/or failing to state all hours worked as a result of not recording or stating the
15 hours worked off-the-clock.

16 86. California Labor Code section 1174(d) provides that “[e]very person employing
17 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
18 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
19 plants or establishments at which employees are employed, payroll records showing the hours
20 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
21 applicable piece rate paid to, employees employed at the respective plants or
22 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
23 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
24 members showing the daily hours they worked and the wages paid thereto as a result of failing
25 to record the off-the-clock hours that they worked.

26 87. California Labor Code section 1198 provides that the maximum hours of work
27 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
28 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he

1 employment of any employees for longer hours than those fixed by the order or under
2 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
3 Wage Order, employers are required to keep accurate time records showing when the
4 employee begins and ends each work period and meal period. During the relevant time
5 period, Defendants engaged in company-wide practices and/or policies of failing to record
6 actual hours worked (including falsifying Plaintiff’s and Subclass members’ time records by
7 recording that compliant meal periods were taken regardless of if or when meal periods were
8 actually taken), and thereby failed to keep accurate records of work period and meal start and
9 end times for Plaintiff and Subclass members, in violation of section 1198.

10 88. Plaintiff and Subclass members are entitled to recover from Defendants the
11 greater of their actual damages caused by Defendants’ failure to comply with California Labor
12 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
13 employee.

14 **FIFTH CAUSE OF ACTION**

15 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 16 **Termination** 17 **(Against all Defendants)**

18 89. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 90. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
21 that if an employer discharges an employee, the wages earned and unpaid at the time of
22 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
23 her employment, his or her wages shall become due and payable not later than seventy-two
24 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
25 his or her intention to quit, in which case the employee is entitled to his or her wages at the
26 time of quitting.

27 91. On information and belief, Defendants had a company-wide practice and/or
28 policy of paying departing employees their final wages on the next regular pay cycle instead

1 of adhering to the time requirements set forth in Labor Code sections 201 and 202. For
2 example, Plaintiff was terminated on or about October 19, 2022; however, he did not receive
3 all of his final wages until the next regular pay date, October 21, 2022. Thus, Defendants
4 failed to pay Plaintiff his final wages immediately, in violation of California Labor Code
5 section 201.

6 92. Additionally, Defendants willfully failed to pay Plaintiff and class members
7 who are no longer employed by Defendants the earned and unpaid wages set forth above,
8 including but not limited to, overtime wages, minimum wages, and/or meal period premiums,
9 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants'
10 employ.

11 93. Defendants' failure to pay Plaintiff and class members who are no longer
12 employed by Defendants their wages earned and unpaid at the time of discharge, or within
13 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
14 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
15 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
16 thirty (30) day maximum pursuant to California Labor Code section 203.

17 **SIXTH CAUSE OF ACTION**

18 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 19 **Employment** 20 **(Against all Defendants)**

21 94. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 95. This cause of action is dependent upon, and wholly derivative of, the overtime
24 wages, minimum wages, and/or meal period premiums that were not timely paid to Plaintiff
25 and class members during their employment.

26 96. At all times relevant herein set forth, Labor Code section 204 provides that all
27 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
28 days, inclusive, of any calendar month, other than those wages due upon termination of an

1 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
2 the month during which the labor was performed.

3 97. At all times relevant herein, Labor Code section 204 provides that all wages
4 earned by any person in any employment between the sixteenth (16th) and the last day,
5 inclusive, of any calendar month, other than those wages due upon termination of an
6 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
7 month.

8 98. At all times relevant herein, Labor Code section 204 provides that all wages
9 earned for labor in excess of the normal work period shall be paid no later than the payday for
10 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
11 204 provides that the requirements of this section are deemed satisfied by the payment of
12 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
13 seven (7) calendar days following the close of the payroll period.

14 99. During the relevant time period, Defendants willfully failed to pay Plaintiff and
15 class members all wages due including, but not limited to, overtime wages, minimum wages,
16 and/or meal premiums within the time periods specified by California Labor Code section
17 204.

18 100. Defendants' failure to pay Plaintiff and class members all wages due violates
19 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
20 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

21 SEVENTH CAUSE OF ACTION

22 Violation of California Labor Code § 2802—Unpaid Business-Related Expenses 23 (Against all Defendants)

24 101. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
25 and every allegation set forth above.

26 102. At all times herein set forth, California Labor Code section 2802 provides that
27 an employer must reimburse employees for all necessary expenditures and losses incurred by
28 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is

1 to prevent employers from passing off their cost of doing business and operating expenses on
2 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
3 (2014). The applicable wage order, IWC Wage Order No. 9-2001, provides that: "[w]hen
4 uniforms are required by the employer to be worn by the employee as a condition of
5 employment, such uniforms shall be provided and maintained by the employer."

6 103. During the relevant time period, Defendants required Plaintiff and class
7 members to wear uniforms bearing the company logo, including a vest and a jacket. However,
8 Defendants did not provide their employees with sufficient uniforms to wear for their shifts
9 throughout the week. For example, Defendants only provided Plaintiff with one (1) vest and
10 one (1) jacket at the time of hire. Because Defendants failed to provide Plaintiff and class
11 members with an adequate number of uniform items in relation to their scheduled shifts,
12 Plaintiff and class members had to wash their uniforms more frequently than they otherwise
13 do laundry, and incur expenses in doing so. For example, due to the nature of his work,
14 Plaintiff's uniform would become covered in cleaning chemicals, grease stains, and/or acquire
15 an unpleasant odor such that he was unable to mix these clothes in with his other laundry. As
16 a result, Plaintiff had to wash his uniform items separately from his regular clothing, thus
17 incurring additional laundry expenses for the upkeep of his uniforms. Thus, Defendants failed
18 to maintain uniforms they required Plaintiff and class members to wear during their shifts and
19 forced them to incur the cost of maintaining employee uniforms.

20 104. Defendants could have provided Plaintiff and class members with an adequate
21 number of uniform items or access to laundering services; or Defendants could have
22 reimbursed employees for laundering expenses or provided a uniform maintenance allowance.
23 Instead, Defendants passed these operating costs off onto Plaintiff and class members.

24 105. Defendants' company-wide policy and/or practice of passing on their operating
25 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
26 have intentionally and willfully failed to reimburse Plaintiff and class members for necessary
27 business-related expenses and costs.

28 106. Plaintiff and class members are entitled to recover from Defendants their

1 business-related expenses incurred during the course and scope of their employment, plus
2 interest.

3 **EIGHTH CAUSE OF ACTION**

4 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

5 **(Against all Defendants)**

6 107. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
7 and every allegation set forth above.

8 108. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
9 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
10 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
11 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
12 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
13 those Labor Code sections not found in section 2699.5, including sections 246, 516, 1182.12,
14 and 2810.5.

15 109. Defendants’ conduct, as alleged herein, violates numerous sections of the
16 California Labor Code, including, but not limited to, the following:

- 17 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
18 Wage Order for Defendants’ failure to compensate Plaintiff and other
19 aggrieved employees with all required overtime pay, as alleged herein;
- 20 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
21 1198, and the applicable IWC Wage Order for Defendants’ failure to
22 compensate Plaintiff and other aggrieved employees with at least
23 minimum wages for all hours worked, as alleged herein;
- 24 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
25 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
26 and other aggrieved employees with meal periods, as alleged herein;
- 27 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
28 applicable IWC Wage Order for Defendants’ failure to authorize and

1 permit other aggrieved employees to take rest periods, as set forth
2 below;

- 3 (e) Violation of Labor Code sections 226.7, 510, and 1198, and the
4 applicable IWC Wage Order for Defendants' failure to include all forms
5 of remuneration in the "regular rate" of pay as required by law for
6 purposes of paying meal and/or rest period premiums, to Plaintiff and
7 other aggrieved employees, as alleged herein and set forth below;
- 8 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
9 IWC Wage Order for failure to provide accurate and complete wage
10 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 11 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
12 IWC Wage Order for failure to maintain payroll records, as alleged
13 herein;
- 14 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
15 earned wages upon termination, as alleged herein;
- 16 (i) Violation of Labor Code section 204 for failure to pay all earned wages
17 during employment, as alleged herein;
- 18 (j) Violation of Labor Code sections 246(l), for failure to properly calculate
19 the sick leave rate paid to other aggrieved employees, as set forth below;
- 20 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
21 and other aggrieved employees for all business expenses necessarily
22 incurred, as alleged herein and set forth below; and
- 23 (l) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
24 provide written notice of information material to Plaintiff's and other
25 aggrieved employees' employment with Defendants, as set forth below.

26 110. At all relevant times herein set forth, the applicable IWC Wage Order and
27 California Labor Code sections 226.7, 516, and 1198 were applicable to other aggrieved
28 employees' employment by Defendants.

111. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

112. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

113. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), other aggrieved employees are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

114. During the relevant time period, Defendants regularly failed to authorize and permit other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. Defendants had, and continue to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which resulted in a lack of rest period coverage because there were too few employees on duty to handle heavy workloads and provide rest period coverage. Moreover, Defendants had a company-wide practice of failing to schedule rest periods, which further led to other aggrieved employees not being authorized and permitted to take rest periods.

115. Moreover, on information and belief, Defendants maintained a company-wide on-premises rest period policy, which effectively required that other aggrieved employees

1 remain on Defendants' premises during their rest periods. Because other aggrieved employees
2 were restricted from leaving the premises during rest periods, they were denied the ability to
3 use their rest periods freely for their own purposes, such as running personal errands. Thus,
4 Defendants effectively maintained control over other aggrieved employees during rest periods.

5 116. As a result of Defendants' practices and policies, other aggrieved employees
6 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
7 receiving all uninterrupted 10-minute rest periods to which they were entitled.

8 117. Defendants have also engaged in a systematic, company-wide practice and/or
9 policy of not paying rest period premiums owed when rest periods are not authorized and
10 permitted. Because of this practice and/or policy, other aggrieved employees have not
11 received premium pay for all missed rest periods. Alternatively, to the extent that Defendants
12 did pay other aggrieved employees one (1) additional hour of premium pay for missed rest
13 periods, Defendants did not pay other aggrieved employees at the correct rate of pay for
14 premiums because Defendants failed to include all forms of compensation, such as incentive
15 pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

16 118. Accordingly, Defendants failed to authorize and permit all compliant rest
17 periods and failed to pay the full rest period premiums due. Defendants' conduct violates the
18 applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Other
19 aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code
20 sections 558 and/or 2699(a), (f), and (g).

21 119. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
22 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
23 days from the commencement of employment with paid sick days, to be accrued at least one
24 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
25 employers must provide no less than 24 hours or three (3) days of paid sick leave (or
26 equivalent paid leave or paid time off) in each year of the employee's employment. Further,
27 Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using
28 one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in

1 the same manner as the regular rate of pay for the workweek in which the employee uses paid
2 sick time, whether or not the employee actually works overtime in that workweek[;]” or 2)
3 “[p]aid sick time for nonexempt employees shall be calculated by dividing the employee’s
4 total wages, not including overtime premium pay, by the employee’s total hours worked in the
5 full pay periods of the prior 90 days of employment.”

6 120. During the relevant time period, on information and belief, Defendants did not
7 pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly
8 wage, Defendants paid other aggrieved employees incentive pay, nondiscretionary bonuses,
9 and/or other forms of remuneration. However, in violation of the California Labor Code,
10 Defendants failed to incorporate all remunerations, including incentive pay and/or
11 nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of
12 calculating the sick leave rate. Therefore, during times when other aggrieved employees took
13 sick leave and received these other forms of pay, Defendants failed to pay all sick leave
14 benefits by paying a lower sick leave rate than required. Specifically, Defendants paid other
15 aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate
16 of pay.

17 121. Defendants’ failure to properly calculate the sick leave rates of pay based on all
18 remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved
19 employees on a company-wide basis in violation of Labor Code section 246(l). Other
20 aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code
21 sections 248.5 and/or 2699(a), (f), and (g).

22 122. At all times herein set forth, California Labor Code section 2802 provides that
23 an employer must reimburse employees for all necessary expenditures and losses incurred by
24 the employee in the performance of his or her job. The applicable wage order, IWC Wage
25 Order No. 9-2001 provides that: “[w]hen tools or equipment are required by the employer or
26 are necessary to the performance of a job, such tools and equipment shall be provided and
27 maintained by the employer, except that an employee whose wages are at least two (2) times
28 the minimum wage provided herein may be required to provide and maintain hand tools and

1 equipment customarily required by the trade or craft.”

2 123. During the relevant time period, Defendants, on a company-wide basis,
3 required other aggrieved employees to use their personal mobile devices, including, but not
4 limited to, cellular phones, and/or mobile data to carry out their job duties but failed to
5 reimburse them for the costs of their work-related mobile device and/or mobile data expenses.
6 For example, other aggrieved employees were required to use their personal cellular phones to
7 communicate with supervisors about assignments, updates on flight statuses and safety issues,
8 and to contact passengers about lost or misplaced luggage. Further, other aggrieved
9 employees were required to download certain mobile applications on their personal mobile
10 devices in order to track aircraft flights and landings. Although Defendants required other
11 aggrieved employees to use their personal mobile devices and mobile data to carry out their
12 work-related duties, Defendants failed to reimburse them for all of their costs incurred.

13 124. Defendants could have provided other aggrieved employees with the actual
14 equipment for use on the job, such as company mobile devices, or, Defendants could have
15 reimbursed employees for the costs of their mobile device usage. Instead, Defendants passed
16 these operating costs off onto other aggrieved employees.

17 125. Defendants’ company-wide policy and/or practice of not reimbursing
18 employees for expenses necessarily incurred and passing on their operating costs to other
19 aggrieved employees violates California Labor Code section 2802. Other aggrieved
20 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
21 2699(a), (f), and (g).

22 126. At all relevant times herein, California’s Wage Theft Prevention Act was
23 enacted to ensure that employers provide employees with basic information material to their
24 employment relationship at the time of hiring, and to ensure that employees are given written
25 and timely notice of any changes to basic information material to their employment. Codified
26 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
27 time of hiring, an employer must provide written notice to employees containing basic and
28 material payroll information, including, among other things, the rate(s) of pay and basis

1 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
2 including any rates for overtime, the regular payday designated by the employer, and any
3 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
4 Code § 2810.5(a)(1)(A)-(C).

5 127. At all relevant times, on information and belief, Defendants failed, on a
6 company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that
7 lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
8 Specifically, Defendants failed to provide Plaintiff and other aggrieved employees with the
9 hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section
10 2810.5(a)(1)(A). Instead, the wage theft form that Defendants provided to Plaintiff is blank
11 where the aforementioned wage information should be filled in.

12 128. Defendants' failure to provide Plaintiff and other aggrieved employees with
13 written notice of basic information regarding their employment with Defendants is in violation
14 of Labor Code section 2810.5. Plaintiff and other aggrieved employees are therefore entitled
15 to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

16 **NINTH CAUSE OF ACTION**

17 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

18 **Unlawful Business Practices**

19 **(Against all Defendants)**

20 129. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 130. Defendants are "persons" as defined by California Business & Professions
23 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
24 and/or associations.

25 131. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
26 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
27 suffered injury in fact and has lost money as a result of Defendants' unlawful business
28 practices. Plaintiff seeks to enforce important rights affecting the public interest within the

1 meaning of Code of Civil Procedure section 1021.5.

2 132. Defendants' activities, as alleged herein, are violations of California law, and
3 constitute unlawful business acts and practices in violation of California Business &
4 Professions Code sections 17200, *et seq.*

5 133. A violation of California Business & Professions Code sections 17200, *et seq.*
6 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
7 policies and practices have violated state law in at least the following respects:

- 8 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
9 class members, to work overtime without paying them proper
10 compensation in violation of California Labor Code sections 510 and
11 1198, and the applicable IWC Wage Order, as alleged herein;
- 12 (b) Failing to pay at least minimum wage to Plaintiff and class members in
13 violation of California Labor Code sections 1182.12, 1194, 1197,
14 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
15 herein;
- 16 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
17 members in violation of California Labor Code sections 226.7, 512(a),
18 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- 19 (d) Failing to include all forms of remuneration in the "regular rate" of pay
20 as required by law for purposes of paying meal period premiums to
21 Plaintiff and class members, in violation of California Labor Code
22 sections 226.7, 510, and 1198, and the applicable IWC Wage Order, as
23 alleged herein;
- 24 (e) Failing to provide Plaintiff and class members with accurate wage
25 statements and failing to maintain accurate payroll records in violation
26 of California Labor Code sections 226(a), 1174(d), and 1198, and the
27 applicable IWC Wage Order, as alleged herein;
- 28 (f) Failing timely to pay all earned wages to Plaintiff and class members in

violation of California Labor Code section 204, as alleged herein;

- (g) Failing to reimburse Plaintiff and class members for all business expenses necessarily incurred in violation of California Labor Code section 2802, as alleged herein; and
- (h) Failing to provide written notice of information material to Plaintiff's and class members' employment with Defendants in violation of California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

134. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

135. During the relevant time period, Defendants failed to provide Plaintiff and class members with written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, Defendants failed to provide Plaintiff and class members with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that Defendants provided to Plaintiff is blank where the aforementioned wage information should be filled in.

136. Defendants' failure to provide Plaintiff and class members with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5.

137. As a result of the violations of California law herein described, Defendants

1 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
2 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
3 herein.

4 138. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
5 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
6 Defendants during a period that commences four years prior to the filing of this complaint; a
7 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
8 class members; and an award of attorneys' fees pursuant to California Code of Civil
9 Procedure section 1021.5 and other applicable laws; and an award of costs.

10 **TENTH CAUSE OF ACTION**

11 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

12 **Unfair Business Practices**

13 **(Against all Defendants)**

14 139. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
15 and every allegation set forth above.

16 140. Defendants are "persons" as defined by California Business & Professions
17 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
18 and/or associations.

19 141. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
20 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
21 injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff
22 seeks to enforce important rights affecting the public interest within the meaning of Code of
23 Civil Procedure section 1021.5.

24 142. Defendants' activities, namely Defendants' company-wide practice and/or
25 policy of not paying Plaintiff and class members all meal period premiums due to them under
26 Labor Code section 226.7, deprived Plaintiff and class members of the compensation
27 guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy
28 provided by section 226.7 is a "'dual-purpose' remedy intended primarily to compensate

employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their employment with Defendants, and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

143. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants’ policies and practices have violated the spirit of California’s meal period laws and constitute acts against the public policy behind these laws.

144. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys’ fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys’ fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff reserves the right to amend his prayer for relief to seek a different amount.

Class Certification

2. That this case be certified as a class action;

3. That Plaintiff be appointed as the representative of the Class and Subclass;

1 4. That counsel for Plaintiff be appointed as class counsel.

2 **As to the First Cause of Action**

3 5. That the Court declare, adjudge, and decree that Defendants violated California
4 Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to
5 pay all overtime wages due to Plaintiff and class members;

6 6. For general unpaid wages at overtime wage rates and such general and special
7 damages as may be appropriate;

8 7. For pre-judgment interest on any unpaid overtime compensation commencing
9 from the date such amounts were due, or as otherwise provided by law;

10 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
11 California Labor Code section 1194(a); and

12 9. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Second Cause of Action**

15 10. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage
17 Order by willfully failing to pay minimum wages to Plaintiff and class members;

18 11. For general unpaid wages and such general and special damages as may be
19 appropriate;

20 12. For pre-judgment interest on any unpaid compensation from the date such
21 amounts were due, or as otherwise provided by law;

22 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
23 California Labor Code section 1194(a);

24 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

25 15. For such other and further relief as the Court may deem equitable and
26 appropriate.

27 **As to the Third Cause of Action**

28 16. That the Court declare, adjudge, and decree that Defendants violated California

1 Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by
2 willfully failing to provide all meal periods to Plaintiff and class members;

3 17. That the Court make an award to the Plaintiff and class members of one (1)
4 hour of pay at each employee's regular rate of pay for each workday that a meal period was
5 not provided;

6 18. For all actual, consequential, and incidental losses and damages, according to
7 proof;

8 19. For premiums pursuant to California Labor Code section 226.7(c);

9 20. For pre-judgment interest on any unpaid meal period premiums from the date
10 such amounts were due, or as otherwise provided by law;

11 21. For attorneys' fees pursuant to California Code of Civil Procedure section
12 1021.5, or as otherwise provided by law; and

13 22. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 **As to the Fourth Cause of Action**

16 23. That the Court declare, adjudge and decree that Defendants violated the
17 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
18 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate
19 itemized wage statements thereto;

20 24. For all actual, consequential, and incidental losses and damages, according to
21 proof;

22 25. For injunctive relief pursuant to California Labor Code section 226(h);

23 26. For statutory penalties pursuant to California Labor Code section 226(e);

24 27. For attorneys' fees and costs pursuant to California Labor Code section
25 226(e)(1); and

26 28. For such other and further relief as the Court may deem equitable and
27 appropriate.

28 //

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages, and/or meal period premiums owed at the time of termination of the employment of Plaintiff and other terminated class members;

30. For all actual, consequential and incidental losses and damages, according to proof;

31. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

32. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

33. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

34. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime wages, minimum wages, and/or meal period premiums during their employment;

36. For all actual, consequential and incidental losses and damages, according to proof;

37. For statutory penalties according to proof pursuant to California Labor Code section 210;

38. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

39. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

40. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Seventh Cause of Action

41. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;

42. For unpaid business-related expenses and such general and special damages as may be appropriate;

43. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;

44. For all actual, consequential, and incidental losses and damages, according to proof;

45. For attorneys' fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and

46. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

47. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226.7, 510, and 1198 (by failing to include all forms of remuneration in the "regular rate" of pay for purposes of paying meal and/or rest period premiums); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); 246 (by failing to properly calculate sick leave pay); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide notice of material terms of employment);

1 48. For civil penalties pursuant to the California Labor Code, including sections
2 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor
3 Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194,
4 1197, 1197.1, 1198, 2802, and 2810.5;

5 49. For attorneys' fees and costs pursuant to California Labor Code section
6 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
7 Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12,
8 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

9 50. For pre-judgment and post-judgment interest as provided by law; and

10 51. For such other and further relief as the Court may deem equitable and
11 appropriate.

12 **As to the Ninth Cause of Action**

13 52. That the Court declare, adjudge and decree that Defendants' conduct of failing
14 to provide Plaintiff and class members all overtime wages due to them, failing to provide
15 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
16 class members all meal periods, failing to include all forms of remuneration in the "regular
17 rate" of pay for purposes of paying meal period premiums to Plaintiff and class members,
18 failing to provide Plaintiff and class members accurate and complete wage statements, failing
19 to maintain accurate payroll records for Plaintiff and class members, failing to timely pay
20 Plaintiff and class members all earned wages during employment, failing to reimburse
21 Plaintiff and class members for business-related expenses, and failing to provide written
22 notice of material terms of employment, constitutes an unlawful business practice in violation
23 of California Business and Professions Code sections 17200, *et seq.*;

24 53. For restitution of unpaid wages to Plaintiff and all class members and
25 prejudgment interest from the day such amounts were due and payable;

26 54. For the appointment of a receiver to receive, manage, and distribute any and all
27 funds disgorged from Defendants and determined to have been wrongfully acquired by
28 Defendants as a result of violations of California Business & Professions Code sections

17200, *et seq.*;

55. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

56. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

57. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

58. For restitution of the statutory benefits under section 226.7 unfairly withheld from Plaintiff and class members prejudgment interest from the day such amounts were due and payable;

59. For the appointment of a receiver to receive, manage, and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

60. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

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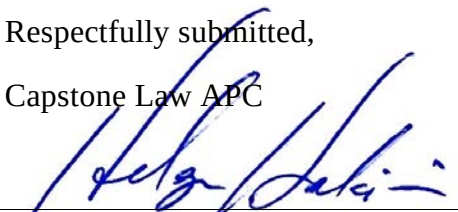
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1 61. For pre-judgment and post-judgment interest as provided by law; and
2 For such other and further relief as the Court may deem equitable and appropriate.

3
4 Dated: July 18, 2023,

Respectfully submitted,

Capstone Law APC

6
7 By: 

Orlando Villalba

Helga Hakimi

Joey Parsons

Attorneys for Plaintiff Omari Robinson

EXHIBIT “1”

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

April 5, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Omari Robinson v. McGee Air Services, Inc.*

Dear PAGA Administrator:

This office represents Omari Robinson in connection with his claims under the California Labor Code. Mr. Robinson was an employee of MCGEE AIR SERVICES, INC. ("MCGEE").

The employer may be contacted directly at the address below:

MCGEE AIR SERVICES, INC.
580 NACHES AVE SW 100
RENTON, WA 98057

Mr. Robinson intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Robinson seeks relief on behalf of himself, the State of California, and other persons who are or were employed by MCGEE as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

MCGEE employed Mr. Robinson as an hourly paid, non-exempt employee from approximately August 2022 to October 2022. Mr. Robinson worked as a Cabin Cleaner at MCGEE's location in the San Francisco International Airport. Mr. Robinson typically worked eight (8) hours or more per day, and five (5) days per week. At the time his employment ended, Mr. Robinson was compensated approximately \$20.27 per hour. His primary job duties included, without limitation, cleaning and disinfecting designated areas of the aircraft such as the galley, lavatories, seats, floors, etc.

MCGEE committed one or more of the following Labor Code violations against Mr. Robinson, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

MCGEE’s Company-Wide and Uniform Payroll and HR Practices

MCGEE AIR SERVICES, INC. is a Delaware corporation and an aviation services company providing ground handling, aircraft cleaning, airport mobility services, and check-in/gate services at four (4) airports in California. Upon information and belief, MCGEE maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Renton, Washington, for all non-exempt, hourly paid employees working for MCGEE in California, including Mr. Robinson and other aggrieved employees. At all relevant times, MCGEE issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Robinson and other aggrieved employees, regardless of their location or position.

Upon information and belief, MCGEE maintains a centralized Payroll department at its corporate headquarters in Renton, Washington, which processes payroll for all non-exempt, hourly paid employees working for MCGEE in California, including Mr. Robinson and other aggrieved employees. Further, MCGEE issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Robinson and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, MCGEE utilized the same methods and formulas when calculating wages due to Mr. Robinson and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

MCGEE willfully failed to pay all overtime wages owed to Mr. Robinson and other aggrieved employees. During the relevant time period, Mr. Robinson and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in

¹ These facts, theories, and claims are based on Mr. Robinson’s experience and counsel’s review of those records currently available relating to Mr. Robinson’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Robinson reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

excess of ten (10) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, MCGEE had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Robinson and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. Because MCGEE discouraged overtime accrual by, among other things, altering and/or falsifying timesheets, Mr. Robinson and other aggrieved employees were required to complete assigned tasks outside of their scheduled shifts without being compensated for the time they worked.

For example, Mr. Robinson spent time working before his shifts preparing for the shift by gathering cleaning supplies such as trash bags and towels to clean the airplane seats. As a further example, Mr. Robinson spent time working after his scheduled shift time ended completing any outstanding cleaning tasks that had to be finished prior to him leaving for the day. Mr. Robinson attempted to record this time spent working, but, on information and belief, MCGEE's management would subsequently alter his timesheets and shave off time spent preparing for the shift or finishing cleaning at the end of the shifts to avoid payment of additional wages to Mr. Robinson and other aggrieved employees.

Second, during the relevant time period, MCGEE had, and continues to have, a company-wide policy and/or practice of understaffing its locations while assigning heavy workloads, resulting in a failure to provide Mr. Robinson and other aggrieved employees with adequate meal period coverage. As a result of this lack of meal period coverage, Mr. Robinson and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Mr. Robinson was sometimes required to continue performing his duties during his unpaid meal periods. Additionally, MCGEE, on a company-wide basis, had a practice of failing to schedule meal periods which, in conjunction with the assignment of heavy workloads, further caused Mr. Robinson and other aggrieved employees to not be relieved of their duties for compliant meal periods. Thus, Mr. Robinson and other aggrieved employees worked through meal periods or had them interrupted or shortened to complete their assigned workloads. MCGEE did not pay Mr. Robinson and other aggrieved employees for the time they continued to perform tasks during meal periods.

Third, on information and belief, because MCGEE frowned upon employees accruing meal period penalties, MCGEE's management pressured employees to clock out for meal periods, on threat of discipline, and/or adjusted their time records to reflect compliant meal periods regardless of whether they had received a compliant meal period or not, in order to limit the meal penalties that MCGEE would otherwise owe. In addition, MCGEE's company-wide timekeeping system prevented Mr. Robinson and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Robinson and other aggrieved employees once they clocked out for a meal period, and did not permit them to clock back in from a meal period before 30 minutes elapsed. Thus, MCGEE did not record all hours worked during meal periods, and Mr. Robinson and other aggrieved employees performed work during meal periods for which they were not paid.

MCGEE knew or should have known that, as a result of these company-wide practices and/or policies, Mr. Robinson and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Robinson and other aggrieved employees worked

shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Robinson and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, MCGEE did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, MCGEE paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, MCGEE failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, MCGEE failed to pay all overtime wages by paying a lower overtime rate than required.

MCGEE's failure to pay Mr. Robinson and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 9-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As set forth above, due to MCGEE's restrictions on overtime accrual, MCGEE systematically failed to pay Mr. Robinson and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. Thus, Mr. Robinson and other aggrieved employees were required to perform work off-the-clock prior to the start of their shifts and after their shifts, including preparing for the shift by gathering necessary cleaning supplies and completing outstanding cleaning tasks before leaving for the day. As also stated, on information and belief, MCGEE had, and continues to have, a company-wide policy of adjusting or shaving down Mr. Robinson's and other aggrieved employees' hourly clock-in and clock-out times in its timekeeping system, further resulting in the failure to pay Mr. Robinson and other aggrieved employees minimum wages for all hours actually worked.

Moreover, as stated above, due to MCGEE's policies and/or practices of understaffing its locations, assigning heavy workloads, and failing to schedule meal periods, Mr. Robinson and other aggrieved employees were forced to forego meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Also, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, MCGEE's management pressured employees to record compliant meal periods when meal periods were missed, short, and/or interrupted, and/or adjusted their time records to reflect compliant meal periods. In addition, as stated, MCGEE's company-wide timekeeping system prevented Mr. Robinson and other aggrieved employees from entering time worked during meal periods because the system locked out

Mr. Robinson and other aggrieved employees for a full 30 minutes. Thus, MCGEE systematically failed to pay Mr. Robinson and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Accordingly, MCGEE regularly failed to pay at least minimum wages to Mr. Robinson and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as set forth above, on information and belief, MCGEE had, and continues to have, company-wide policies and/or practices of understaffing its locations, assigning heavy workloads, and failing to schedule meal periods, which have resulted in a lack of meal period coverage and prevented Mr. Robinson and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Mr. Robinson and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had to forgo their meal periods altogether. For example, because of MCGEE's policy and/or practice of understaffing and assigning heavy workloads, Mr. Robinson sometimes had to forgo his meal periods; on the days Mr. Robinson was able to take his meal periods, he sometimes took his meal periods late, after the end of his fifth hour of work. Moreover, Mr. Robinson's meal periods were occasionally cut short by his supervisors asking him to return to work and complete cleaning tasks pursuant to MCGEE's expectations.

Second, as stated above, on information and belief, because MCGEE frowned upon employees accruing meal period penalties, MCGEE's management pressured employees to clock out for meal periods, upon threat of discipline, or adjusted their time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to limit meal penalties that would need to be paid by MCGEE. For example, Mr. Robinson was required to clock out for his meal period to record that he had received compliant meal periods on shifts when he had not, in fact, received these timely meal periods.

Also, as stated, MCGEE's company-wide timekeeping system prevented Mr. Robinson and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Robinson and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. For example, Mr. Robinson was unable to record when his meal periods were interrupted or cut short by management asking him to return to work to finish cleaning the aircraft.

Moreover, MCGEE did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Robinson and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, MCGEE knew or should have known that, as a result of these policies, Mr. Robinson and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. MCGEE further knew or should have known that it did not pay Mr. Robinson and other aggrieved employees all meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Moreover, MCGEE engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Robinson and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that MCGEE did pay Mr. Robinson and other aggrieved employees for missed, late, and interrupted meal periods, MCGEE did not pay Mr. Robinson and other aggrieved employees at the correct rate of pay for premiums because MCGEE systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. Therefore, during times when Mr. Robinson and other aggrieved employees received meal period premiums and these other forms of pay, MCGEE failed to pay full meal period premiums by paying a lower rate than required. Specifically, MCGEE paid Mr. Robinson and other aggrieved employees meal period premiums at their straight hourly rate of pay instead of at their regular rate of pay.

Accordingly, MCGEE failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)

hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, MCGEE regularly failed to authorize and permit other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. MCGEE had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which resulted in a lack of rest period coverage because there were too few employees on duty to handle the heavy workloads and provide rest period coverage. Moreover, MCGEE had a company-wide practice of failing to schedule rest periods, which further led to other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, MCGEE maintained and implemented a company-wide on-premises rest period policy, which effectively required that other aggrieved employees remain on the work premises during their rest periods. Because other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, MCGEE effectively maintained control over other aggrieved employees during rest periods.

As a result of MCGEE’s practices and policies, other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled.

MCGEE has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that MCGEE did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, MCGEE did not pay other aggrieved employees at the correct rate of pay for premiums because MCGEE failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, MCGEE failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. MCGEE has not provided Mr. Robinson and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an

employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, MCGEE has knowingly and intentionally provided Mr. Robinson and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, MCGEE issued uniform wage statements to Mr. Robinson and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and/or rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, MCGEE violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because MCGEE did not record the time Mr. Robinson and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), MCGEE did not list the correct amount of gross wages and net wages earned by Mr. Robinson and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, MCGEE failed to accurately list the total number of hours worked by Mr. Robinson and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

In addition, because MCGEE did not calculate Mr. Robinson's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and/or rest period premiums, and/or paid sick leave, MCGEE did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, MCGEE failed to list the correct amount of net wages in violation of section 226(a)(5). MCGEE also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and/or rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees

employed at the respective plants or establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d), MCGEE willfully failed to maintain accurate payroll records for Mr. Robinson and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, MCGEE engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying Mr. Robinson’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Robinson and other aggrieved employees, in violation of section 1198. Also, in light of MCGEE’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, MCGEE kept no records of meal start and end times for second meal periods.

Because MCGEE failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Robinson and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Robinson and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, MCGEE willfully failed to pay Mr. Robinson and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and/or rest period premiums, and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (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.

On information and belief, MCGEE had a company-wide practice and/or policy of paying departing employees their final wages on the next regular pay cycle instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Mr. Robinson was terminated on or about October 19, 2022; however, he did not receive all of his final wages until the next regular pay date, October 21, 2022. Thus, MCGEE failed to pay Mr. Robinson his final wages immediately, in violation of California Labor Code section 201.

Additionally, MCGEE willfully failed to pay Mr. Robinson and other aggrieved employees who are no longer employed by MCGEE the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and/or rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving MCGEE's employ.

Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, on information and belief, MCGEE did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, MCGEE paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, MCGEE failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved

employees took sick leave and received these other forms of pay, MCGEE failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, MCGEE paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

MCGEE's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l).

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

During the relevant time period, MCGEE, on a company-wide basis, required other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, other aggrieved employees were required to use their personal cellular phones to communicate with supervisors about assignments, updates on flight statuses, and safety issues, and to contact passengers about lost or misplaced luggage. Further, other aggrieved employees were required to download certain mobile applications on their personal mobile devices in order to track aircraft flights and landings. Although MCGEE required other aggrieved employees to use their personal mobile devices and mobile data to carry out their work-related duties, MCGEE failed to reimburse them for all of their costs incurred.

Additionally, during the relevant time period, MCGEE required Mr. Robinson and other aggrieved employees to wear uniforms bearing the company logo, including a vest and a jacket. However, MCGEE did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, MCGEE only provided Mr. Robinson with one (1) vest and one (1) jacket at the time of hire. Because MCGEE failed to provide Mr. Robinson and other aggrieved employees with an adequate number of uniform items in relation to their scheduled shifts, Mr. Robinson and other aggrieved employees had to wash their uniforms more frequently than they otherwise do laundry, and incur expenses in doing so. For example, due to the nature of his work, Mr. Robinson's uniform would become covered in cleaning chemicals, grease stains, and/or acquire an unpleasant odor such that he was unable to mix these clothes in with his other laundry. As a result, Mr. Robinson had to wash his uniform items separately from his regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms. Thus, MCGEE failed to maintain

uniforms it required Mr. Robinson and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

MCGEЕ could have provided Mr. Robinson and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and an adequate number of uniforms or access to laundering services; or, MCGEE could have reimbursed employees for the costs of their mobile device usage and laundering expenses or provided a uniform maintenance allowance. Instead, MCGEE passed these operating costs off onto Mr. Robinson and other aggrieved employees. At all relevant times, Mr. Robinson did not earn at least two (2) times the minimum wage.

Thus, MCGEE had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

MCGEЕ failed to provide Mr. Robinson and other aggrieved employees with written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, MCGEE failed to provide Mr. Robinson and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that MCGEE provided to Mr. Robinson is blank where the aforementioned wage information should be filled in. MCGEE's failure to provide Mr. Robinson and other aggrieved employees with written notice of basic information regarding their employment with MCGEE is in violation of Labor Code section 2810.5.

Mr. Robinson and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject

to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” MCGEE, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Robinson’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Robinson seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Robinson, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against MCGEE for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Robinson seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: MCGEE AIR SERVICES, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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580 NACHES AVE SW 100
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580 NACHES AVE SW 100
RENTON, WA 98057

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

PS Form 3811, July 2020 PSN 7530-02-000-9053

MC GEE AIR SERVICES, INC.
580 NACHES AVE SW 100
RENTON, WA 98057



9590 9402 7690 2122 7158 42

2. Article Number (Transfer from service label)

7022 2410 0000 2405 7903

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
☒ Agent
☐ Addressee
B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Insured Mail
☐ Mail Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **July 18, 2023**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

Paul S. Cowie
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SHEPPARD, MULLIN, RICHTER, &
HAMPTON LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111
Telephone: 415-434-9100
Facsimile: 415-434-3947

Attorneys for Defendant:
MCGEE AIR SERVICES, INC.

[] **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

[X] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

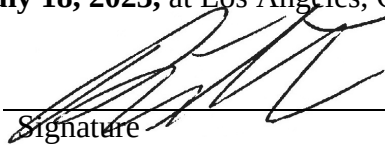
[] **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

[] **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

[] **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **July 18, 2023**, at Los Angeles, California.

Riley McIntire
Type/Print Name


Signature