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Superior Court of California,
County of Alameda

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on behalf of herself and all others similarly
situated and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

JENNY CISNEROS, on behalf of herself
and all others similarly situated, and on
behalf of the general public,

Plaintiff,

v.

ALOM TECHNOLOGIES
CORPORATION; and DOES 1-100,

Defendants.

Case No. **23CV037671**

**PLAINTIFF JENNY CISNEROS'S PAGA
COMPLAINT**

1. Violation of the Private Attorney General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages for All Work Performed (Cal. Lab. Code § 2698, et. seq.)
2. Violation of the PAGA for Failure to Pay All Overtime Wages (Cal. Lab. Code § 2698, et. seq.)
3. Violation of PAGA for Failure to Provide Meal Periods (Cal. Lab. Code § 2698, et. seq.)
4. Violation of PAGA for Failure to Provide Rest Periods (Cal. Lab. Code § 2698, et. seq.)
5. Violation of PAGA for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code § 2698, et. seq.)
6. Violation of PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements (Cal. Lab. Code § 2698, et. seq.)
7. Violation of PAGA for Failure to Pay Employees Two Times Per Month (Cal. Lab. Code § 2698, et. seq.)
8. Violation of PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties (Cal. Lab. Code § 2698, et. seq.)
9. Violation of PAGA for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy (Cal. Lab. Code § 2698, et. seq.)

DEMAND FOR JURY TRIAL

1 Plaintiff JENNY CISNEROS (hereinafter “Plaintiff”), on behalf herself and all other similarly
2 aggrieved employees (hereinafter “aggrieved employees”), files this Complaint against Defendant
3 ALOM TECHNOLOGIES CORPORATION (hereinafter “Defendant”) and/or DOES 1-100.

4 **I. INTRODUCTION**

5 1. This is a representative action seeking recovery of penalties under the California Labor Code
6 Private Attorney General Act of 2004 (PAGA), California Labor Code § 2698 *et. seq.*, against
7 Defendant and/or DOES 1-100. The PAGA permits an “aggrieved employee” to bring a
8 lawsuit on behalf of himself and other current and former employees to address an employer’s
9 violations of the *California Labor Code*.

10 2. This action is brought on behalf of Plaintiff and all other aggrieved employees of Defendant
11 and/or DOES who: worked a shift of at least five (5) hours without receiving a meal period;
12 worked four (4) hours, or a major fraction thereof, without receiving a ten (10) minute net rest
13 break; worked qualifying shifts without receiving second meal periods and second and third
14 rest breaks; were not provided accurate itemized wage statements; were not paid all wages
15 owed twice per month; were not paid compensation for all time worked at the straight,
16 overtime, or double time rate; were not paid waiting time penalties; were not reimbursed for
17 business expenses; and were subject to an unlawful sick leave policy. Plaintiff seeks penalties
18 on behalf of herself and all other aggrieved employees of Defendant and/or DOES as provided
19 herein. This Complaint also seeks attorneys’ fees and costs under the PAGA, Cal. Lab. Code
20 § 2699(g)(1).

21 3. At all times mentioned herein, Plaintiff and the other aggrieved employees were not classified
22 as “Exempt” or primarily employed in an executive, professional, or administrative capacity.
23 Thus, under California law, Plaintiff and the aggrieved employees should be: provided meal
24 periods; authorized and permitted to take rest periods; paid one hour of premium pay for all
25 unprovided meal periods; paid one hour of premium pay for all rest periods that were not
26 authorized and/or permitted; paid penalties for not being provided itemized wage statements;
27 paid compensation for all time worked at the regular, overtime or double time rate; paid all
28 wages owed twice per month; paid penalties for not being paid timely at the time of

1 termination; reimbursed for business expenses; and permitted to take lawful paid sick leave.

- 2 4. At all times mentioned herein, Defendant and/or DOES controlled the working conditions of
3 Plaintiff and the aggrieved employees including, but not limited to, having the authority to hire
4 and fire Plaintiff and the other aggrieved employees, setting the wages of Plaintiff and the other
5 aggrieved employees, and instructing Plaintiff and the other aggrieved employees when and/or
6 where to work. In addition, Defendant and/or DOES developed, wrote, dictated, approved
7 and/or authorized wage and hour policies and/or practices that Plaintiff and the aggrieved
8 employees labored under. These policies and/or practices included, but were not limited to,
9 policies and/or practices regarding meal periods, straight time, overtime, double time, rest
10 periods, wage statements, paying compensation at time of termination, timing of payment, paid
11 sick leave, and business expense reimbursement. Further, Defendant and/or DOES had the
12 ability to prevent Plaintiff and the other aggrieved employees from working.

13 **II. JURISDICTION AND VENUE**

- 14 5. Plaintiff is an individual residing in California. Plaintiff was employed by Defendant and/or
15 DOES in California. Plaintiff, and each of the aggrieved employees, were employees of
16 Defendant and/or DOES, and/or its operating divisions and subsidiaries, within the State of
17 California. Plaintiff and each of the aggrieved employees were subject to the unlawful policies
18 beginning one (1) year prior to the date Plaintiff sent Notice to the State of California Labor
19 and Workforce Development Agency (LWDA).
- 20 6. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
21 and/or DOE operates facilities, employs hourly employees, conducts business, and commits
22 *California Labor Code* violations within Alameda County and California. Each Defendant
23 and/or DOE is within the jurisdiction of this Court for service of process purposes. The
24 unlawful acts alleged herein have a direct effect on Plaintiff and the other aggrieved employees
25 situated within the State of California and within Alameda County. Defendant and/or DOES
26 employ numerous aggrieved employees in California and/or Alameda County.
- 27 7. Plaintiff brings this action on behalf of herself and the other aggrieved employees of Defendant
28 and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of the general

public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the one (1) year period before Plaintiff filed Notice with the LWDA of her intent to bring this action, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five (75) percent of the penalties recovered being reimbursed to the State of California and the LWDA.

8. There is no federal question at issue as the issues herein are based solely upon California statutes and law, including the *California Labor Code*, *IWC Wage Orders*, *Code of Civil Procedure*, and *Civil Code*.

9. The California Superior Court also has jurisdiction in this matter because the penalties sought exceed the minimum jurisdictional limits of the Superior Court and will be established at trial, according to proof. Defendant and/or DOES either own, maintain offices, transact business, have an agent or agents, have their principal place of business in, and/or otherwise are found within the County of Alameda, California.

III. THE PARTIES

A. Plaintiff

10. Plaintiff, a former employee of Defendant and/or DOES, and similar aggrieved employees were and are entitled to statutory meal periods, statutory rest periods, accurate itemized wage statements, payment of wages owed twice a month, compensation for all time worked at the regular, overtime, and doubletime rate, to be paid timely pursuant to California law, permitted to take lawful paid sick leave, to receive timely wages at the time of termination, to be reimbursed for business expenses.

11. Plaintiff and similar aggrieved employees were and are employed in the State of California by the Defendant and/or DOES as hourly, non-exempt workers who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in California, during the relevant time period. Plaintiff was employed in a non-exempt capacity.

12. A notice correspondence showing compliance with *Cal. Lab. Code* § 2699.3 was sent to the LWDA and Defendant on April 26, 2023. This notice demonstrates that Plaintiff is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. No notice of cure by Defendant and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notice of the action. Accordingly, Plaintiff files this action as a “Representative Action” as authorized by *Cal. Lab. Code* § 2699.3(a)(2)(C).

B. Defendant

13. Defendant and/or DOES provides supply chain operations, including production and fulfillment, to its clients in automotive, medical, life sciences, technology, and other industries. Defendant and/or DOES employs hourly non-exempt employees, such as Plaintiff, to work at its warehouses in California.

14. Defendant’s and/or DOES’ principal place of business was/is in the State of California.

15. Defendant and/or DOES have numerous offices and/or contracts in the State of California.

16. California is the nerve center of Defendant’s and/or DOES’ operations.

17. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are now, and/or at all times mentioned in this Complaint were doing business in the State of California and/or throughout the United States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

18. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

19. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners,

agents, owners, and/or shareholders of Defendant and/or DOES and were acting on behalf of Defendant and/or DOES at all times.

IV. GENERAL ALLEGATIONS

20. During all, or a portion, of the one (1) year period before Plaintiff filed Notice of her claims with the LWDA, Plaintiff and each of the aggrieved employees were employed by Defendant and/or DOES in the State of California. Plaintiff and the other aggrieved employees are composed of all hourly, non-exempt workers who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in California.

21. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be paid for all hours worked at the minimum, regular, overtime, and/or doubletime rate of pay.

22. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be provided legally compliant meal periods in a timely manner or payment of one hour of pay as additional compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.

23. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift of at least five (5) hours worked per day by Plaintiff and all aggrieved employees, and by failing to provide compensation for these unprovided meal periods, Defendant and/or DOES willfully violated the provisions of *Cal. Lab. Code* § 226.7, IWC Wage Order No. 5-2001, and California Code of Regulations, Section 11070(11). In addition, Defendant and/or DOES failed to provide Plaintiff and the other aggrieved employees another duty-free meal period of not less than thirty (30) minutes for every shift of more than ten (10) hours per day.

24. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to be authorized and/or permitted to take legally compliant rest periods in a timely manner or payment of one hour of pay as additional

compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they were not authorized and/or permitted to take a legally compliant rest period.

25. By failing to provide paid ten (10) minute rest periods for every four (4) hours or major fraction thereof, worked per day by Plaintiff and all aggrieved employees and by failing to provide compensation for these periods, Defendant and/or DOES willfully violated the provisions of *Cal. Lab. Code* § 226.7, IWC Wage Order No. 5-2001, and California Code of Regulations, Section 11070(12).

26. At all times mentioned herein, Defendant and/or DOES failed to pay all wages owed to Plaintiff and to other terminated or resigned members of the aggrieved employees and failed to timely pay wages during employment.

27. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the aggrieved employees all wages earned twice per month.

28. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the aggrieved employees were entitled to receive complete and accurate pay statements in accordance with California law.

29. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that they were not providing complete and accurate pay statements in accordance with California law to Plaintiff and the aggrieved employees.

30. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that they had a duty to compensate Plaintiff and the other aggrieved employees in accordance with California law, and that Defendant and DOES had the ability to pay such compensation, but willfully and intentionally failed to do so, and Defendant and DOES falsely represented to Plaintiff and the other aggrieved employees that they were properly compensating Plaintiff and the other aggrieved employees.

31. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the other aggrieved employees were entitled to timely wages at the time of termination. Defendant and/or DOES did not pay all timely wages owed, straight-time wages owed, meal period premiums, and/or rest period premiums owed at the time of termination.

1 32. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the other
2 aggrieved employees a sum certain at the time of termination or within seventy-two (72) hours
3 of their resignation, and have failed to pay those sums for thirty (30) days thereafter.

4 33. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
5 Plaintiff and the aggrieved employees were entitled to receive be reimbursed for business
6 expenses in accordance with California law.

7 34. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
8 it should have adopted a paid sick leave policy for Plaintiff and the aggrieved employees
9 complaint with California law.

10 35. Plaintiff brings this action on behalf of herself and all other aggrieved employees defined as
11 all hourly, non-exempt workers who were employed and/or performed services for Defendant
12 and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or
13 other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in
14 California, employed beginning one year prior to the date Plaintiff sent Notice to the LWDA.

15 36. Plaintiff reserves the right to amend or modify the definition of aggrieved employees with
16 respect to the issues or in any other way.

17 **FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
18 **Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages**
19 **for All Work Performed (Cal. Lab. Code §2698 et. seq.).**

20 37. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
21 as if fully plead.

22 38. It is fundamental that an employer must pay its employees for the time worked. Cal. Lab.
23 Code § 222 prohibits the withholding on part of a wage. Cal. Lab. Code § 223 prohibits the
24 pay of less than a statutory or contractual wage scale. Cal. Lab. Code §§ 1194-1197.1 prohibits
25 the payment of less than the minimum wage. Cal. Lab. Code § 224 only permits deductions
26 from wages when the employer is required or empowered to do so by state or federal law or
27 when the deduction is expressly authorized in writing by the employee for specified purposes
28 that do not in effect reduce the agreed upon wage.

- 1 39. Section 1197.1 of the California Labor Code states “[a]ny employer or other person acting
2 individually as an officer, agent, or employee of another person, who pays or causes to be paid
3 to any employee a wage less than the minimum fixed by an applicable state or local law, or by
4 an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
5 damages payable to the employee, and any applicable penalties pursuant to Section 203.”
- 6 40. Defendant and/or DOES have a continuous policy of not paying Plaintiff and the aggrieved
7 employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and
8 consistent policy of requiring employees to work before clocking in, after clocking out, and
9 during meal periods. For example, Defendant and/or DOES requires Plaintiff and the aggrieved
10 employees to respond to calls and/or texts throughout the day, including before and after
11 Plaintiff’s and the aggrieved employees’ workdays, but Defendant and/or DOES does not pay
12 them for that time.
- 13 41. Additionally, Plaintiff and the aggrieved employees are not paid for the several minutes spent
14 walking from the entrance of the facility to the time clock at the front before shifts and from
15 the time clock to the exit after shifts have ended. As this time spent crossing Defendant’s and/or
16 DOES’ warehouse is done before clocking-in and after clocking-out, that time is unpaid.
17 Similarly, there are no time clocks in the breakrooms, Plaintiff and the aggrieved employees
18 are not paid for the time it takes them to travel from the breakroom to the timeclock at the end
19 of their unpaid meal periods to clock back in to work, despite being subject to Defendant’s
20 and/or DOES’ control during this travel time.
- 21 42. Defendant and/or DOES also fails to pay Plaintiff and the aggrieved employees for all time
22 worked because Defendant and/or DOES requires Plaintiff and the aggrieved employees to
23 clock-out before driving packages for Defendant and/or DOES to third-party delivery services
24 such as FedEx and UPS, and thus does not pay for time spent completing that assignment.
- 25 43. Further, Defendant and/or DOES have a continuous policy of not paying Plaintiff and the
26 aggrieved employees for all hours worked and/or spent subject to Defendant’s and/or DOES’
27 control during their meal periods. For example, Plaintiff’s and the aggrieved employees’ meal
28 periods are interrupted when they are asked to assist coworkers and third-party delivery

1 services such as FedEx and UPS during their unpaid meal periods. Plaintiff and the aggrieved
2 employees are also expected to monitor their phones in case they receive work-related calls
3 and/or messages during their unpaid meal periods. Plaintiff and the aggrieved employees are
4 not paid for this time during which they are subject to Defendant's and/or DOES' control
5 and/or during which they are not free from all work duties. Despite being interrupted during
6 their meal periods, Plaintiff and the aggrieved employees are required by Defendant and/or
7 DOES to clock out for thirty (30) minutes to create the appearance of lawful meal periods. If
8 employees do not clock out for a full thirty (30) minutes, then Defendant and/or DOES alters
9 their time records to create the appearance of a lawful, unpaid meal period. Thus, Plaintiff and
10 the aggrieved employees are owed wages for meal period time during which they are subject
11 to Defendant's and/or DOES' control and during which they are not free from all work duties.

12 44. Likewise, Plaintiff and the aggrieved employees are informed and believe and thereon allege
13 that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by deducting
14 a portion of the wages earned by Plaintiff and the aggrieved employees when they worked
15 through their meal periods and/or when Defendant and/or DOES recorded a meal period for
16 Plaintiff and the aggrieved employees when no meal period was taken. Specifically, when
17 Plaintiff and the aggrieved employees worked through their meal periods to satisfy their
18 demanding work duties imposed by Defendant and/or DOES, they were denied the right to be
19 completely free from employer control under California law. Thus, Plaintiff and the aggrieved
20 employees are owed wages for meal period time during with they are subject to Defendant's
21 and/or DOES' control and during which they are not free from all work duties.

22 45. Plaintiff and the aggrieved employees are informed and believe and thereon allege that
23 Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff and similarly
24 aggrieved employees by failing to pay them for meal period time when Plaintiff and the
25 aggrieved employees were not relieved of all duties and employer control

26 46. Defendant and/or DOES committed the acts alleged herein knowingly and willfully, with the
27 wrongful and deliberate intention of injuring Plaintiff and the aggrieved employees. Defendant
28 and/or DOES acted with malice or in conscious disregard of Plaintiff's and the aggrieved

1 employees' rights.

2 47. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid
3 wages, and lost interest on such wages, and expenses.

4 48. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers
5 who were employed and/or performed services for Defendant and/or DOES, either directly for
6 Defendant and/or DOES, or through staffing agencies and/or other third-party entities in
7 Defendant's and/or DOES' warehouses/distribution facilities in California.

8 49. Plaintiff, as a former non-exempt employee of Defendant and/or DOES who Defendant and/or
9 DOES failed to pay all wages, is an aggrieved employee with standing to bring an action under
10 the PAGA. Plaintiff satisfied all prerequisites to serve as representatives of the general public
11 to enforce California's labor laws, and the penalty provisions identified in *Cal. Lab. Code* §
12 2699.5.

13 50. Plaintiff, as a representative of the people of the State of California, will seek any and all
14 penalties otherwise capable of being collected by the Labor Commission and/or the
15 Department of Labor Standards Enforcement (DLSE). This includes each of the following, as
16 set forth in *Cal. Lab. Code* § 2699.5, which provides that section 2699.3(a) applies to any
17 alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

18 51. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
19 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
20 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Cal.*
21 *Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
22 pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

23 52. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved
24 employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this
25 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
26 Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
27 pursuant to *Cal. Lab. Code* § 558(a).
28

SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay All Overtime and Double time Wages Owed

53. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

54. Cal. Lab. Code § 510 states that eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

55. Cal. Lab. Code § 510 dictates that any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

56. Defendant and/or DOES have a continuous policy of failing to pay overtime when employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week. Defendant and/or DOES have a continuous policy of failing to pay Plaintiff and the aggrieved employees for all hours worked, as discussed above, including hours worked over eight (8) hours in a day and forty (40) hours in a week.

57. Plaintiff and the aggrieved employees were deprived of wages for all overtime hours worked because Defendant and/or DOES failed to pay them overtime wages for all overtime hours worked, as discussed above. This resulted in Plaintiff and the aggrieved employees not being paid all overtime wages owed to them. Because Plaintiff and the aggrieved employees typically worked shifts lasting eight (8) to over fourteen (14) hours long, the majority of these unpaid hours would qualify for the overtime rate.

58. Defendant and/or DOES failed to pay overtime at no less than two (2) times the regular rate of pay when Plaintiff and the aggrieved employees worked over twelve (12) hours per day and when employees worked over eight (8) hours on the seventh day of a workweek. Defendant

1 and/or DOES failed to pay Plaintiff and the aggrieved employees for all hours worked,
2 including hours worked over twelve (12) hours per day and when employees worked over eight
3 (8) hours on the seventh day of a workweek.

4 59. Furthermore, Defendant and/or DOES would doctor Plaintiff's and the aggrieved employees'
5 time records to avoid paying them overtime and double-time. Although Plaintiff and the
6 aggrieved employees would frequently work substantial amounts of overtime, Defendant
7 and/or DOES would alter their timecards to reflect that Plaintiff and the aggrieved employees
8 had worked fewer hours than what had actually been worked. Not only did this unlawful
9 manipulation save Defendant and/or DOES from paying Plaintiff and the aggrieved employees
10 substantial amounts of overtime, because the process would completely erase these hours from
11 Plaintiff's and the aggrieved employees' time records altogether, Plaintiff and the aggrieved
12 employees were not paid at all for these hours, let alone at the overtime or doubletime rate.

13 60. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid
14 wages, and lost interest on such wages, and expenses.

15 61. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers
16 who were employed and/or performed services for Defendant and/or DOES, either directly for
17 Defendant and/or DOES, or through staffing agencies and/or other third-party entities in
18 Defendant's and/or DOES' warehouses/distribution facilities in California.

19 62. Plaintiff, as a representative of the people of the State of California, will seek any and all
20 penalties otherwise capable of being collected by the Labor commission and/or the Department
21 of Labor Standards Enforcement (DLSE) for violations of Cal. Lab. Code § 510.

22 63. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
23 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
24 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
25 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
26 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

27 64. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved
28 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this

chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Meal Periods (Cal. Lab. Code §2698 et. seq.).

65. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

66. Under Cal. Lab. Code § 512, and IWC Wage Order 5-2001, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

67. In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

68. Under Cal. Lab. Code § 226.7, if the employer does not provide an employee a meal period in accordance with the above requirements, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

69. Defendant and/or DOES breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, Defendant and/or DOES failed to provide Plaintiff and the aggrieved employees with meal periods within the first five (5) continuous hours of work, as the demanding work duties imposed by Defendant and/or DOES would prevent Plaintiff and the

aggrieved employees from taking timely meal periods. Because Defendant and/or DOES alters Plaintiff's and the aggrieved employees' time records to create the appearance of a lawful meal period, if Plaintiff's and the aggrieved employees' time records do not reflect their late or missed meal periods, those time records do not prove meal periods were provided in accordance with California law.

70. Defendant and/or DOES breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods free of employer control and/or work duties as required by California law. For example, Plaintiff's and the aggrieved employees' meal periods are interrupted when they are asked to assist coworkers and third-party delivery services such as FedEx and UPS during their unpaid meal periods. Plaintiff and the aggrieved employees are also expected to monitor their phones in case they receive work-related calls and/or messages during their unpaid meal periods. Thus, Plaintiff and the aggrieved employees were not provided lawful meal periods and/or compensation in lieu thereof.

71. Alternatively, Defendant and/or DOES breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Plaintiff and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the aggrieved employees of the right to be completely free from employer control under California law. Thus, Plaintiff and the aggrieved employees were not provided lawful meal periods and/or compensation in lieu thereof. Defendant's and/or DOES' policies applicable to all aggrieved employees fail to comply with California law.

72. Defendant and/or DOES breached the legal duty to provide meal periods lasting not less than thirty (30) minutes as required by California law. Plaintiff and the aggrieved employees would have to spend several minutes of their meal period time walking through the facility to the timeclock to record their meal period time. Thus, Plaintiff and the aggrieved employees are not provided a lawful meal period lasting not less than thirty (30) minutes in accordance with California law.

73. Further, Defendant and/or DOES instituted a consistent policy/practice of not providing second

meal periods to Plaintiff and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Plaintiff and the aggrieved employees are required to work shifts lasting eight (8) to over fourteen (14) hours long but never received second meal periods in shifts over ten (10) hours long, as Plaintiff and all aggrieved employees are told they only receive one meal period per shift, regardless of length.

74. Plaintiff and the aggrieved employees are required by Defendant and/or DOES to clock out for thirty (30) minutes to create the appearance of lawful meal periods. If employees do not clock out for a full thirty (30) minutes, do not take their meal periods before the fifth hour of work, and/or work through their meal periods, then Defendant and/or DOES alters their time records to create the appearance of a lawful, unpaid meal period. Thus, Plaintiff and the aggrieved employees were not provided lawful meal periods and/or compensation in lieu thereof even when their time records appear to indicate otherwise.

75. Additionally, Defendant and/or DOES provided Plaintiff and all aggrieved employees with an unlawful blanket meal waiver amongst numerous documents provided to the employee when they are hired in an attempt to exempt Defendant and/or DOES from having to provide and/or authorize meal periods to Plaintiff and all aggrieved employees when they work shifts between five (5) and six (6), as well as when they work over ten (10) hours in length, before Plaintiff and all aggrieved employees have even completed a single shift, denying Plaintiff and all aggrieved employees of their rights to meal periods under California law.

76. By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Defendant and/or DOES willfully violated the provisions of the Cal. Lab. Code §§ 226.7 and 512.

77. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in California.

78. Plaintiff, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff

has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Cal. Lab. Code* § 2699.5.

79. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that Section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7, and 512.

80. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Cal. Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

81. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to *Cal. Lab. Code* § 558(a).

FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Rest Periods (*Cal. Lab. Code* §2698 et. seq.).

82. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

83. Industrial Welfare Commission Order No. 4-2001 section 12(A) states “[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 week period. The authorized 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.”

84. Defendant and/or DOES breached the legal duty to provide rest periods to employees. Specifically, Defendant and/or DOES failed to provide employees with rest periods free of

1 employer control and/or work duties as required by California law. For example, Plaintiff's
2 and the aggrieved employees' rest periods are interrupted when they are asked to assist
3 coworkers and third-party delivery services such as FedEx and UPS during their rest periods.
4 Plaintiff and the aggrieved employees are also expected to monitor their phones in case they
5 receive work-related calls and/or messages during their rest periods. Thus, Plaintiff and the
6 aggrieved employees were not provided lawful rest periods and/or compensation in lieu
7 thereof.

8 85. Alternatively, Defendant and/or DOES breached the legal duty to provide rest periods to
9 employees by imposing a continuous and consistent policy requiring Plaintiff and the
10 aggrieved employees to work through their rest periods to satisfy the demanding workload
11 duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the aggrieved
12 employees of the right to be completely free from employer control under California law. Thus,
13 Plaintiff and the aggrieved employees were not provided lawful rest periods and/or
14 compensation in lieu thereof.

15 86. Defendant's and/or DOES' policies failed to authorize and permit net ten-minute rest periods
16 every four hours or major fraction thereof. Defendant's and/or DOES' policies failed to
17 authorize and permit rest periods in accordance with California law,

18 87. Further, Defendant and/or DOES have had a consistent policy and/or practice of not providing
19 paid rest periods to Plaintiff and all aggrieved employees and/or providing compensation in
20 lieu thereof. Specifically, Plaintiff and the aggrieved employees are required to work shifts
21 lasting eight (8) to over fourteen (14) hours long but never received third or fourth rest breaks,
22 as Plaintiff and all aggrieved employees were told they were only entitled to two rest breaks
23 per shift, regardless of length.

24 88. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per
25 day by non-exempt employees, and by failing to provide compensation for these unprovided
26 periods, as alleged above, Defendant and/or DOES willfully violated the provisions of Cal.
27 Lab. Code § 226.7.

28 89. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers

who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in California.

90. Plaintiff—a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods—is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for violations of Cal. Lab. Code § 226.7.

91. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *Cal. Lab. Code* § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: section 226.7.

92. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

93. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

FIFTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code §2698 et. seq.).

94. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

95. Defendant and/or DOES and/or their officers and/or managing agents willfully failed to pay,

1 in a timely manner, wages owed to Plaintiff and the other aggrieved employees who left
2 Defendant's and/or DOES' employ or who were terminated.

3 96. Plaintiff and/or the other aggrieved employees who ended their employment with Defendant
4 and/or DOES during the last year were entitled to be promptly paid all lawful compensation,
5 and other premiums, as required by Cal. Lab. Code §§ 201 through 203.

6 97. At all relevant times, Cal. Lab. Code §§ 201 and 202 provide that if an employer discharges
7 an employee, the wages earned and unpaid at the time of discharge are due and payable
8 immediately, and if an employee quits his or her employment, his or her wages shall become
9 due and payable no later than seventy-two (72) hours thereafter, unless the employee has given
10 seventy-two (72) hours notice of his or her intention to quit, in which case the employee is
11 entitled to his or her wages at the time of quitting.

12 98. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to
13 pay Plaintiff and the other aggrieved employees who are no longer employed by Defendant
14 and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their
15 leaving Defendant's and/or DOES' employ.

16 99. Defendant and/or DOES have a continuous policy of not providing final paychecks to
17 employees within the timeframes required by California law. Defendant's and/or DOES'
18 willful failure to pay Plaintiff and the aggrieved employees who are no longer employed by
19 Defendant and/or DOES their wages, overtime, meal period premiums, rest period premiums,
20 and other forms of compensation that were earned and unpaid, within seventy-two (72) hours
21 of their leaving Defendant's and/or DOES' employ or at their time of their termination is in
22 violation of *California Labor Code* sections 201 and 202

23 100. Cal. Lab. Code § 203 provides that when an employer willfully fails to pay wages owed, in
24 accordance with sections 201 and 202, the wages of the employee shall continue as a penalty
25 from the due date thereof at the same rate until paid or until an action is commenced; but the
26 wages shall not continue for more than thirty (30) days.

27 101. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed to pay all wages due
28 at termination, is an aggrieved employee with standing to bring an action under the

PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5.

102. Plaintiff, as a representative of the people of the State of California, seeks all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in Cal. Lab. Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 201 through 203.

103. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in California.

104. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

105. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Cal. Lab. Code § 2698 et. seq.).

106. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

107. Cal. Lab. Code § 226 subdivision (a) requires Defendant and/or DOES to itemize in wage

1 statements all deductions from payment of wages and to accurately report total hours worked
2 by Plaintiff and the other aggrieved employees. Cal. Lab. Code § 226(a) requires Defendant
3 and/or DOES, at the time of each payment of wages, to “furnish each of her or her employees,
4 either as an detachable part of the check, draft, or voucher paying the employee’s wages, or
5 separately when wages are paid by personal check or cash, an accurate itemized statement in
6 writing showing (1) gross wages earned, (2) total hours worked by the employee...(3) the
7 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
8 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
9 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
10 dates of the period for which the employee is paid, (7) the name of the employee and only the
11 last four digits of his or her social security number or an employee identification number other
12 than the social security number, (8) the name and address of the legal entity that is the
13 employer...(9) all applicable hourly rates in effect during the pay period and the corresponding
14 number of hours worked at each hourly rate and the corresponding number of hours worked at
15 each hourly rate by the employee....”

16 108. Cal. Lab. Code § 226, subdivision (a) also requires that “deductions made from payment of
17 wages shall be recorded in ink or other indelible form, properly dated, showing the month, day
18 and year, and a copy of the statement and the record of the deductions shall be kept on file by
19 the employer for at least three years at the place of employment or at a central location within
20 the State of California.”

21 109. *California Labor Code* section 246(i) also requires that, “[a]n employer shall provide an
22 employee with written notice that sets forth the amount of paid sick leave available, or paid
23 time off leave an employer provides in lieu of sick leave, for use on either the employee’s
24 itemized wage statement described in Section 226 or in a separate writing provided on the
25 designated pay date with the employee’s payment of wages.”

26 110. Defendant and/or DOES have knowingly and intentionally failed to comply with *Labor Code*
27 section 226(a) on each and every wage statement provided to Plaintiff and the other aggrieved
28 employees.

1 111. In every pay period during the period of the relevant statute of limitations, Defendant and/or
2 DOES knowingly and intentionally did not include the gross wages earned on wage statements.
3 Defendant and/or DOES therefore knowingly and intentionally failed to itemize the gross
4 wages earned on Plaintiff's and the aggrieved employees' wage statements.

5 112. In every pay period during the period of the relevant statute of limitations, Defendant and/or
6 DOES knowingly and intentionally did not itemize the total hours worked on wage statements
7 as *California Labor Code* section 226, subsection (a), requires. In every pay period during the
8 period of the relevant statute of limitations, Defendant and/or DOES knowingly and
9 intentionally did not include the total hours worked on wage statements. Defendant and/or
10 DOES therefore knowingly and intentionally failed to itemize the total hours worked on
11 Plaintiff's and the aggrieved employees' wage statements.

12 113. In every pay period during the period of the relevant statute of limitations, Defendant and/or
13 DOES knowingly and intentionally did not itemize the total hours worked on wage statements
14 as *California Labor Code* section 226, subsection (a), requires. Defendant and/or DOES have
15 a continuous policy of not paying Plaintiff and the aggrieved employees for all hours worked.
16 Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring
17 employees to work before clocking in, after clocking out, and during meal periods. For
18 example, Defendant and/or DOES requires Plaintiff and the aggrieved employees to respond
19 to calls and/or texts throughout the day, including before and after Plaintiff's and the aggrieved
20 employees' workdays, but Defendant and/or DOES do not pay them for that time. Also,
21 Plaintiff and the aggrieved employees are not paid for the several minutes spent walking from
22 the side entrance to the time clock at the front before shifts and from the time clock to the exit
23 after shifts. As this time spent crossing Defendant's and/or DOES' warehouse is done before
24 clocking-in and after clocking-out, that time is unpaid. Additionally, Defendant and/or DOES
25 requires Plaintiff and the aggrieved employees to clock-out before driving packages for
26 Defendant and/or DOES to third-party delivery services such as FedEx and UPS, and thus does
27 not pay for time spent completing that assignment.

28 114. In every pay period during the period of the relevant statute of limitations, Defendant and/or

DOES would doctor Plaintiff's and the aggrieved employees' time records to avoid paying them overtime and doubletime, as discussed above. As a result of this, Defendant and/or DOES have knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Plaintiff and the other aggrieved employees by failing to reflect the gross wages earned by, total hours worked by, net wages earned by, and all applicable hourly rates for Plaintiff and the other aggrieved employees during any given pay period.

115. Additionally, Defendant and/or DOES have failed to pay Plaintiff and the aggrieved employees the premium wages owed to them as a result of Defendant's and/or DOES' failure to provide Plaintiff and the aggrieved employees with lawful meal and rest periods. Defendant's and/or DOES' failure to itemize these premium wages on Plaintiff's and the aggrieved employees' wage statements violates *California Labor Code* section 226(a) on each and every wage statement provided to Plaintiff and the other aggrieved employees.

116. Furthermore, employees are unable to reconstruct their hours worked because Defendant and/or DOES includes categories of pay on employees' wage statements that employees are unfamiliar with and are unable to decipher what they are. For example, Plaintiff and the aggrieved employees do not know what "CV Relief Day" and "CV Relief-DAY-OT" are meant to indicate.

117. Throughout the statutory period, because of the knowing and intentional failure by Defendant and/or DOES to comply with itemized employee wage statement provisions, Plaintiff and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

118. In addition, Defendant and/or DOES do not provide Plaintiff and the aggrieved employees with written notice that sets forth the amount of sick leave available for use, either in employees' itemized wage statements or in a separate writing provided to employees on the designated pay date.

119. Further, in addition to any penalties levied upon Defendant and/or DOES for its failure to comply with *Labor Code* section 226 subdivision (a)'s requirement to provide Plaintiff and the

- aggrieved employees accurate, itemized wage statements, *Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *Labor Code* section 226 subdivision (a) requires Defendant and/or DOES to maintain records that “accurately shows all of the information required by this subdivision.” Defendant and/or DOES have violated its statutory duty to maintain records for Plaintiff and the aggrieved employees that contain all of the information under *Labor Code* section 226(a)(1) through (9).
120. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant’s and/or DOES’ warehouses/distribution facilities in California.
121. Plaintiff, as a non-exempt employee who Defendants and/or DOES failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5.
122. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Cal. Lab. Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226, 1174, 1199.
123. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).
124. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare

Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Pay Employees Twice Per Month (Cal. Lab. Code § 2698 et. seq.).

125. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

126. Section 204(a) of the *California Labor Code* requires that all wages earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.

127. *Cal. Lab. Code* § 226 subdivision (a) provides “[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month.”

128. Defendant and/or DOES have a consistent policy and/or practice of failing to pay Plaintiff and the aggrieved employees twice per month. By failing to pay employees twice per month, Defendant and/or DOES willfully violated the provisions of Cal. Lab. Code § 204(a).

129. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to pay Plaintiff and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

130. Alternatively, Defendant and/or DOES failed to pay wages to Plaintiff and the aggrieved employees earned within seven (7) calendar days of the end of the payroll period in which the wages were earned.

131. Defendant and/or DOES failure to pay Plaintiff and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of Cal. Lab. Code §

204.

132. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers who were employed and/or performed services for Defendant and/or DOES, either directly for Defendant and/or DOES, or through staffing agencies and/or other third-party entities in Defendant's and/or DOES' warehouses/distribution facilities in California.

133. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed pay all wages owed twice per month, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for violations of Cal. Lab. Code § 204.

134. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

135. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

EIGHTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Reimburse Employees for Business Expenses (California Labor Code §2698 et. seq.)

136. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

137. California Labor Code section 2802 provides: "An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions

1 of the employer...[which includes] all reasonable costs, including, but not limited to, attorneys’
2 fees incurred by the employee enforcing the rights granted by this section.”

3 138. Plaintiff and the aggrieved employees incurred expenses in the discharge of their duties without
4 receiving reimbursement from Defendant and/or DOES. These expenses include, but are not
5 limited to, having to use their personal cell phones and personal vehicles for business purposes.
6 For example, Defendant and/or DOES requires Plaintiff and the aggrieved employees to use
7 their personal cell phones to communicate with their managers and supervisors throughout the
8 day. Defendant and/or DOES also requires Plaintiff and the aggrieved employees to use their
9 personal vehicles to drive packages to third-party delivery services such as FedEx and UPS.
10 *California Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to
11 reimbursement for said necessary expenditures, plus interest and expenses.

12 139. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers
13 who were employed and/or performed services for Defendant and/or DOES, either directly for
14 Defendant and/or DOES, or through staffing agencies and/or other third-party entities in
15 Defendant’s and/or DOES’ warehouses/distribution facilities in California.

16 140. Plaintiff, as a non-exempt employee who incurred business expenses which Defendant and/or
17 DOES failed to reimburse, is an aggrieved employee with standing to bring an action under
18 the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general
19 public to enforce California’s labor laws, and the penalty provisions identified in *Labor Code*
20 section 2699.5 for violations of *Labor Code* section 2802.

21 141. Pursuant to *Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of
22 herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one
23 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
24 per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved
25 employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

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NINTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Adopt a Compliant Sick Pay/Paid Time Off Policy

142. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

143. Section 246(a)(1) of the California Labor Code states: “An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.”

144. Section 246(c) of the Labor Code states: “An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.”

145. Section 233(c) of the California Labor Code states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5.”

146. Section 233(d) of the California Labor Code provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

147. Section 234 of the California Labor Code further forbids employers from adopting an “absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.”

148. Defendant and/or DOES operate under an absence control policy that counts sick leave taken pursuant to Section 233. Thus, Defendant’s and/or DOES’ sick pay policy punishes employees for use of protected and appropriate sick leave. Defendant and/or DOES further failed to

1 provide paid sick days for all hours worked in compliance with these sections.

2 149. In addition, Defendant and/or DOES does not provide employees with written notice that sets
3 forth the amount of sick leave available for use, either in employees' itemized wage statements
4 or in a separate writing provided to employees on the designated pay date.

5 150. These claims are on behalf of Plaintiff and all similarly situated hourly, non-exempt workers
6 who were employed and/or performed services for Defendant and/or DOES, either directly for
7 Defendant and/or DOES, or through staffing agencies and/or other third-party entities in
8 Defendant's and/or DOES' warehouses/distribution facilities in California.

9 151. Plaintiff, as a non-exempt employee subject to Defendant and/or DOES' unlawful sick pay
10 policy, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
11 has satisfied all prerequisites to serve as a representative of the general public to enforce
12 California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for
13 violations of Cal. Lab. Code §§ 233, 234, and 246.

14 152. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself
15 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
16 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
17 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
18 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

19 153. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other aggrieved
20 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
21 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
22 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
23 pursuant to Cal. Lab. Code § 558(a).

24 **V. PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
26 for relief and judgment against Defendant and/or DOES, jointly and severally, as follows:

- 27 A. For penalties as provided under Cal. Lab. Code § 558(a)(1) and 558(a)(2).
- 28 B. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.* for

- 1 failure to provide compliant meal periods;
- 2 C. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 3 for each pay period during which an employee was underpaid due to failure to provide paid
- 4 meal periods;
- 5 D. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 6 for failure to provide all rest periods;
- 7 E. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 8 for each pay period during which an employee was underpaid due to failure to provide paid
- 9 rest periods;
- 10 F. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 11 for failure to timely pay wages at separation;
- 12 G. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 13 for failure to provide compensation at the regular, overtime, and double time rate for all time
- 14 worked;
- 15 H. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 16 for failure to provide compensation at the minimum wage;
- 17 I. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 18 for failure to provide accurate, itemized wage statements;
- 19 J. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 20 for failure to maintain accurate records;
- 21 K. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 22 for failure to pay employees all wages owed twice per month;
- 23 L. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
- 24 for failure to adopt a sick pay policy compliant with California law;
- 25 M. For penalties as provided, per each violation, by the PAGA, *Labor Code* section 2699, *et. seq.*
- 26 for failure to reimburse business expenses; and
- 27 N. For reasonable attorneys' fees and costs under the PAGA, Cal. Lab. Code § 2699(g)(1).
- 28

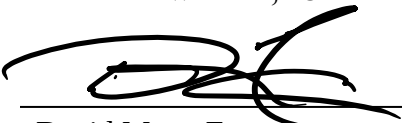
DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial.

MARA LAW FIRM, PC

Date: July 5, 2023

Signed:



David Mara, Esq.
Matthew Crawford, Esq.
Attorneys for Plaintiff JENNY CISNEROS,
on behalf of herself and all others similarly
situated, and on behalf of the general public