

Joseph Lavi, Esq. (SBN 209776)
Email: jlavi@lelawfirm.com
N. Nick Ebrahimian, Esq. (SBN 219270)
Email: nebrahimian@lelawfirm.com
Vincent C. Granberry, Esq. (SBN 276483)
vgranberry@lelawfirm.com
Alan A. Wilcox, Esq. (SBN 287476)
awilcox@lelawfirm.com
Melanie S. Rodriguez, Esq. (SBN 330280)
mrodriguez@lelawfirm.com
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001

Attorneys for Plaintiff MARTY SIMPSON,
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

MARTY SIMPSON, on behalf of himself and
current and former aggrieved employees

Plaintiff,

vs.

CJ FOODS MANUFACTURING BEAUMONT,
LLC; BARONHR WEST, INC.; and DOES 1 to
100, inclusive,

Defendants.

Case No.: **CVRI 2302990**

PAGA ACTION

**PLAINTIFF MARTY SIMPSON'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff MARTY SIMPSON ("Plaintiff"), who alleges and complains
against Defendants CJ FOODS MANUFACTURING BEAUMONT, LLC; BARONHR WEST,
INC.; and DOES 1 to 100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-

1 exempt employees in California during the relevant time period seeking civil penalties associated
2 with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all
3 hours worked at minimum wage and all overtime hours worked at the overtime rate of pay; failure
4 to authorize or permit all legally required and/or compliant meal periods or pay meal period
5 premium wages; failure to authorize or permit all legally required and/or compliant rest periods or
6 pay rest period premium wages; failure to pay accrued and vested vacation/PTO wages; statutory
7 penalties for failure to provide accurate wage statements; statutory waiting time penalties in the
8 form of continuation wages for failure to timely pay employees all wages due upon separation of
9 employment. Plaintiff seeks on a representative basis, following notice to the Labor and
10 Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant to Labor
11 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
12 others aggrieved.

13 **II. JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
15 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
16 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
17 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
18 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
19 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
20 aggrieved California-based hourly non-exempt employees occurred in locations throughout
21 California, including but not limited to Riverside County, at 415 Nicholas Road, Suite 100,
22 Beaumont, CA 92223.

23 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
24 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
25 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
26 tolled from April 6, 2020, until October 1, 2020.

27 **III. PARTIES**

28 4. Plaintiff brings this action as a representative of the Labor and Workforce

1 Development Agency on behalf of himself and other current and former employees subject to
2 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
3 filed include current, former and/or future employees of Defendants who work, worked, or will
4 work for Defendants as direct employees as well as temporary employees employed through temp
5 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
6 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
7 employed by Defendants in an hourly position at Defendants' location in Riverside from in or
8 around August 2021 until on or about April 22, 2022.

9 5. Plaintiff is informed and believes and thereon alleges that Defendant CJ FOODS
10 MANUFACTURING BEAUMONT, LLC is authorized to do business within the State of
11 California and is doing business in the State of California and/or that Defendants DOES 1-25 are,
12 and at all times relevant hereto were persons acting on behalf of Defendant J FOODS
13 MANUFACTURING BEAUMONT, LLC in the establishment of, or ratification of, the
14 aforementioned illegal wage and hour practices or policies. Defendant J FOODS
15 MANUFACTURING BEAUMONT, LLC operates in Riverside County and employed Plaintiff
16 and aggrieved employees in Riverside County, including but not limited to, at 415 Nicholas Road,
17 Suite 100, Beaumont, CA 92223.

18 6. Plaintiff is informed and believes and thereon alleges that Defendant BARONHR
19 WEST, INC. is authorized to do business within the State of California and is doing business in
20 the State of California and/or that Defendants DOES 26-50 are, and at all times relevant hereto
21 were persons acting on behalf of Defendant BARONHR WEST, INC. in the establishment of, or
22 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant J
23 BARONHR WEST, INC. operates in Riverside County and employed Plaintiff and aggrieved
24 employees in Riverside County, including but not limited to, at 415 Nicholas Road, Suite 100,
25 Beaumont, CA 92223.

26 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
27 through 50 are corporations, or are other business entities or organizations of a nature unknown to
28 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted

1 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
2 working conditions of employment of Plaintiff and aggrieved employees.

3 8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
4 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
5 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
6 supervisor, independent contractor and/or employee of each defendant who violated or caused to
7 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
8 the Industrial Welfare Commission's wage orders regulating hours and days of work.

9 9. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
10 sues said defendants by said fictitious names, and will amend this complaint when the true names
11 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
12 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
13 named defendants is in some manner responsible for the events and allegations set forth in this
14 complaint.

15 10. Plaintiff makes the allegations in this complaint without any admission that, as to
16 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
17 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

18 **FIRST CAUSE OF ACTION**

19 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**
20 **GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

21 **(Against all Defendants by Plaintiff)**

22 11. Plaintiff incorporates all paragraphs above as though fully set forth herein.

23 12. During the period beginning one (1) year preceding Plaintiff sending the initial
24 PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
25 202, 203, 204, 226, 226.7, 227.3 510, 512, 1194, 1197, and the applicable Wage Orders.

26 13. Specifically, Defendants have committed the following violations of California
27 Labor Code:

28 14. **Failure to pay wages for all hours worked at the legal minimum wage:**

1 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
2 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
3 which includes all time that an employee is under control of the employer and all time the
4 employee is suffered and permitted to work. This includes the time an employee spends, either
5 directly or indirectly, performing services which inure to the benefit of the employer.

6 15. Labor Code sections 1194 and 1197 require an employer to compensate employees
7 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
8 Wage Orders.

9 16. In this case, Plaintiff and other current and former aggrieved California-based
10 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
11 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
12 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
13 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
14 not limited to:

15 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
16 non-exempt employees to line up to wait to undergo and undergo off-the-clock COVID-19 related
17 temperature checks prior to being permitted to clock in for the start of their shift and prior to being
18 permitted to clock in when returning from meal breaks.

19 17. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
20 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants’
21 control without paying wages for that time. This resulted in Plaintiff and other current and former
22 aggrieved California-based hourly non-exempt employees working time for which they were not
23 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
24 Wage Order.

25 18. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
26 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
27 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
28 which includes all time that an employee is under control of the employer and all time the

1 employee is suffered and permitted to work. This includes the time an employee spends, either
2 directly or indirectly, performing services that inure to the benefit of the employer.’

3 19. Labor Code sections 510 and 1194 require an employer to compensate employees a
4 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
5 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

6 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
7 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
8 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
9 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
10 (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
11 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
12 seventh day of a workweek shall be compensated at the rate of no less than twice the
13 regular rate of pay of an employee.

14 Labor Code section 510.

15 20. In this case, Defendants failed to pay Plaintiff and other current and former
16 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
17 worked due to Defendants’ policies, practices, and/or procedures including, but not limited to:

18 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
19 non-exempt employees to line up to wait to undergo and undergo off-the-clock COVID-19 related
20 temperature checks prior to being permitted to clock in for the start of their shift and prior to being
21 permitted to clock in when returning from meal breaks.

22 21. Overtime is based upon an employee’s regular rate of pay. “The regular rate at
23 which an employee is employed shall be deemed to include all remuneration for employment paid
24 to, or on behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement
25 Policies and Interpretations Manual, Section 49.1.2.

26 22. In this case, Plaintiff alleges that when he and other current and former aggrieved
27 California-based hourly non-exempt employees earned overtime wages, Defendants failed to pay
28 them overtime wages at the proper overtime rate of pay due to Defendants failure to include all
remuneration when calculating the overtime rate of pay. Specifically, Defendants maintained a
policy, practice, and/or procedure of failing to include all remuneration such as the value of gift
cards received for not arriving late to work, when calculating Plaintiff and other current and

1 former aggrieved California-based hourly non-exempt employees' regular rate of pay for the
2 purpose of paying overtime wages.

3 23. The foregoing policies, practices, and/or procedures resulted in time during each
4 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
5 employees were under the control of Defendants but were not compensated. To the extent that the
6 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
7 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
8 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
9 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
10 sections 510 and 1194 and the applicable Wage Order.

11 24. **Failure to pay wages to hourly non-exempt employees for workdays that**
12 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
13 current and former aggrieved California-based hourly non-exempt employees regularly worked
14 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

15 25. California law requires an employer to authorize or permit an employee an
16 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
17 all duties and the employer relinquishes control over the employee's activities prior to the
18 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 1 at §11; *Brinker*
19 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
20 employee for a work period of more than ten (10) hours per day without providing the employee
21 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
22 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
23 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
24 period is only permitted when: (1) the nature of the work prevents an employee from being
25 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

26 26. If an employer fails to provide an employee a meal period in accordance with the
27 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
28 for each workday that a legally required and compliant meal period was not provided. Labor Code

1 section 226.7; Wage Order 1 at §11.

2 27. In this case, Defendants failed to authorize or permit legally required and compliant
3 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
4 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
5 limited to:

6 (a) Short and/or missed due to Defendant requiring Plaintiff and other current and
7 former aggrieved California-based hourly non-exempt employees to line up to wait to undergo and
8 undergo off-the-clock COVID-19 related temperature checks prior to being permitted to clock in
9 from their meal breaks;

10 (b) Failing to provide Plaintiff and other current and former aggrieved California-based
11 hourly non-exempt employees a second uninterrupted duty-free meal break of no less than thirty
12 (30) minutes for each workday that Plaintiff and other current and former aggrieved California-
13 based hourly non-exempt employees work shifts over ten (10) hours.

14 28. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
15 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
16 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
17 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
18 employees did not receive legally required and compliant meal periods, in violation of Labor Code
19 section 226.7.

20 29. Finally, on occasions when Defendants paid Plaintiff and other current and former
21 aggrieved California-based hourly non-exempt employees a "premium" wage for late, missed,
22 short, on-premise, on-duty, and/or interrupted meal periods, Employers failed to pay the one (1)
23 additional hour of pay at Plaintiff and other current and former aggrieved California-based hourly
24 non-exempt employees regular rate of compensation. Specifically, Defendants maintained a
25 policy, practice, and/or procedure of failing to include all remuneration such as the value of gift
26 cards received for not arriving late to work when calculating Plaintiff and other current and former
27 aggrieved California-based hourly non-exempt employees' regular rate of compensation for the
28 purpose of paying meal period premium wages.

1 30. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
2 and other current and former aggrieved California-based hourly non-exempt employees not
3 receiving wages to compensate them for workdays during which Defendants did not provide them
4 with meal periods in compliance with California law.

5 31. **Failure to pay wages to hourly non-exempt employees for workdays that**
6 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
7 current and former aggrieved California-based hourly non-exempt employees regularly worked
8 shifts of more than three-and-a-half (3.5) hours.

9 32. California law requires every employer to authorize and permit an employee a rest
10 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
11 Code section 226.7; Wage Order 1 at §12. Under California law, "[e]mployees are entitled to 10
12 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
13 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
14 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
15 section 226.7; Wage Order 1 at §12. Rest periods, insofar as practicable, shall be in the middle of
16 each work period. Wage Order 1 at §12. Additionally, the rest period requirement "obligates
17 employers to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM*
18 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
19 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

20 33. If the employer fails to authorize or permit a required rest period, the employer
21 must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday
22 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
23 Wage Order 1 at § 12.

24 34. In this case, Defendants failed to authorize or permit all legally required and
25 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
26 non-exempt employees due to Defendants' policies, practices, and/or procedures including, but not
27 limited to:

28 (a) Failing to provide Plaintiff and other current and former aggrieved California-based

1 hourly non-exempt employees with net ten (10) minute rest breaks for every four (4) hours worked
2 or major fraction thereof.

3 35. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
4 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
5 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
6 workday they did not receive legally required and compliant rest periods, in violation of Labor
7 Code section 226.7.

8 36. Finally, on occasions when Defendants did pay Plaintiff and other current and
9 former aggrieved California-based hourly non-exempt employees a “premium” wage for late,
10 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
11 one (1) additional hour of pay at Plaintiff and other current and former aggrieved California-based
12 hourly non-exempt employees regular rate of compensation. Specifically, Defendants maintained a
13 policy, practice, and/or procedure of failing to include all remuneration such as the value of gift
14 cards received for not arriving late to work when calculating Plaintiff and other current and former
15 aggrieved California-based hourly non-exempt employees’ regular rate of pay for the purpose of
16 paying rest period premiums.

17 37. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
18 and other current and former aggrieved California-based hourly non-exempt employees not
19 receiving wages to compensate them for workdays in which Defendants did not provide them with
20 rest periods in compliance with California law.

21 38. **Failure to pay accrued and vested vacation wages:** Defendants had a policy
22 and/or procedure of providing its employees with paid vacation time and/or personal time off
23 (“PTO”).

24 39. Vacation/PTO wages are deferred wages that vest once accrued. California Labor
25 Code § 227.3 provides that an employer must pay its employees all unused vested vacation/PTO at
26 the time of termination at the employees’ final rate of pay.

27 40. Defendants had a vacation policy in which Plaintiff and other current and former
28 aggrieved California-based hourly non-exempt employees accrued vacation/PTO wages.

1 41. Defendants terminated Plaintiff and other current and former aggrieved California-
2 based hourly non-exempt employees without paying them the full amount of their earned
3 vacation/PTO wages, in violation of California law, and employed policies and procedures which
4 ensured Plaintiff and other current and former aggrieved California-based hourly non-exempt
5 employees would not receive their accrued and vested vacation/PTO wages upon termination.

6 42. **Failure to timely pay earned wages during employment:** In California, wages
7 must be paid at least twice during each calendar month on days designated in advance by the
8 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
9 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
10 16th and the 26th day of that month and wages earned between the 16th and the last day,
11 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
12 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
13 paid within seven (7) calendar days following the close of the payroll period in which wages were
14 earned. Labor Code section 204(d).

15 43. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
16 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
17 exempt employees' earned wages (including minimum wages, overtime wages, meal period
18 premium wages, and/or rest period premium wages), in violation of Labor Code section 204.
19 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
20 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
21 their earned wages within the applicable time frames outlined in Labor Code section 204.

22 44. **Failure to provide complete and accurate wage statements:** Labor Code section
23 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
24 employee his or her wages, the employer must "furnish each of his or her employees ... an
25 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
26 employee, except for any employee whose compensation is solely based on a salary and who is
27 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
28 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable

1 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
2 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
3 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
4 name of the employee and his or her social security number, (8) the name and address of the legal
5 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate by the employee.”

7 45. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
8 and other current and former aggrieved California-based hourly non-exempt employees all wages
9 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
10 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
11 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
12 section 226.

13 46. **Failure to pay employees all wages due at time of termination/resignation:** An
14 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
15 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
16 hours of resignation (Labor Code section 202).

17 47. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
18 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
19 all their earned wages ((including minimum wages, overtime wages, meal period premium wages,
20 and/or rest period premium wages), Defendants failed to pay those employees timely after each
21 employee’s termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

22 48. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
23 employee, on behalf of himself or herself and other current or former employees, to bring a civil
24 action to recover civil penalties against all Defendants pursuant to the procedures specified in
25 Labor Code section 2699.3.

26 49. Plaintiff has complied with the procedures for bringing suit specified in Labor
27 Code section 2699.3. On April 5, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA and
28 provided notice to Defendants by certified mail which provided notice of the specific provisions of

1 the Labor Code alleged to have been violated, including the facts and theories to support the
2 violations alleged.

3 50. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
4 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
5 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
6 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
7 to investigate Plaintiff's claims.

8 51. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
9 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3
10 510, 512, 1194, 1197, beginning one (1) year preceding Plaintiff sending the initial PAGA Claim
11 Notice to the LWDA to the present, in the following amounts:

12 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, one
13 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
14 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
15 violation [penalty amounts established by Labor Code section 2699(f)(2)].

16 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
17 for each employee for each pay period for the initial violation, and for each subsequent violation,
18 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
19 established by Labor Code section 226.3].

20 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
21 employee for each pay period for the initial violation, and for each subsequent violation, one
22 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
23 established by Labor Code section 558] and any unpaid wages.

24 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
25 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
26 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
27 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

28 52. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of

reasonable attorneys' fees and costs in connection with his claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to section 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate

Dated: June 12, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: *Vincent C. Granberry*
Joseph Lavi, Esq.
N. Nick Ebrahimian, Esq.
Vincent C. Granberry, Esq.
Alan Wilcox, Esq.
Melanie S. Rodriguez, Esq.
Attorneys for Plaintiff
MARTY SIMPSON,
on behalf of himself and current and former
aggrieved employees