

November 18, 2025

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128> (copy by certified mail to all Defendants)

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

HARBOR FREIGHT TOOLS TEXAS, L.P.
C/O Corporate Creations Network, Inc.
26677 Agoura Road
Calabasas, CA 91302
Certified Mail Tracking Number:

LWDA No.: 9402811105495840416891

**Re: Labor Code § 2698, *et seq.* Penalties - PAGA Notice Letter to the LWDA
*KOVACK-WADE v. HARBOR FREIGHT TOOLS, TEXAS, L.P.***

Gentlepersons:

This office represents Plaintiff Isaiah Kovack-Wade (“Plaintiff”) and other similarly situated aggrieved non-exempt, hourly employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, 2926, 2927 and provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendant HARBOR FREIGHT TOOLS TEXAS, L.P., a Delaware Limited Partnership (“Defendant Harbor Freight Tools”); and DOES 1 through 50 inclusive (collectively “Defendants”).

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. This Notice Letter also addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.



Relevant Facts

Plaintiff was employed by Defendants as a non-exempt, hourly employee based out of Defendants' location in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present. Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees." Aggrieved Employees consistently worked at Defendants' behest and under their control and subject to their policies and practices without being paid all wages due. Plaintiff is also informed and believes that there are other Aggrieved Employees employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer or suffered from the same wage and hour violations outlined below.

Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Aggrieved Employees all wages due and owing, including by requiring off the clock work, failing to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest break premiums, failing to pay reporting time pay, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, and failing to maintain accurate records, all in violation of various provisions of the California Labor Code and applicable Wage Orders.

During the course of Aggrieved Employees' employment with Defendants, Aggrieved Employees were not paid all wages they were owed, including for all work performed resulting in off the clock work. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants' control. For instance, Defendants required Plaintiff and Aggrieved Employees to undergo a COVID screening and complete mandatory security screening before being permitted to clock in for their shifts. Plaintiff and Aggrieved Employees were required to approach the screening area, line up and await screening. They would then pass through a metal detector while Defendants security personnel searched and screened their bags and personal belongings. Upon clearing the screening process, Plaintiff and Aggrieved Employees then had to wait in line for the time clocks to become available to clock in for their shifts. Furthermore, Aggrieved Employees were required to work through portions of their meal periods while they were off the clock and were not paid for this time.

Defendants also failed to pay Aggrieved Employees all wages due and owing because Defendants failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay. Contrary to the requirements of the Labor Code and IWC Wage Orders under California law, Defendants did not incorporate these non-discretionary bonuses and/or commissions to the Aggrieved Employees into the regular rate of pay Defendants used to calculate and pay for overtime compensation, sick pay, and meal and rest break premiums.



By implementing policies, programs, practices, procedures and protocols which resulted in off the clock work, and the failure to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay, Defendants' willful actions resulted in the systematic underpayment of wages and overtime pay to Aggrieved Employees. For example, the off the clock work addressed above caused Aggrieved Employees to begin receiving overtime pay later than they should have.

As a result of the above-described requirements to work off the clock, and the failure to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of 8 hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code and applicable Wage Orders.

Moreover, Defendant required Plaintiff and the Aggrieved Employees to report for a scheduled workday and would, on occasion, send Plaintiff home within the first two (2) hours of work because they were overstaffed. On such days when Defendant required Plaintiff to report to work only to be sent home, he was not paid required reporting time wages. Based on information and belief, Aggrieved Employees were subject to similar treatment and did not receive the required reporting time wages.

Additionally, Defendants failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were often required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants also required Aggrieved Employees to respond to work demands. Defendants placed their needs over Aggrieved Employees' lawful meal and rest breaks, and this resulted in Aggrieved Employees often having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break.

On the occasions when Aggrieved Employees worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided.

Therefore, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of



not less than thirty minutes; nor did Defendants pay Aggrieved Employees “premium pay,” i.e. one hour of wages at each Aggrieved Employee’s effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided.

Aggrieved Employees were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks and were not provided with one (1) hour’s wages in lieu thereof. Aggrieved Employees were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods. Therefore, Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Aggrieved Employees failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay overtime compensation, sick pay, and meal and rest break premiums. Thus, the wage statements do not provide accurate hourly rates for overtime and the statements do not comply with Labor Code § 226(a)(9). Further, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages and overtime because Defendants under-reported the actual hours worked by Aggrieved Employees due to off the clock work. Additionally, the wage statements given to Aggrieved Employees failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

Additionally, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203. Specifically, Plaintiff and Aggrieved Employees were not paid all regular and overtime wages because Defendants failed to pay for all hours worked by requiring off the clock work and failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime compensation, sick pay, and meal and rest break premiums. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods. Defendants’ failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail below, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable



minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines “Hours Worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states: “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants’ unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

During the course of Aggrieved Employees’ employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work, and failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime compensation, sick pay, and meal and rest break premiums. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants’ control. For instance, Defendants required Plaintiff and Aggrieved Employees to undergo a COVID screening and complete mandatory security screening before being permitted to clock in for their shifts. Plaintiff and Aggrieved Employees were required to approach the screening area, line up and await screening. They would then pass through a metal detector while Defendants security personnel searched and screened their bags and personal belongings. Upon clearing the screening process, Plaintiff and Aggrieved Employees then had to wait in line for the time clocks to become available to clock in for their shifts. Furthermore, Aggrieved Employees were required to work through



portions of their meal periods while they were off the clock and were not paid for this time.

Defendants also failed to pay Aggrieved Employees all wages due and owing because Defendants failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay. Contrary to the requirements of the Labor Code and IWC Wage Orders under California law, Defendants did not incorporate these non-discretionary bonuses and/or commissions to the Aggrieved Employees into the regular rate of pay Defendants used to calculate and pay for overtime compensation, sick pay, and meal and rest break premiums.

During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime and double time. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly required Aggrieved Employees to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits.



Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid off the clock work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

When considered in combination with the other wage violations addressed above, Aggrieved Employees were not properly compensated, nor were they paid overtime and double time rates for hours worked in excess of eight hours or twelve hours in a given day, and/or forty hours in a given week. Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Proper Reporting Time Pay

The IWC Wage Orders, require that reporting time pay be provided to any employee who is required to report for work and does report, but is either not put to work or is furnished less than half said employee's usual or scheduled day's work.

Plaintiff is informed and believes and thereon alleges that all or substantially all Aggrieved Employees are subject to Defendants' policies and practices requiring them to report for a scheduled workday and would, on occasion, be sent home within the first two (2) hours of work. On such days when Defendant required Aggrieved Employees to report to work only to be sent



home, they were not paid required reporting time wages.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 510, 1198, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 246, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Defendants also miscalculated the rate at which they paid any meal period or rest period premiums when Defendant did attempt to pay them, resulting in further violations of section 226.7.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations, or none at all, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond to job requirements.



Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Any wage statements given to Employees by Defendants necessarily failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked or at the correct rate of pay and for providing deficient meal periods and rest breaks, and failing to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest break premiums, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.



Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., and failing to provide them with checks and wage statements, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204. Additionally, by not providing wage statements as required under section 204, Defendants systematically violated Labor Code § 204 and § 226.

Given the above described off the clock work, Plaintiff was not paid at the correct overtime rate for all hours he worked after eight hours into a shift or over forty in a work week and he was not paid all double time owed either. Defendants' uniformly applied payroll policies and practices thus resulted in further systematic and ongoing violations of the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 201.3, 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours



worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by employees and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination or within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or



termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Plaintiff and Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period, Plaintiff will file a Demand asserting a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226(b), 226.3, 226.7, 227.3, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1198.5, 1199, 2698, 2699, *et seq.*, 2926, and 2927 including as follows:

(a) **Wage Claims:** For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) **Meal and Rest Period Claims:** For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) **Inaccurate Wage Statements and Failure to Maintain Records:** For failure to provide Plaintiff and the Aggrieved Employees with wage statements or with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable



under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

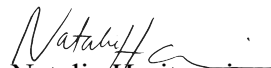
(e) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

This letter therefore provides the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendant HARBOR FREIGHT TOOLS TEXAS, L.P., and any other named Defendants and joint employers. To prevent the violations described herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in a Demand.

Regards,

D.LAW, INC.


Natalie Haritonian

Cc: HARBOR FREIGHT TOOLS TEXAS, L.P.; by Certified Mail

D.LAW, INC.
Natalie Haritounian (SBN 324318)
n.haritounian@d.law
Andrea A. Amaya Silva (SBN 348080)
a.amaya@d.law
450 N Brand Blvd, Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Facsimile: (818) 962-6469

Attorneys for Claimant ISIAAH KOVACK-WADE.

AMERICAN ARBITRATION ASSOCIATION

ISIAAH KOVACK-WADE, an individual,

Claimant,

vs.

HARBOR FREIGHT TOOLS TEXAS, L.P.,
Delaware limited partnership, and DOES 1
through 50, inclusive,

Respondents.

Case No.:

DEMAND FOR ARBITRATION:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Failure to Pay Reporting Time Pay;
4. Meal Period Liability Under Labor Code § 226.7;
5. Rest-Break Liability Under Labor Code § 226.7;
6. Violation of Labor Code § 226(a);
7. Violation of Labor Code § 203;
8. Violation of Labor Code § 204;
9. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5; and
10. Violation of Business & Professions Code § 17200 *et seq.*

INTRODUCTION

1. Claimant ISALAH KOVACK-WADE (“Claimant”) demands arbitration on behalf of himself.

2. Claimant alleges that Respondents, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the California Business & Professions Code, and seeks redress for these violations.

THE PARTIES

A. The Claimant

3. Claimant ISALAH KOVACK-WADE resides in California, during the time period relevant to this Arbitration, and was employed by Respondents as a non-exempt hourly employee within the State of California.

B. The Respondents

4. Respondent HARBOR FREIGHT TOOLS TEXAS, L.P., is a Delaware Limited Partnership with its principal place of business in Calabasas, California and is registered with the California Secretary of State. Respondent HARBOR FREIGHT TOOLS TEXAS, L.P., has been the employer listed on the employment records issued to Claimant during the relevant time period that Claimant was employed with Respondents. HARBOR FREIGHT TOOLS TEXAS, L.P., employed Claimant in California, including at Respondents’ offices and facilities in Moreno Valley, California, and conducts business throughout California.

5. The true names and capacities, whether individual, corporate, associate, or whatever else, of the Respondents sued herein as Does 1 through 50, inclusive, are currently unknown to Claimant, who therefore sues these Respondents by such fictitious names under Code of Civil Procedure § 474. Claimant is informed and believes and thereon alleges that Respondents designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in some manner for the unlawful acts referred to herein. Claimant will seek leave of court to amend this Demand to reflect the true names and capacities of the Respondents designated herein as Does 1 through 50 when their identities become known.

6. Claimant is informed and believes and thereon alleges that each Respondent acted in

1 all respects pertinent to this action as the agent of the other Respondents, that Respondents carried
2 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
3 Respondent are legally attributable to the other Respondents. Furthermore, Respondents acted in all
4 respects as the employers or joint employers of Claimant. Respondents, and each of them, exercised
5 control over the wages, hours or working conditions of Claimant, or suffered or permitted Claimant
6 to work, or engaged, thereby creating a common law employment relationship, with Claimant.
7 Therefore, Respondents, and each of them, employed or jointly employed Claimant.

8 7. Whenever and wherever reference is made in this Demand to any act by a
9 Respondent or Respondents, such allegations and references shall also be deemed to mean the acts
10 and failures to act of each Respondent acting individually, jointly, and severally.

11 8. Whenever and wherever reference is made to individuals who are not named as a
12 Respondent in this Demand but were agents, servants, employees and/or supervisors of
13 Respondents, such individuals at all relevant times acted on behalf of Respondents within the scope
14 of their employment.

15 **FACTUAL BACKGROUND**

16 9. Claimant consistently worked at Respondents behest without being paid all wages
17 due. Claimant was either not paid by Respondents for all hours worked or was not paid at the
18 appropriate minimum, regular and overtime rates. Claimant also contends that Respondents failed
19 to pay all wages due and owing, including by requiring off the clock work, failing to incorporate
20 non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay
21 for overtime pay, sick pay, and meal and rest break premiums, failing to pay reporting time pay,
22 failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely
23 pay wages including final wages, and failing to maintain accurate records, all in violation of various
24 provisions of the California Labor Code and applicable Wage Orders.

25 10. During the course of Claimant's employment with Respondents, Claimant was not
26 paid all wages he was owed. Claimant was required to perform pre-shift and post-shift off the clock
27 work which he was not compensated for despite being subject to Respondents' control. Specifically,
28 Respondents required Claimant to undergo a COVID screening and complete mandatory security

1 screening before being permitted to clock in for his work shift. Claimant was required to approach
2 the screening area, line up and await screening. He would then pass through a metal detector while
3 Respondents' security personnel searched and screened his bags and any personal belongings. Upon
4 getting through the screening process, Claimant then had to wait in line for the time clocks to become
5 available to clock in for his shift. Respondents' timekeeping policies failed to account for this off-
6 the-clock work.

7 11. Respondents also failed to pay Claimant all wages due and owing because
8 Respondents failed to incorporate non-discretionary and/or commissions into the regular rate of pay.
9 Contrary to the requirements of the Labor Code and IWC Wage Orders under California law,
10 Respondents did not incorporate these non-discretionary and/or commissions to Claimant into the
11 regular rate of pay Respondents used to calculate and pay for overtime compensation, sick pay, and
12 meal and rest break premiums.

13 12. By implementing policies, programs, practices, procedures and protocols which
14 resulted in off the clock work, the failure to incorporate non-discretionary bonuses and/or
15 commissions into the regular rate of pay used to calculate and pay overtime compensation, sick pay,
16 and meal and rest break premiums, Respondents' willful actions resulted in the systematic
17 underpayment of wages to Claimant, including underpayment of overtime pay to Claimant over the
18 relevant time period. For example, the above described off the clock work caused Claimant to begin
19 receiving overtime pay later than he should have.

20 13. As a result of the above-described requirements to work off the clock, the failure to
21 incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to
22 calculate and pay overtime compensation, sick pay, and meal and rest break premiums, and the other
23 wage violations he endured at Respondents' hands, Claimant was not properly paid all wages earned
24 and all wages owed to him by Respondents, including when working more than eight (8) hours in
25 any given day and/or more than forty (40) hours in any given week.

26 14. As a result of Respondents' unlawful policies and practices, Claimant incurred
27 overtime hours worked for which he was not adequately and completely compensated for, in
28 addition to the hours he was required to work off the clock. To the extent applicable, Respondents

1 also failed to pay Claimant at an overtime rate of 1.5 times the regular rate for the first eight hours
2 of the seventh consecutive work day in a week and overtime payments at the rate of 2 times the
3 regular rate for hours worked over eight (8) on the seventh consecutive work day, as required under
4 the Labor Code and applicable IWC Wage Orders.

5 15. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing
6 to the present, Respondents had a consistent policy or practice of failing to pay Claimant for all
7 hours worked, and failing to pay minimum wages for all time worked, as required by California law.
8 Respondents thus failed to pay Claimant at least minimum wages for all the time he worked for
9 Respondents in violation of the Labor Code and applicable IWC Wage Orders as the actual times
10 when Claimant was under the control and direction of Respondents was under reported in the hours
11 reflected on the timekeeping records. Furthermore, Respondents' willful actions resulted in the
12 systematic underpayment of wages to Claimant, including underpayment of overtime pay to him
13 over a period of time.

14 16. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing
15 to the present, Respondents had a consistent policy or practice of failing to pay Claimant for all
16 hours worked. Also, from at least four (4) years prior to the filing of this lawsuit and continuing
17 the present, Respondents also had a consistent policy or practice of failing to pay Claimant his true
18 and correct overtime compensation at premium overtime rates for all hours worked in excess of
19 eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours worked in
20 excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding sections
21 of IWC Wage Orders.

22 17. Moreover, Respondents required Claimant to report for a scheduled workday and
23 would, on occasion, send Claimant home within the first two (2) hours of work because they were
24 overstaffed. On such days when Respondents required Claimant to report to work only to be sent
25 home, he was not paid required reporting time wages.

26 18. Additionally, Respondents failed to provide all the legally required unpaid, off-duty
27 meal periods and all the legally required paid, off-duty rest periods to Claimant, as required by the
28 applicable Wage Order and Labor Code. Claimant was required to perform work as ordered by

1 Respondents for more than five (5) hours during a shift but was often required to do so without
2 receiving a lawful and timely meal break. In addition to untimely meal periods, Respondents also
3 required Claimant to respond to work demands. Respondents placed their needs over Claimant's
4 lawful meal and rest breaks, and this resulted in Claimant often having to work through his
5 scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the
6 job would not avail him the opportunity to take a lawfully uninterrupted and off duty meal and/or
7 rest break. Additionally, to the extent Claimant was permitted to take meal periods, he was required
8 to respond to work demands.

9 19. On the occasions when Claimant worked over 10 hours in a shift, Respondents also
10 failed to provide him with a second, uninterrupted, timely and duty-free meal period. As a result,
11 Respondents' failure to provide Claimant with all legally required off-duty, unpaid meal periods
12 and all the legally required off-duty, paid rest periods is and will be evidenced by Respondents'
13 business records, or lack thereof. Respondents also failed to pay Claimant "premium pay," i.e. one
14 hour of wages at Claimant's effective hourly rate of pay, for each meal period or rest break that
15 Respondents failed to provide or deficiently provided.

16 20. Therefore, for at least four years prior to the filing of this action and through to the
17 present, Respondents have regularly required Claimant to work shifts in excess of five (5) hours
18 without providing him with uninterrupted meal periods of not less than thirty (30) minutes, and
19 shifts in excess of (10) hours without providing him with second meal periods of not less than thirty
20 minutes; nor did Respondents pay Claimant "premium pay," i.e. one hour of wages at Claimant's
21 effective hourly rate of pay, for each meal period that Respondents failed to provide or deficiently
22 provided.

23 21. Meal period violations thus occurred in one or more of the following manners:

- 24 (a) Claimant was not provided full thirty-minute duty free meal periods for work
25 days in excess of five (5) hours and was not compensated one (1) hour's
26 wages in lieu thereof, all in violation of, among others, Labor Code §§ 226.7,
27 512, and the applicable Industrial Welfare Commission Wage Order(s);
28 (b) Claimant was not provided second full thirty-minute duty free meal periods

for work days in excess of ten (10) hours;

(c) Claimant was required to work through at least part of his daily meal period(s);

(d) Meal periods were provided after five (5) hours of continuous work during a shift; and

(e) Claimant was restricted in his ability to take a full thirty-minute meal period.

22. Claimant was also not authorized and permitted to take lawful rest periods, was systematically required by Respondents to work through or during breaks and was not provided with one (1) hour's wages in lieu thereof. Claimant was restricted in his ability to take his full ten (10) minutes net rest time or was otherwise not provided with duty-free rest periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present, Respondents have consistently failed to provide Claimant with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Respondent pay Claimant premium pay for each day on which requisite rest breaks were not provided or were deficiently provided. Moreover, to the extent Claimant was permitted to take rest breaks, he was required to respond to work demands.

23. Rest period violations therefore arose in one or more of the following manners:

(a) Claimant was required to work without being provided a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked and was not compensated one (1) hour of pay at his regular rate of compensation for each workday that a rest period was not provided;

(b) Claimant was not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and

(c) Claimant was required to remain on-duty during rest periods and under Respondents' control or otherwise had their rest periods interrupted by work demands.

24. Respondents also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Claimant failed to

1 incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to
2 calculate and pay overtime compensation, sick pay, and meal and rest break premiums. Thus, the
3 wage statements do not provide accurate hourly rates for overtime and the statements do not comply
4 with Labor Code § 226(a)(9). Further, the wage statements given to Claimant failed to accurately
5 account for unpaid wages and overtime because Respondents under-reported Claimant's actual
6 hours worked due to the off the clock work. Additionally, the wage statements given to Claimant
7 failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

8 25. From at least four (4) years prior to filing this lawsuit and continuing to the present,
9 Respondents have thus also had a consistent policy of failing to pay all wages owed to Claimant at
10 the time of his termination, as required by California wage-and-hour laws. Specifically, Claimant
11 was not paid all regular and overtime wages because Respondents failed to pay for all hours worked
12 by requiring off the clock work and failed to incorporate non-discretionary bonuses and/or
13 commissions into the regular rate of pay used to calculate and pay for overtime compensation, sick
14 pay, and meal and rest break premiums. Additionally, Respondents failed to pay premium wages
15 owed for unprovided meal periods and rest periods, as further detailed in this Demand. Respondents'
16 failure to pay said wages within the required time was willful within the meaning of Labor Code §
17 203.

18 26. In light of the foregoing, Claimant brings this action pursuant to, *inter alia*, Labor
19 Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 551, 552, 558, 558.1, 1174,
20 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2926, 2927 and California Code of
21 Regulations, Title 8, section 11000 *et seq.*

22 27. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Claimant
23 seeks injunctive relief, restitution, and disgorgement of all benefits Respondents have enjoyed from
24 their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this
25 Demand.

26 ///

27 ///

28 ///

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Respondents)

28. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

29. Respondents failed to pay Claimant minimum wages for all hours worked. Respondents had a consistent policy of misstating Claimant's time records and failing to pay Claimant for all hours worked. Claimant would work hours and not receive wages, including as alleged above in connection with off the clock work. Additionally, Respondents failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay overtime compensation, sick pay and meal and rest break premiums. Respondents, and each of them, have intentionally and improperly changed, adjusted and/or modified the hours of Claimant, which resulted in off the clock work and underpayment of all wages owed to Claimant over a period of time, while benefiting Respondents. During the relevant time period, Respondents thus regularly failed to pay minimum wages to Claimant, to his detriment. Additionally, Respondents had a consistent policy of failing to pay Claimant for hours worked during alleged meal and rest periods for which Claimant was consistently denied, as also addressed herein.

30. In California, employees must be paid at least the then applicable state minimum wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Respondents failed to do so.

31. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

32. The applicable minimum wages fixed by the commission for work during the relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

33. The minimum wage provisions of California Labor Code are enforceable by private

1 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
2 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
3 overtime compensation applicable to the employee is entitled to recover in a civil action the
4 unpaid balance of the full amount of this minimum wage or overtime compensation, including
5 interest thereon, reasonable attorney’s fees and costs of suit.”

6 34. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
7 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
8 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
9 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
10 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
11 be used as a credit against a minimum wage obligation.

12 35. In committing these violations of the California Labor Code, Respondents
13 inaccurately recorded, or required Claimant to input times that did not reflect his actual hours
14 worked, or calculated the correct time worked and consequently underpaid the actual time worked
15 by Claimant. Respondents acted in an illegal attempt to avoid the payment of all earned wages,
16 and other benefits in violation of the California Labor Code, the Industrial Welfare Commission
17 requirements and other applicable laws and regulations. As a result of these violations,
18 Respondent also failed to timely pay all wages earned in accordance with California Labor Code §
19 1194.

20 36. California Labor Code § 1194.2 also provides for the following remedies: “In any
21 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
22 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
23 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

24 37. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
25 1197.1, Claimant is entitled to recover a penalty of \$100.00 for the initial failure to timely pay
26 each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
27 minimum wages.

28 38. Pursuant to California Labor Code § 1194.2, Claimant is further entitled to recover

1 liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

2 39. Respondents have the ability to pay minimum wages for all time worked and have
3 willfully refused to pay such wages with the intent to secure for Respondents a discount upon this
4 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Claimant.

5 40. Wherefore, Claimant is entitled to recover the unpaid minimum wages (including
6 double minimum wages), liquidated damages in an amount equal to the minimum wages
7 unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to
8 California Labor Code § 1194(a). Claimant further requests recovery of all unpaid wages,
9 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties
10 against Respondents, in a sum as provided by the California Labor Code, including § 558, and/or
11 other applicable statutes.

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

14 **(Against All Respondents)**

15 41. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
16 in full herein.

17 42. California Labor Code § 1194 provides that "any employee receiving less than the
18 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
19 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
20 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
21 may be maintained directly against the employer in an employee's name without first filing a
22 claim with the Division of Labor Standards and Enforcement.

23 43. By their conduct, as set forth herein, Respondents violated California Labor Code §
24 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Claimant: (a)
25 time and one-half his regular hourly rates for hours worked in excess of eight (8) hours in a
26 workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked
27 on the seventh day of work in any one workweek; or (b) twice his regular rate of pay for hours
28 worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight

1 (8) hours on any seventh day of work in a workweek.

2 44. Respondents had a consistent policy of not paying Claimant wages for all hours
3 worked, including by requiring off the clock work, as addressed above. Additionally, Respondents
4 failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay
5 used to calculate and pay overtime compensation, sick pay and meal and rest break premiums.
6 Respondents, and each of them, have intentionally and improperly rounded, changed, adjusted,
7 and/or modified Claimant hours in order to avoid paying Claimant all earned and owed straight
8 time and overtime wages and other benefits, in violation of the California Labor Code, the
9 California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division
10 of Labor Standards and Enforcement. Respondents have also violated these provisions by
11 requiring Claimant to work through portions of his meal period. Therefore, Claimant was not
12 properly compensated, nor was he paid overtime rates for hours worked in excess of eight hours in
13 a given day, and/or forty hours in a given week. Based on information and belief, Respondents did
14 not make available to Claimant a reasonable protocol for correcting time records when Claimant
15 worked overtime hours or to fix incorrect time entries.

16 45. Respondents' failure to pay Claimant the unpaid balance of regular wages owed
17 and overtime compensation, as required by California law, violates the provisions of Labor Code
18 §§ 510 and 1198, and is therefore unlawful.

19 46. Additionally, Labor Code § 558(a) provides "any employer or other person acting
20 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
21 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
22 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
23 pay period for which the employee was underpaid in addition to an amount sufficient to recover
24 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
25 underpaid employee for each pay period for which the employee was underpaid in addition to an
26 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
27 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
28 this section are in addition to any other civil or criminal penalty provided by law." Respondents

1 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
2 Wage Orders. Accordingly, Claimant seeks the remedies set forth in Labor Code § 558.

3 47. Respondents' failure to pay compensation in a timely fashion also constituted a
4 violation of California Labor Code § 204, which requires that all wages shall be paid
5 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
6 violation of that provision of the California Labor Code, Respondents have failed to pay all wages
7 and overtime compensation earned by Claimant. Each such failure to make a timely payment of
8 compensation to Claimant constitutes a separate violation of California Labor Code § 204.

9 48. Claimant has been damaged by these violations of California Labor Code §§ 204
10 and 510 (and the relevant orders of the Industrial Welfare Commission).

11 49. Consequently, pursuant to the California Labor Code, including Labor Code §§
12 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
13 Respondents are liable to Claimant for the full amount of all his unpaid wages and overtime
14 compensation, with interest, plus his reasonable attorneys' fees and costs, as well as the
15 assessment of any statutory penalties against Respondents, and each of them, and any additional
16 sums as provided by the Labor Code and/or other statutes.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PAY REPORTING TIME PAY**

19 **(Against all Respondents)**

20 50. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
21 in full herein.

22 51. Section 5(A) of the applicable Wage Order(s), requires that for "[E]ach workday an
23 employee is required to report for work and does report, but is not put to work or is furnished less
24 than half said employee's usual or scheduled day's work, the employee shall be paid for half the
25 usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4)
26 hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

27 52. As addressed in detail above, Respondents followed a uniform policy of failing to
28 pay reporting time pay in accordance with the applicable IWC Wage Order requirements. For

1 example, Respondents required Claimant to report for a scheduled workday and would, on occasion,
2 send Claimant home within the first two (2) hours of work because they were overstaffed. On such
3 days when Respondents required Claimant to report to work only to be sent home, he was not paid
4 required reporting time wages.

5 53. Claimant brings this claim for failure to pay reporting time pay as required by Section
6 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which instructs
7 that: “the maximum hours of work and the standard conditions of labor fixed by the commission
8 shall be the maximum hours of work and the standard conditions of labor for employees. The
9 employment of any employee for longer hours than those fixed by the order or under conditions of
10 labor prohibited by the order is unlawful.”

11 54. Reporting time pay constitutes wages that remain unpaid to Claimant despite the fact
12 that he was required by Respondents to report for work and was under Respondents’ control during
13 these times and was unable to use his time for his own purposes. The failure to pay for reporting
14 time pay is a violation of the California wage orders and is a failure to pay all wages owed, which
15 is a violation of Labor Code §1198.

16 55. Under Section 20(A) of the applicable IWC Wage Orders, Claimant is entitled to
17 recover civil penalties, in addition to other penalties, for each violation of Section 5 of the IWC
18 Wage Orders in the amount of \$50 for the initial violation and \$100 for subsequent violations during
19 each relevant pay period when Respondents failed to pay reporting time pay. These reporting time
20 pay violations also give rise to violations of Labor Code §§ 203 and 226.

21 56. Accordingly, Claimant seeks to recover unpaid reporting time pay which
22 Respondents failed to pay Claimant pursuant to Sections 5(A) and 20(A) of the applicable IWC
23 Wage Orders and civil penalties and attorneys’ fees and costs as may be authorized.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Respondents)**

4 57. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
5 in full herein.

6 58. Claimant regularly worked shifts greater than five (5) hours and in some instances,
7 greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone
8 for a shift of more than five (5) hours without providing him or her with a meal period of not less
9 than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or her
10 with a second meal period of not less than thirty (30) minutes.

11 59. Respondents failed to provide Claimant with meal periods as required under the
12 Labor Code. Respondents placed their needs over Claimant's lawful meal breaks and this resulted
13 in Claimant consistently having to work through his scheduled meal breaks because the demands
14 of the job would not avail him the opportunity to take a lawfully uninterrupted and off-duty meal
15 break. Furthermore, upon information and belief, on the occasions when Claimant worked more
16 than ten (10) hours in a given shift, he did so without receiving a second uninterrupted thirty (30)
17 minute meal period as required by law. Additionally, to the extent Claimant was permitted to take
18 meal periods, he was required to respond to work demands.

19 60. Respondents thus failed to provide Claimant with meal periods as required by the
20 Labor Code, including by not providing him with the opportunity to take meal breaks, by
21 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
22 during breaks.

23 61. Moreover, Respondents failed to compensate Claimant for each meal period not
24 provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of the
25 applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee a
26 meal period in accordance with this section, the employer shall pay the employee one (1) hour of
27 pay at the employee's regular rate of compensation for each workday that the meal period is not
28 provided. Respondents failed to compensate Claimant for each meal period not provided or

1 inadequately provided, as required under Labor Code § 226.7.

2 62. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
3 paragraph 11, Claimant is entitled to damages in an amount equal to one (1) hour of wages at his
4 effective hourly rates of pay for each meal period not provided or deficiently provided, a sum to be
5 proven at arbitration, as well as the assessment of any statutory penalties against the Respondents,
6 and each of them, in a sum as provided by the Labor Code and other statutes.

7 **FIFTH CAUSE OF ACTION**

8 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

9 **(Against All Respondents)**

10 63. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
11 in full herein.

12 64. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
13 provide that employers must authorize and permit all employees to take rest periods at the rate of
14 ten (10) minutes net rest time per four (4) work hours.

15 65. Claimant consistently worked consecutive four (4) hour shifts and was generally
16 scheduled for shifts of greater than 3.5 hours total, thus requiring Respondents to authorize and
17 permit him to take rest periods. Pursuant to the Labor Code and the applicable IWC Wage Order,
18 Claimant was entitled to paid rest breaks of not less than ten (10) minutes for each consecutive
19 four (4) hour shift, and Respondents failed to provide Claimant with timely rest breaks of not less
20 than ten (10) minutes for each consecutive four (4) hour shift. Respondents placed their needs over
21 Claimant's lawful rest breaks, and this resulted in Claimant consistently having to work through
22 his scheduled rest breaks because the demands of the job would not avail him the opportunity to
23 take a lawfully uninterrupted and off-duty rest break. Moreover, to the extent Claimant was able to
24 take rest breaks, he was required to respond to work demands and was also not permitted to leave
25 the premises. Thus, Claimant was consistently denied his rest breaks.

26 66. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
27 provide that if an employer fails to provide an employee rest period in accordance with this
28 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of

1 compensation for each workday that the rest period is not provided.

2 67. Respondents, and each of them, have therefore intentionally and improperly denied
3 rest periods to Claimant in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of the
4 applicable IWC Wage Orders.

5 68. Respondents failed to authorize and permit Claimant to take rest periods, as
6 required by the Labor Code. Moreover, Respondents did not compensate Claimant with an
7 additional hour of pay at his effective hourly rate for each day that Respondents failed to provide
8 him with adequate rest breaks, as required under Labor Code § 226.7.

9 69. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
10 Wage Orders, Claimant is entitled to damages in an amount equal to one (1) hour of wages at his
11 effective hourly rate of pay for each day worked without the required rest breaks, a sum to be
12 proven at arbitration, as well as the assessment of any statutory penalties against Respondents, and
13 each of them, in a sum as provided by the Labor Code and/or other statutes.

14 **SIXTH CAUSE OF ACTION**

15 **VIOLATION OF LABOR CODE § 226(a)**

16 **(Against All Respondents)**

17 70. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
18 in full herein.

19 71. California Labor Code § 226(a) requires an employer to furnish each of his or her
20 employees with an accurate, itemized statement in writing showing the gross and net earnings,
21 total hours worked, and the corresponding number of hours worked at each hourly rate; these
22 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
23 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
24 statements may be given to the employee separately from the payment of wages; in either case the
25 employer must give the employee these statements twice a month or each time wages are paid.

26 72. Respondents failed to provide Claimant with accurate itemized wage statements in
27 writing, as required by the Labor Code. Specifically, the wage statements given to Claimant failed
28 to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to

1 calculate and pay overtime compensation, sick pay, and meal and rest break premiums. Thus, the
2 wage statement do not provide accurate hourly rates for overtime and the statements do not
3 comply with Labor Code § 226(a)(9). Further, the wage statements given to Claimant failed to
4 accurately account for unpaid wages and overtime because Respondents under-reported
5 Claimant's actual hours worked due to off the clock work described above. Additionally, the wage
6 statements given to Claimant failed to accurately account for premium pay for deficiently
7 provided meal periods and rest breaks.

8 73. Throughout the liability period, Respondents intentionally failed to furnish to
9 Claimant, upon each payment of wages, itemized statements accurately showing: (1) gross wages
10 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any
11 applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
12 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
13 only the last four digits of his or her social security number or an employee identification number
14 other than a social security number, (8) the name and address of the legal entity that is the
15 employer and (9) all applicable hourly rates in effect during the pay period and the corresponding
16 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,
17 amongst other statutory requirements. Respondents knowingly and intentionally failed to provide
18 Claimant with such timely and accurate wage and hour statements.

19 74. Claimant suffered injury as a result of Respondents' knowing and intentional
20 failure to provide him with the accurate wage and hour statements as required by law and is
21 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as
22 Respondents have failed to provide wage statements with accurate and complete information as
23 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Claimant
24 cannot promptly and easily determine from the wage statement alone one or more of the
25 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
26 period or any of the other information required to be provided on the itemized wage statement
27 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the
28 employer made from gross wages to determine the net wages paid to the employee during the pay

period, (iii) The name and address of the employer and, (iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number. For purposes of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an objective standard] would be able to readily ascertain the information without reference to other documents or information.

75. Therefore, as a direct and proximate cause of Respondents’ violation of Labor Code § 226(a), Claimant suffered injuries, including among other things confusion over whether he received all wages owed to him, the difficulty and expense involved in reconstructing pay records, and forcing him to make mathematical computations to analyze whether the wages paid in fact compensated him correctly for all hours worked.

76. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC Wage Order, paragraph 7(B), Claimant is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). He is also entitled to an award of costs and reasonable attorneys’ fees.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Respondents)

77. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

78. Claimant is no longer employed by Respondents; he was terminated therefrom.

79. Respondents failed to pay Claimant all wages due and certain at the time of termination.

80. The wages withheld from Claimant by Respondents remained due and owing for more than thirty (30) days from the date of separation from employment.

81. Respondents failed to pay Claimant without abatement, all wages as defined by applicable California law. Claimant was not paid all regular and overtime wages because Respondents failed to pay for all hours worked and required off the clock work, and failed to

1 incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to
2 calculate and pay for overtime, sick pay, and meal and rest break premiums. Additionally,
3 Respondents failed to pay premium wages owed for unprovided meal periods and rest periods, as
4 further detailed in this Demand. Respondents' failure to pay said wages within the required time
5 was willful within the meaning of Labor Code § 203.

6 82. Respondents' failure to pay wages, as alleged, entitles Claimant to penalties under
7 Labor Code § 203, which provides that an employee's wages shall continue until paid for up to
8 thirty (30) days from the date they were due.

9 **EIGHTH CAUSE OF ACTION**
10 **VIOLATION OF LABOR CODE § 204**
11 **(Against All Respondents)**

12 83. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
13 in full herein.

14 84. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
15 employment are due and payable twice during each calendar month, on days designated in
16 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
17 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
18 during which the labor was performed, and labor performed between the 16th and the last day,
19 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
20 month." Additionally, the requirements of this section shall be deemed satisfied by the payment of
21 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
22 calendar days following the close of the payroll period." As detailed above, Respondents
23 maintained a consistently applied policy and practice of not paying all wages earned between the
24 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
25 between the 16th and the last day of the month between the 1st and 10th day of the following month.
26 Respondents similarly failed to pay all wages earned by not more than seven calendar days
27 following the close of the payroll period. These failures all arose from Respondents' failure to pay
28 for all hours worked, and failing to incorporate non-discretionary bonuses and/or commissions

1 into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest
2 break premiums, as detailed above.

3 85. All wages due and owing to Claimant, including as required under Labor Code §
4 510, were therefore not timely paid by Respondents, as addressed in detail above. Additionally,
5 wages required by Labor Code § 1194 and other sections became due and payable to Claimant in
6 each pay period that he was not provided with a meal period or rest period or paid straight or
7 overtime wages or commissions to which he was entitled.

8 86. Respondents thus violated Labor Code § 204 by systematically refusing to pay
9 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
10 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
11 payday for the period involved, not less than the applicable minimum wage for all hours worked in
12 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
13 hours than those fixed by the order or under conditions of labor prohibited by the order is
14 unlawful.” Claimant may therefore pursue damages and penalties for violations of Labor Code §
15 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph
16 20 of the applicable IWC Wage Orders.

17 87. As a result of the unlawful acts of Respondents, Claimant seeks to represent he has
18 been deprived of wages in amounts to be determined at arbitration, and he is entitled to recovery
19 of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs, pursuant to Labor
20 Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage
21 Orders.

22 **NINTH CAUSE OF ACTION**

23 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**

24 **AND 1174.5**

25 **(Against All Respondents)**

26 88. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
27 in full herein.

28 89. California Labor Code § 1174 requires that all employers shall keep accurate time

1 and wage records for all employees. California Labor Code § 1174.5 further requires that any
2 employee suffering injury due to a willful violation of the aforementioned obligations may seek
3 damages, including civil penalties, from the employer.

4 90. During the course of Claimant's employment, Respondents consistently failed to
5 maintain accurate time and wage records for Claimant as required by California Labor Code §
6 1174 by failing to pay Claimant proper wages, overtime, and premium pay as discussed above.

7 91. Accordingly, Respondents are liable for civil penalties pursuant to the California
8 Labor Code § 1174.5 for the three (3) years prior to the filing of this Demand.

9 **TENTH CAUSE OF ACTION**

10 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

11 **(Against All Respondents)**

12 92. Claimant re-alleges and incorporates all preceding paragraphs, as though set forth
13 in full herein.

14 93. Claimant, on behalf of himself, and the general public, brings this claim pursuant to
15 Business & Professions Code § 17200 *et seq.* The conduct of Respondents as alleged in this
16 Demand has been and continues to be unfair, unlawful, and harmful to Claimant and the general
17 public. Claimant seeks to enforce important rights affecting the public interest within the meaning
18 of Code of Civil Procedure § 1021.5.

19 94. Claimant is a "person" within the meaning of Business & Professions Code
20 § 17204, has suffered an injury, and therefore has standing to bring this cause of action for
21 injunctive relief, restitution, and other appropriate equitable relief.

22 95. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
23 business practices. By the conduct alleged herein, Respondents' practices were deceptive and
24 fraudulent in that Respondents' policy and practice failed to provide the required amount of
25 compensation for missed meal and rest breaks, and failed to adequately compensate Claimant for
26 all hours worked, due to systematic business practices as alleged herein that cannot be justified,
27 pursuant to the applicable California Labor Code and Industrial Welfare Commission
28 requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for

1 which this Court should issue injunctive and equitable relief, pursuant to California Business &
2 Professions Code § 17203, including restitution of wages wrongfully withheld.

3 96. Wage-and-hour laws express fundamental public policies. Paying employees their
4 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
5 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
6 vigorously to enforce minimum labor standards, to ensure that employees are not required or
7 permitted to work under substandard and unlawful conditions, and to protect law-abiding
8 employers and their employees from competitors who lower costs to themselves by failing to
9 comply with minimum labor standards.

10 97. Respondents have violated statutes and public policies. Through the conduct
11 alleged in this Demand, Respondents have acted contrary to these public policies, have violated
12 specific provisions of the Labor Code, and have engaged in other unlawful and unfair business
13 practices in violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived
14 Claimant, and all persons similarly situated, and all interested persons, of the rights, benefits, and
15 privileges guaranteed to all employees under the law.

16 98. Respondents' conduct, as alleged above, constitutes unfair competition in violation
17 of the Business & Professions Code § 17200 *et seq.*

18 99. Respondents, by engaging in the conduct herein alleged, by failing to pay wages
19 and overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise
20 of reasonable care should have known that their conduct was unlawful; therefore their conduct
21 violates the Business & Professions Code § 17200 *et seq.*

22 100. By the conduct alleged herein, Respondents have engaged and continue to engage
23 in a business practice which violates California and federal law, including but not limited to, the
24 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
25 Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court
26 should issue declaratory and other equitable relief pursuant to California Business & Professions
27 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
28 competition, including restitution of wages wrongfully withheld.

101. As a proximate result of the above-mentioned acts of Respondents, Claimant has been damaged, in a sum to be proven at arbitration.

102. Unless restrained by this Court Respondents will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Respondents or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Claimant to the money Respondents have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Claimant prays for the following relief:

1. For compensatory damages in the amount of the unpaid minimum wages for work performed by Claimant and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
2. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
3. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
4. For compensatory damages in the amount of the hourly wage made by Claimant for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Claimant for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
6. For penalties pursuant to Labor Code § 226(e) for Claimant, as may be proven;
7. For penalties pursuant to Labor Code § 203 for Claimant in an amount equal to his

1 daily wage times thirty (30) days, as may be proven;

2 8. For restitution and/or damages for all amounts unlawfully withheld from the wages
3 for all Claimant in violation of Labor Code § 204, as may be proven;

4 9. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

5 10. For restitution for unfair competition pursuant to Business & Professions Code
6 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

7 11. For an order enjoining Respondents and their agents, servants, and employees, and
8 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
9 duties adumbrated in this Demand;

10 12. For other wages and penalties under the Labor Code as may be proven;

11 13. For all general, special, and incidental damages as may be proven;

12 14. For an award of pre-judgment and post-judgment interest;

13 15. For an award providing for the payment of the costs of this suit;

14 16. For an award of attorneys' fees; and

15 17. For such other and further relief as this Arbitration may deem proper and just.

16
17 DATED: November 18, 2025

D.LAW, INC.

18
19 By: 
20 Natalie Haritonian
21 Andrea A. Amaya Silva
22 Attorneys for Claimant ISALAH KOVACK-
23 WADE
24
25
26
27
28