

1 JAMIE K. SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
2 SEPIDEH ARDESTANI, ESQ. (SBN 274259)
sepideh@crosnerlegal.com
3 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
4 **CROSNER LEGAL, PC**
5 9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
6 Tel: (866) 276-7637
7 Fax: (310) 510-6429

8 Attorneys for ARTURO SALAS GARCIA

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**
11

12 ARTURO SALAS GARCIA, on behalf of
the State of California, and others similarly
13 situated and aggrieved,

14 Plaintiff,

15 vs.

16 STAY GREEN INC., a California
corporation; and DOES 1-100, inclusive,
17 Defendants.
18

Case No.: 23STCV17296

Assigned for All Purposes to:
Hon. Gregory Keosian
Dept. 61

**DECLARATION OF SEPIDEH ARDESTANI
IN SUPPORT OF MOTION FOR APPROVAL
OF SETTLEMENT UNDER PRIVATE
ATTORNEYS GENERAL ACT**

Date: April 30, 2024
Time: 8:30 a.m.
Dept.: 61

Reservation No.: 566136987541

1 premium wages, failure to issue accurately itemized wage statements, failure to reimburse
2 business expenses, and failure to pay all wages due on separation of employment. Plaintiff filed
3 his PAGA claims on behalf of Aggrieved Employees defined to include all current and former
4 non-exempt employees that worked either directly or via a staffing agency for Defendant at any
5 location in California during the PAGA Period.

6 6. Stay Green has at all times denied Plaintiff's allegations and maintained it properly
7 calculated and paid all wages due, and reimbursed all necessary expenses. Additionally, Stay
8 Green emphasized Plaintiff and other employees signed arbitration agreements and contends the
9 case should be sent to arbitration following the U.S. Supreme Court's decision in Viking River
10 Cruises v. Moriana (2022) 142 S.Ct. 1906.

11 7. After Plaintiff filled his complaint, and after meeting and conferring, the parties
12 stipulated to arbitrate Plaintiff's individual PAGA claim and stay the non-individual PAGA claim until
13 March 1, 2024, and further agreed to attempt early mediation. They also agreed on a protocol to
14 informally exchange information and documents need to engage in meaningful settlement negotiations.
15 Through this informal discovery, Defendant provided Plaintiff with information including, inter
16 alia, the number of potential Aggrieved Employees, the number of aggregate pay periods, sample
17 pay stubs and time records for a sampling of the allegedly Aggrieved Employees, employee
18 handbooks and manuals, and other policy documents regarding Defendant's time keeping and
19 reporting policies.

20 8. The Parties then mediated the case in February 2024 with Daniel Turner, Esq., a
21 respected mediator with extensive class action/wage and hour experience. Before and during the
22 mediation, Plaintiff and his counsel analyzed, researched, and investigated the potential issues,
23 including matters related to the calculation of damages, trial, and appellate issues and risks.
24 During mediation, the Parties vigorously debated the likelihood of Plaintiff's ability to proceed on
25 a representative basis as to the PAGA claims, the legal grounds for Plaintiff's claims and
26 Defendant's defenses, and the parties' data analyses and conclusions based on data provided by
27 Defendant. After a contentious full day of negotiations, the Parties reached agreement on all major
28

1 issues and subsequently formalized their tentative settlement in the Settlement Agreement now
2 before the Court for approval.

3 **SUMMARY OF SETTLEMENT TERMS**

4 9. Under the settlement, Defendant will pay a non-reversionary settlement amount of
5 \$150,000 (the “Gross Settlement Amount” or “GSA”). The GSA is inclusive of payments to the
6 LWDA and Aggrieved Employees, costs of settlement administration, a service award to Plaintiff
7 Garcia, and reasonable attorney’s fees and costs. Plaintiff’s counsel requests fees of 35% of the
8 GSA, or \$52,500.00 and costs in the amount of \$10,618.23, while Plaintiff requests a service award
9 of \$7,500.00. After payment of settlement administration costs, Plaintiff’s service award, and
10 reasonable attorney’s fees and costs from the GSA, Plaintiff presently estimates about \$75,881.77
11 will remain and form the Net Settlement Amount (“NSA”). Pursuant to Labor Code section 2699(i), the
12 NSA will then be distributed 75 percent (approximately \$56,911.33) to the LWDA, and the remaining 25
13 percent (approximately \$18,970.44) will be distributed to the Aggrieved Employees in proportion to
14 the total number of Pay Periods each individual worked during the PAGA Period. I estimate the
15 average award at about \$88 per Aggrieved Employee.

16 10. The Parties propose using Atticus Administration, LLC as the Settlement
17 Administrator. Atticus has extensive experience administering PAGA settlements, and agreed to
18 cap its fees at \$3,500.00. Stay Green will fund the GSA within 14 days of the Effective Date, and
19 within 14 days of receipt of the GSA Atticus will mail a Notice and settlement check to all Aggrieved
20 Employees via regular First-Class U.S. Mail, using the most current, known mailing addresses
21 identified in Stay Green’s records. Aggrieved Employees need not submit claim forms and will
22 automatically receive a Notice and settlement check. Settlement checks will be negotiable for 180
23 days, after which time any unclaimed residual funds will be forwarded to the California State
24 Controller’s Unclaimed Property Fund.

25 11. The California Supreme Court has explained that a judgment in “a representative
26 action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of
27 2004 ... is binding not only on the named employee plaintiff but also on government agencies and
28

1 any aggrieved employee not a party to the proceeding.” Arias v. Superior Court (2009) 46 Cal.4th
2 969, 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only civil
3 penalty claims brought under PAGA. Under Arias, the order the Parties request the Court enter is
4 intended to be “binding not only on the named employee plaintiff but also on government agencies
5 and any aggrieved employee not a party to the proceeding.” The Settlement Agreement protects the
6 rights of the Aggrieved Employees to bring their own individual claims should they wish. For these
7 reasons, the Parties contend the release narrowly applies only to the PAGA claims alleged, and the
8 Settlement Agreement specifically provides the Release is inapplicable to any claims other than
9 those brought under PAGA.

10 **NATURE OF THE ALLEGED VIOLATIONS**

11 12. First, Plaintiff alleged Defendant failed to pay all minimum and overtime wages as
12 Plaintiff and other employees were required to arrive early for their shifts to be ready to leave on
13 time in their company vehicles, and frequently arrived back at the company yard late due to traffic
14 or other circumstances. Per Plaintiff, employees were not paid for this “off the clock” time worked
15 before/after their scheduled shift. Next, Plaintiff contends Defendant failed to provide Aggrieved
16 Employees with compliant meal periods and utilized a policy that failed to comply with California
17 law. Plaintiff alleges he and other employees did not receive compliant meal periods as meal periods
18 frequently were late, interrupted, and/or or lasted less than 30 minutes, and that his review of the
19 time records provided suggests around 40% of meal periods were non-compliant. Plaintiff contends
20 further that company policy prohibited them from leaving the job site while on break and therefore
21 breaks were not free from employer control. Plaintiff similarly contends Defendant failed to provide
22 Plaintiff and the Aggrieved Employees with compliant rest periods for essentially the same reasons.

23 13. Plaintiff next alleges Stay Green failed to reimburse necessary expenses incurred to
24 maintain employee work uniforms. Lastly, Plaintiff also brings claims derivative of the foregoing
25 claims, including a derivative wage statement claim based on the failure to pay all wages due, and
26 failure to pay all wages due and owing upon separation of employment under Labor Code §§ 201-
27 203.

1 14. For mediation, Stay Green indicated it employed approximately 215 non-exempt
2 employees in California during the applicable PAGA period, and these individuals worked
3 approximately 3,579 pay periods during that time. Based on the data and information provided by
4 Defendant, Plaintiff estimated Defendant's maximum PAGA exposure at approximately \$1,789,000
5 assuming a 100% violation rate on all claims.

6 15. We estimated these amounts as follows:

7 **Unpaid Wage Claims**

8 3,579 pay periods * 100% violation rate * \$100/violations = \$357,900

9 **Meal Period Violation Claims**

10 3,812 pay periods * 100% violation rate * \$100/violations = \$347,900

11 **Rest Period Violation Claims**

12 3,812 pay periods * 100% violation rate * \$100/violations = \$347,900

13 **Expense Reimbursement Claims**

14 3,812 pay periods * 100% violation rate * \$100/violations = \$357,900

15 **Wage Statement Claims**

16 3,812 pay periods * 100% violation rate * \$100/violations = \$357,900

17 16. In response to Plaintiff's unpaid wage claims for alleged "off the clock work," Stay
18 Green took the position that its time keeping policies are legally compliant, that it accurately tracked
19 all hours worked, that employees were required by company policy to accurately track the exact
20 shift start/end times, and that it paid the Aggrieved Employees for all hours worked consistent with
21 those policies. Defendant further emphasized to the extent any off the clock work may have
22 happened, such as employees arriving early and staring work, it was intermittent, against company
23 policy, and done without company authorization or knowledge.

24 17. For the meal and rest break claims, Stay Green offered multiple defenses. First, it
25 emphasized its written meal and rest break policy generally was compliant, that it authorized and
26 permitted all necessary breaks, and that employees received full uninterrupted lunch periods free
27 from employer control. Defendant also asserted that even to the extent any late or short meal periods
28 occurred, it again was in violation of company policy and aberrational, and would require significant

1 individual inquiries to determine the reasons underlying any such alleged violations and whether it
2 was by employee choice or some other reason. As with meal breaks, Defendant argued the
3 applicable rest break policies complied with California law, and that it authorized and permitted
4 employees to take all required breaks. Defendant further contended that, in light of the fact that it is
5 not required to maintain a record of rest periods, any evidence of failure to authorize rest periods
6 and/or discouragement from taking rest periods would be purely anecdotal and individual issues
7 would predominate on liability.

8 18. For the expense reimbursement claim, Stay Green countered it provided employees
9 with sufficient work clothing and there would be no conceivable extra or unusual costs associated
10 with laundering work t-shirts, work pants, etc. Thus, per Defendant, no reimbursement was
11 required.

12 19. Plaintiff also alleged derivative violations of Labor Code § 226 (wage statement
13 violations) and §§ 201-203 (waiting time penalties). The derivative wage statement claims (based
14 on the unpaid wage and meal/rest claims). The waiting time penalties claim, also is entirely
15 derivative and will rise or fall along with the primary claims, in addition to being subject to “good
16 faith” and other defenses available to Defendant. Accordingly, Plaintiff had to discount the value
17 of this claim significantly in light of these multiple potential defenses. Defendant also contended
18 a substantial discount should be applied to the civil penalties for these derivative (i.e., “stacked”)
19 violations, as it would be unfair to penalize Defendant multiple times for the same violation.

20 20. Defendant also emphasized PAGA gives the Court wide latitude to reduce the
21 amount of civil penalties “based on the facts and circumstances of a particular case” if “to do
22 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.”

23 21. Defendant also emphasized the potential applicability of the U.S. Supreme Court’s
24 recent decision in Viking River Cruises v Moriana (2022) 142 S.Ct. 1906. In particular, Stay
25 Green argued the arbitration agreement signed by Plaintiff contains the necessary elements outlined
26 by Viking River Cruises to compel arbitration,. Thus, per Stay Green, Plaintiff’s “individual” PAGA
27 claim must be compelled to arbitration and the “representative” PAGA claims dismissed or stayed.

22. Defendant raised various and multi-layered defenses to each of Plaintiff's claims, anyone of which, if successful, could have decimated Plaintiff's case. And Defendant vowed to raise all these defenses at trial, even assuming Plaintiff overcame Viking River Cruises. Accordingly, Plaintiff faced risky issues going forward with this litigation, and it could have taken years to realize any recovery in this action along with the possibility of post-trial appeals. In addition to its merits defenses and arguing trial would be unmanageable, Defendant also intended to raise additional defenses on damages, including the proper measure of civil penalties and the appropriate discount to place on any assessment of such penalties.

23. Although Plaintiff and I believe we could have prevailed, there was no such guarantee. When the risks of overcoming a motion to compel arbitration, prevailing at trial on the merits on all claims, and securing 100% of the theoretical civil penalties all are factored into the equation, the settlement value is reasonable and supported. Of course, to recover anywhere near the maximum penalties Plaintiff would have to shoot the moon and win both liability and maximum penalties on all claims, which outcome, for the reasons discussed, is unlikely. Given Defendant's various procedural and merits defenses, as well as the substantial penalty reductions ordered in the cases above – which occurred after trial – the proposed settlement is eminently reasonable.

SUBMISSION TO THE LWDA

24. My office Plaintiff timely served the LWDA with the Settlement Agreement and this Motion, and notified the LWDA of this approval hearing. Accordingly, the LWDA will be able to weigh in as necessary and, importantly, many courts find it persuasive of approval if the LWDA ultimately declines to offer any comment or objection to a proposed PAGA settlement.

THE REQUESTED ATTORNEY'S FEES AND COSTS ARE FAIR AND REASONABLE

25. Under the terms of the Settlement Agreement, I respectfully request an award of attorney's fees to my office equal to 35% of the GSA, or \$52,500.00. There are several factors why I believe that the Court should award 35% of the common fund as a reasonable attorney's fee. First, our efforts resulted in a common fund settlement amount of \$150,000.00, which for the reasons explained, is fair and reasonable in light of the risks/defenses Defendant raised in litigation and

1 threatened to raise at trial and in post-trial appeals. Further, this is a significant sum that furthers the
2 purposes underlying PAGA such as augmenting the state's enforcement capabilities, encouraging
3 compliance with Labor Code provisions, and deterring future non-compliance. Moreover, this result
4 was achieved by the work and success of this office, who negotiated the settlement after extensive
5 preparation, informal discovery, and an adversarial mediation.

6 26. Second, Plaintiff faced significant risks going forward with the litigation. As
7 discussed above, Defendant raised various defenses to their claims, anyone of which, if successful,
8 could have decimated Plaintiff's case. Plaintiff faced risky legal issues going forward with this
9 litigation, and it would have taken several more years to realize any recovery in this action along
10 with the possibility of post-trial appeals,

11 27. Third, we are experienced class and representative action litigators, and have
12 achieved several approved PAGA settlements. This experience and expertise, combined with the
13 high quality of work performed, resulted in the settlement achieved in this case.

14 28. I graduated from the University of California, Los Angeles in 2004 with a
15 bachelor's in science, obtained my J.D. from Whittier Law School in 2009, and earned a masters
16 in law from Santa Clara University School of Law in 2010. I have been a member of the
17 California Bar since 2010 and have extensive experience in employment matters, including wage
18 and hour litigation. I worked as a wage and hour class action attorney at Gaines & Gaines, APLC
19 from 2012 through 2021 and, prior to joining Gaines & Gaines I worked at Sirkin Law Group as a
20 litigation associate from 2010-2012. I joined Crosner Legal in December 2021 as a senior
21 associate. I have solely handled employment, wage and hour class actions, and PAGA lawsuits for
22 some 11 years. I was selected for 2020-2021 by Super Lawyers as a "Southern California Rising
23 Star" for employment and labor law.

24 29. Zach Crosner is a 2010 graduate of University San Diego School of Law and he has
25 approximately thirteen years of experience as a practicing attorney. For nearly his entire career, his
26 practice has focused on litigation of wage & hour, consumer, and privacy class action and
27 representative action claims. Following graduation he immediately began working for a nationally
28 recognized plaintiff's complex litigation firm, CaseyGerry, where he worked directly with past

1 presidents of the consumer attorneys and recipients of trial attorneys of the year awards. He also
2 worked for other firms that included former CAALA and CLAY trial attorney of the year
3 recipients. While with these firms, he advocated for the rights of consumers and employees in
4 class action litigation, civil rights and employment litigation, catastrophic injuries, insurance bad
5 faith and appellate litigation.

6 30. In 2013, he founded the law firm of Crosner Legal, P.C. which since its inception
7 has focused almost exclusively on plaintiff-side class actions lawsuits representing employees,
8 consumers and other victims. Currently, over ninety percent (95%) of his practice is dedicated
9 exclusively to the prosecution of class actions and representative action lawsuits, and his law
10 firm is currently responsible as lead counsel or co-lead counsel for prosecuting over one hundred
11 (100) active wage and hour class actions and/or PAGA representative actions, as well as a
12 multitude of consumer and privacy class actions, in both federal and state courts throughout
13 California. He has been a direct participant in over one hundred (100) class action and/or
14 representative action settlements where he has been approved as adequate lead counsel.

15 31. Mr. Crosner has been selected by Super Lawyers as a “Southern California Rising
16 Star” for employment and labor law consecutively from 2018 through 2023. Super Lawyers has
17 also named me on their “Up-and-Coming 100” Southern California Rising Stars List for
18 consecutive years from 2021 through 2023. Only 2.5% of lawyers within California are named a
19 Super Lawyer Rising Star and even less are added to their Top Lists. Additionally, he has been
20 selected as a Top 40 Under 40 Civil Plaintiff Attorney by the National Trial Lawyers, invitation-
21 only organization composed of the premier trial lawyers, from 2019 through 2023. He is an
22 active participant in advocacy groups, including as an executive board member of the Wage and
23 Hour Committee and the Legislative Committee for the California Employment Lawyers
24 Association; a member of the Grassroots Advocacy Team for the National Employment Lawyers
25 Association; Wage and Hour Committee member and Class Action Committee member for the
26 National Trial Lawyers; a member of the American Association for Justice; and a member of the
27 Pound Civil Justice Institute.

28 32. Jamie Serb is a partner with Crosner Legal and head of the Firm’s Wage and

1 Hour Practice Group. She graduated from the University of California, San Diego in 2004 and
2 graduated from California Western School of Law in 2013, and has been a member of the
3 California Bar since 2013. She gained extensive experience in wage and hour litigation,
4 beginning work as a class action attorney in 2015 at the Mara Law Firm, PC (previously Turley
5 & Mara Law Firm, APLC; Turley Law Firm, APLC). She has handled wage and hour class
6 actions and PAGA lawsuits for over several years and has assisted in obtaining millions of
7 dollars for employees during her years of practice.

8 33. Branden Hamilton obtained her undergraduate degree from UCLA in 2004, and her
9 law degree from George Washington University in 2007. She has been affiliated with my firm
10 since 2017 and became Of Counsel with Crosner Legal in 2019, and her practice focuses almost
11 exclusively on wage and hour class and representative actions. She has spent her entire career
12 representing plaintiffs in employment litigation, including several years as an associate at well-
13 known plaintiff's firm Carlin & Buchsbaum.

14 34. Kiara Bramasco received her undergraduate degree, magna cum laude, from Loyola
15 Marymount University in Political Science, and then received her JD from Loyola Law School in
16 2018. She then spent several years with well-known plaintiff's firm Moss Bollinger, first as a law
17 clerk and then as an associate, where her practice focused on employment law, particularly wage
18 and hour class action and PAGA litigation. She joined Crosner Legal in 2021 and heads the firm's
19 pre-litigation department.

20 35. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
21 action settlements while serving as lead class counsel in recent years, including but not limited
22 to a \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North*
23 *America, Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class
24 action settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-
25 00190252 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement
26 in 2017 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty.
27 Super. Ct.)), a \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H.*
28 *Enterprises, Inc. dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3

1 million wage and hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case
2 No. 17-CV-2160 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020
3 (*Babouchian, et al. v. Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego
4 Cty. Super. Ct.)), a \$1.15 million wage and hour class action settlement in 2020 (*Buford v.*
5 *Medical Solutions LLC*, Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and
6 hour class action settlement in 2020 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case
7 No. 18CV323753 (Santa Clara Cty. Super Ct.); a \$2.2 million wage and hour class action
8 settlement in 2021 (*Ghorchian, et al. v. West Hills Hospital, et al.*, Case No. LS029737 (Los
9 Angeles Cty. Super. Ct.)); a \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v.*
10 *The Original Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty.
11 Super. Ct.)); a \$1 million wage and hour class action settlement in 2022 (*Duong v. Loan*
12 *Factory, Inc.*, Case No. 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and
13 hour class action settlement in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No.
14 CIVDS2023369 (San Bernardino Cty. Super. Ct.), a \$2.38 million wage and hour class action
15 settlement in 2023 in *Michel, et al. v. Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los
16 Angeles Cty. Super. Ct.); a \$2.5 million wage and hour class action settlement in 2023 in *Jajuga*
17 *v. Pilot Travel Centers*, Case No. CIVDS1931464 (San Bernardino Cty. Super. Ct.); \$1.015
18 million wage and hour class action settlement in 2023 in *Gotishan v. Kyo Autism Therapy*, Case
19 No. CGC-21-596378 (San Francisco Cty. Super. Ct); and a \$1.15 million wage and hour PAGA
20 settlement in 2023 in *Vaughn v. Public Health Foundation Enters., Inc.*, Case No.
21 21STCV18512 (Los Angeles Cty. Super. Ct.); a \$1.5 million wage and hour class action
22 settlement in *McKinnie v. Iron Mountain*, Case No. 21STCV05707 (Los Angeles Cty. Super.
23 Court); and a \$1.3 million wage and hour class action settlement in *Ellsworth, et al. v. Hallcon*,
24 Case No. 20STCV06618 (Los Angeles Cty. Super. Court).

25 36. Based upon the qualifications and experience set forth above, I believe the
26 following hourly rates are reasonable: Zach Crosner \$800/hr, Jamie Serb \$750/hr, Sepideh
27 Ardestani \$700/hour, Brenden Hamilton \$600/hr; and Kiara Bramasco, \$650/hr.

28 37. I request the Court apply the above hourly billing rates in this case, as it reasonable

1 in the California legal market for attorneys handling wage and hour class and PAGA actions. I
2 have personal knowledge of the hourly rates charged by a number of plaintiff-side wage and hour
3 class action firms in major California legal markets for partner-level attorneys with experience
4 comparable to mine. These rates have ranged from \$750 to \$900 per hour for calendar years
5 2018-2023. Some examples include attorney Ron Makarem of Makarem & Associates in Los
6 Angeles, with 28 years of experience, \$900/hour (2023), Matthew Matern of Matern Law Group
7 in Los Angeles, with approximately 26 years of experience \$850/hour (2018); Craig Ackermann
8 of Ackermann & Tilajef, PC in Los Angeles with approximately 25 years of experience \$850/hour
9 (2021), Michael Singer and Isam Khoury of Cohelan Khoury & Singer in San Diego, 35 years and
10 45 years of experience respectively, both \$825/hour (2018), Zachary Crosner of Crosner Legal PC
11 in Los Angeles, 13 years of experience \$750/hour (2022), and James Kawahito of Kawahito Law
12 Group in Los Angeles, with approximately 16 years of experience \$750/hour (2020).

13 38. The requested rates also comport with the adjusted Laffey Matrix, which provides
14 that reasonable hourly rates for attorneys with 10+ years of experience, such as myself, Mr.
15 Crosner, and Ms. Hamilton, are over \$800/hour. The adjusted Laffey Matrix may be found at
16 <http://www.laffeymatrix.com/see.html>.

17 39. Fourth, Crosner Legal has been representing Plaintiff (and the State of California)
18 in this matter on a strictly contingent basis and as such, had to forego other financial opportunities
19 to litigate other cases, incurred the risk of non-recovery after a substantial investment of time,
20 money, and resources, and have done so since the inception of this case without any payment or
21 compensation. This is not an easy burden for a small firm. If, despite these hardships and risks, the
22 best this office could hope for is merely to be paid our customary hourly rate multiplied by the
23 number of hours worked on the case, then we would not be compensated for the hardships and
24 serious risks it faced litigating this contingency case, and would not be incentivized to take on
25 similar private attorney general cases in the future.

26 40. Crosner Legal expended a total of 96.1 attorney hours on this matter, and
27 accordingly the firm's lodestar totals approximately \$71,090.00, inclusive of estimated time for
28 attending the hearing on the approval motion but excluding time to be incurred thereafter to

1 implement and administer the settlement. The aggregated lodestar is summarized in Exhibit 6
2 hereto. On a lodestar basis, the requested fees are less than the base lodestar and accordingly there
3 is not request for a modifier.

4 43. As noted, Crosner Legal has represented Plaintiff for some two years with respect
5 to this matter and has expended a significant amount of time and resources in that representation.
6 We agreed to litigate this case on a purely contingent basis and in so doing assumed considerable
7 risk of non-payment for its fees and costs, as discussed above, and as is the case with these matters
8 in general. Under all relevant factors (as outlined herein and in the accompanying memorandum),
9 and recognizing the base lodestar is higher than the fees requested on a percentage of the recovery
10 basis. I respectfully request the Court award the requested fees of \$52,500.00 based on the
11 common fund theory with a corresponding lodestar cross-check and no enhancement.

12 44. I also request reimbursement of Crosner Legal's actual out-of-pocket expenses
13 incurred to prosecute this action. These expenses were incidental and necessary to the effective
14 representation of the employees.

15 45. Crosner Legal's costs are \$10,618.23, including court filing/service of process fees,
16 mediation fees, expert fees, and postage. Notably, the requested costs do not include any and all
17 printing and research charges. A true and correct itemization of the costs and expenses incurred is
18 set forth below:

19

Expense Category	Amount
Court Filing Fees/Service of Process/Attorney Service	\$976.45
Mediation Fees	\$6,375.00
Expert Fees	\$3,150.00
PAGA Filing Fee	\$75.00
Postage	\$41.78
Total Costs and Expenses	\$10,618.23

28

1 The requested costs are reasonable and uncontested and should be approved in full.

2 **PLAINTIFF'S SERVICE AWARD**

3 46. Here, pursuant to the Settlement Agreement, Plaintiff seeks an incentive award of
4 \$7,500. This request is reasonable given the much broader release that Plaintiff is agreeing to, as
5 well as her efforts in this case and the risks he undertook on behalf of the Aggrieved Employees.
6 Additionally, by contacting and retaining counsel to pursue these claims, Plaintiff made this
7 settlement possible for the other Aggrieved Employees and the LWDA, while shouldering the risk
8 of being liable for Defendants' litigation costs. Plaintiff also exposed himself to unwanted
9 notoriety related to filing a public lawsuit (discoverable even through a simple google search) for
10 the benefit of other employees, placing him at risk of discrimination by future prospective
11 employers. Among taking many other actions assisting in the successful litigation of this case,
12 Plaintiff provided substantial factual information to my office, attended numerous meetings with
13 my office to discuss the case, and generally participated in all phases of the litigation.
14 Accordingly, the requested enhancement payment to Plaintiff is appropriate and justified as part of
15 the Settlement.

16 47. For the foregoing reasons, it is respectfully requested that the Court approve the
17 settlement.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct. Executed on April 8, 2024, at Los Angeles, California.

20
21 
22 _____
23 Declarant

EXHIBIT

1

EXHIBIT

2

EXHIBIT

3



Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (866) 276-7637
fax: (310) 510-6429

May 19, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAfilings@dir.ca.gov

VIA PAGA ONLINE FILING ONLY

Notice to Division of Occupational Safety and
Health Via PAGA Online Filing
Attn: Division of Occupational Safety and
Health (Cal OSHA)
1515 Clay Street, St. 1901
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL:

Brian Koegle
Agent for Service of Process for:
Stay Green Inc.
1875 Century Park East
Suite 1900
Los Angeles, CA 90067

Stay Green Inc.

Attn: Human Resources / Legal Department
26415 Summit Circle
Santa Clarita, CA 91350

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Division of Occupational
Safety and Health (Cal OSHA); and Stay Green Inc.
Date: May 19, 2023
Subject: *Arturo Salas Garcia v. Stay Green Inc.*

Introduction

This office represents PLAINTIFF, Arturo Salas Garcia (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Stay Green Inc. (hereinafter, this entity and its managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of PLAINTIFF’s claims against DEFENDANTS. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and the Division of Occupational Safety and Health and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate PLAINTIFF’s reasonable attempt at settlement with DEFENDANTS. If DEFENDANTS are interested in settling this matter before a lawsuit is filed, DEFENDANTS may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which PLAINTIFF will base PLAINTIFF's claims, PLAINTIFF requests that the LWDA regard this NOTICE as written notice of PLAINTIFF's intent to seek civil penalties against DEFENDANTS. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative has authority to seek penalties for all known violations committed by the employer – regardless of whether the representative experienced all violations personally. *Id.* at 760-761. Moreover, under *Johnson v. Maxim Healthcare Servs., Inc.*, (2021) 66 Cal. App. 5th 924, 929, an employee may pursue a claim under PAGA even when that employee's individual claim is time-barred.

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.6, 432.5, 432.7, 510, 511, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

PLAINTIFF is informed and believes and thereon alleges that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

PLAINTIFF intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. PLAINTIFF will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. PLAINTIFF asks and demands that DEFENDANTS put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, PLAINTIFF also offers to DEFENDANTS to place those individuals on notice if DEFENDANTS voluntarily provides their contact information.

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at various locations and/or facilities, including without limitation, public, commercial and/or residential spaces and/or communities. DEFENDANTS own, operate and/or otherwise manage multiple locations and/or facilities in California, including but not limited to, the following neighborhoods and/or cities: Rancho Palos Verdes, Santa Ana, Sun Valley, Bakersfield, Avalon, Santa Clarita, Castaic, Anaheim, Oxnard, Canyon Country, Santa Fe Springs, and Moreno Valley. DEFENDANTS, through its various locations serve the commercial landscaping industry.¹ Although DEFENDANTS may operate a successful company or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title of gardener and/or similar title(s) and/or position(s) from in or around May 15, 2018, through in or around

¹ See <https://www.staygreen.com/about-us/>. Last visited on May 19, 2023.

December 2, 2022. PLAINTIFF regularly reported to work at DEFENDANTS' Santa Clarita location(s) and was assigned by DEFENDANTS to work in cities throughout California, including but not limited to, Santa Clarita, California. PLAINTIFF regularly worked at least eight (8) and/or ten (10) hours per day hours. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to comply with the requirements for proper implementation of and compliance with a proper Alternative Workweek Schedule (AWS), by including but not limited to, failing to pay NON-EXEMPT AGGRIEVED EMPLOYEES correct rates of pay on days where DEFENDANTS required they work fewer hours than provided in the AWS; (6) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (7) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (8) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (9) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (10) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (11) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (12) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (13) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (14) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (15) failed and continue to fail to provide suitable seating and suitable resting facilities; and (16) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a

condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which allowed meal periods were provided each day.

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of DEFENDANTS’ time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANTS’ failure to relieve PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS’ control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, DEFENDANTS further failed, and continue to fail, to record the true start and end times of PLAINTIFF’s and NON-EXEMPT AGGRIEVED EMPLOYEES’ meal periods.

Based on further information and belief, DEFENDANTS further failed and continue to fail, to record the true start and end times of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES’ work shifts.

Additionally, DEFENDANTS failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

DEFENDANTS’ failure to keep “accurate and complete” payroll records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each

Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.²

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF's employment by DEFENDANTS.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

meal breaks or skip meal breaks completely. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to take late meal periods in order to complete assigned job duties. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times, interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

Also, based on information and belief, DEFENDANTS did not provide any mechanism for PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES to record the start and end times of any meal periods. Instead, DEFENDANTS would record the purported start and end times of any meal periods. Based on information and belief, DEFENDANTS automatically deducted at least thirty minutes per shift on most if not all shifts PLAINTIFF worked during the relevant period even during shifts when PLAINTIFF was required to work through his meal period, take an interrupted and/or on-duty meal period and/or took a meal period that was not a full thirty minutes in length during which he was relieved of all duties and DEFENDANTS' control.

Based on information and belief, DEFENDANTS also automatically deducted at least thirty minutes per shift for other NON-EXEMPT AGGRIEVED EMPLOYEES for meal periods that were worked through, interrupted, and/or during which those NON-EXEMPT AGGRIEVED EMPLOYEES were not relieved of all duties and DEFENDANTS' control for a full thirty minutes. Based on further information and belief, DEFENDANTS rounded the start and end times of PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' resulting in shortened meal periods as well as unpaid wages.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and expectations.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during unpaid meal periods.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their policies and practices resulted in the denial of uninterrupted meal periods which were free of DEFENDANTS' control owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

Based on information and belief, despite DEFENDANTS' failure to provide lawful meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end times of PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, DEFENDANTS did not have a compliant written meal break policy, nor did DEFENDANTS have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of

each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³ DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

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

DEFENDANTS did not properly authorize and provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times, unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

For example, PLAINTIFF was rarely if ever afforded a legally compliant rest period during the relevant period due to his need to complete assigned job duties/meet project completion deadlines and/or was unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to the job site.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, DEFENDANTS failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. DEFENDANTS either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil

penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Cooldown Recovery Period Violations: California Code of Regulations, Title 8, section 3395 mandates that all employers with “outdoor places of employment” implement a heat illness prevention program that includes, among other requirements, providing workers “cool-down” periods of at least five minutes in the shade. Specifically, section 3395 provides that “employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating” and that “such access to shade shall be permitted at all times.” Under California Labor Code section 226.7, if an employer fails to provide an employee a recovery period, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to spend multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS failed to provide proper heat illness prevention training and/or heat illness policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS maintained a policy and practice of not permitting necessary time for cooldown recovery breaks, and as a result, NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain outdoors with little to no access to shade for extended periods of time. In addition, DEFENDANTS, failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES with an additional hour of pay at PLAINTIFF’s regular rate of pay for each missed cooldown recovery period.

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, including but not limited to Wage Order 5, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

DEFENDANTS’ locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no modification, but instead denied and continue to deny,

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

employees with suitable areas to rest (e.g. a breakroom). As a result, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS' premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

DEFENDANTS' failure to provide suitable resting facilities to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Minimum Wage Violations: "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 attorneys' fees, and costs of suit." Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, "Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period..." The applicable Wage Order 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." See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon..." *Cal. Lab. Code* § 1194.2.

DEFENDANTS failed to compensate PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of DEFENDANTS' automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per

shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS' control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed. For example, as explained above, DEFENDANTS recorded and reported for payroll purposes a meal period of at least thirty-minutes per shift during most if not all shifts PLAINTIFF worked during the relevant period even though DEFENDANTS had actual and/or constructive knowledge PLAINTIFF was at times forced to work through his meal periods, take on-duty meal period and/or take less than a thirty-minute meal period.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, based on information and belief, DEFENDANTS provided no mechanism for PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES to record their shift start and end times. Instead, based on information and belief, DEFENDANTS recorded and reported for payroll purposes PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES scheduled hours worked rather than actual time worked and/or rounded the total hours worked of PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/o otherwise forewent recording all work time, resulting in the failure to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for all work time, and the underpayment of minimum wages and overtime wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to be at their job sites/respective workstations at their scheduled shift start time or face discipline. As such, NON-EXEMPT AGGRIEVED EMPLOYEES typically arrived at work at least five (5) minutes prior to their scheduled shift start times each day so that they could perform any required pre-shift work, including but not limited to, bestowing their personal items in the employee storage area, retrieving/compiling their work tools/equipment, making any necessary adjustments to their tools/equipment and/or perform any required maintenance tasks, don work clothing/their uniforms and protective equipment (gloves, goggles/glasses, reflective vests, safety shields/respirator masks/face masks, hard hats/saw caps, earplugs/ear muffs and/or respirators), and/or complete other work tasks so as to be ready to be at their respective work stations at their scheduled shift start times as mandated by DEFENDANTS. This pre-shift off-the-clock work was neither recorded nor compensated resulting in the substantial underpayment of wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were also required to perform post-shift off-the-clock work that was neither recorded nor compensated. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES put away their work tools/equipment and/or changed out of their work clothing/uniform and/or protective gear after the end time of their scheduled shifts and/or outside of their scheduled shift times.

Based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform additional off-the-clock work for which they were not

compensated. For example, based on information and belief, DEFENDANTS did not compensate PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for time spent donning and doffing personal protective equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, goggles/glasses, safety shields/respirator masks/face masks, reflective vests, hard hats/saw caps, earplugs/ear muffs and/or respirators) during meal periods, rest periods, before the start of a scheduled shift, and/or after completing a scheduled shift.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that as applied systematically deprived PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by DEFENDANTS would almost always, if not always, result in understating actual compensable work time. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding practices resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

DEFENDANTS' failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject DEFENDANTS, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

⁵ See Lab. Code §1197.1(a) (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, DEFENDANTS violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, DEFENDANTS' automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to DEFENDANTS' premises and/or subject to DEFENDANTS' control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, DEFENDANTS failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Additionally, DEFENDANTS also violated California's overtime laws as to those NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an Alternative Workweek Schedule (AWS).

Based on information and belief, DEFENDANTS adopted an Alternative Workweek Schedule (AWS) during the relevant period that was an unlawful AWS as it was not properly elected and/or implemented in accordance with the requirements of California law and/or DEFENDANTS failed to comply with the AWS, and as such, DEFENDANTS violated California's overtime laws, including but not limited to, Labor Code sections 510, 511, the applicable Wage Order, and Labor

Code section 1198. Based on information and belief, DEFENDANTS failed to properly adopt an AWS in accordance with Labor Code section 511 and 1199, and the applicable Wage Order:

(C) Election Procedures Election procedures for the adoption and repeal of alternative workweek schedules require the following: (1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of workdays and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another. (2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met. (3) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non- English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void. (4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral third party to conduct the election. (5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of

time for compliance. (6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Office of Policy, Research and Legislation within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer. (7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election. (8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek.

No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor Code § 98 *et seq.*

On information and belief, PLAINTIFF alleges that DEFENDANTS failed to comply with the above procedures, and thus, failed to properly institute an alternative workweek for the purpose of obtaining a lawful exemption from overtime premiums for its mandated 10-hour/4-day schedule. Based on information and belief, DEFENDANTS also failed to report the results to the Office of Policy, Research, and Legislation, or the DLSE, within thirty after the purported election results, and thus, violated Labor Code §§ 511, 1199, and the Applicable Wage Orders. This conduct results in violations of Labor Code §§ 510, 511, and 1198- 1199, and the Applicable Wage Orders. These violations subject employer to civil penalties under Labor Code §§ 558 and 2699, and All Applicable Wage Orders. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.

Moreover, to the extent there was an AWS that was properly adopted, DEFENDANTS violated California's overtime laws as to NON-EXEMPT AGGRIEVED EMPLOYEES, including PLAINTIFF that were subject to an Alternative Workweek Schedule (AWS) but were required to work shifts shorter than the agreed upon AWS. Under the relevant Wage Order, "If an employer... requires an [AWS] employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours... for the day the employee is required to work the reduced hours." *See* Section 3 of all applicable Wage Orders. Based on information and belief, at times during the relevant period, NON-EXEMPT AGGRIEVED EMPLOYEES worked subject to an alternative work week schedule in which they worked ten (10) hours per shift, four (4) shifts per week. Based on information and belief, at times, PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an AWS, were sent home early and/or worked less hours than those that were scheduled under the AWS. On such shortened shifts, NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to overtime pay at 1.5 times the regular rate of pay

after the first eight hours of work. Instead, DEFENDANTS paid NON-EXEMPT AGGRIEVED EMPLOYEES their base rate for all hours worked on the shortened shift(s) in violation of the alternative workweek schedule, and in violation of California Labor Code section 510, the applicable Wage Order, and Labor Code section 1198. As such, NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an AWS were also deprived of all owed overtime wages when required to work shortened shifts.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁶

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, DEFENDANTS failed to provide proper paid sick leave to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, DEFENDANTS further failed to provide notice of the correct sick leave amount balance available to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statements.

Based on information and belief, DEFENDANTS failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, DEFENDANTS failed to provide notice of sick leave amount balance left for PLAINTIFF and other NON-EXEMPT AGGRIEVED

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and PLAINTIFF seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, DEFENDANTS further failed and continue to fail to comply with Labor Code section 246, by failing to provide PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

DEFENDANTS unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of DEFENDANTS' failure to properly institute a paid sick leave program.

On information and belief, PLAINTIFF alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

PLAINTIFF requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to DEFENDANTS' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. PLAINTIFF requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

DEFENDANTS violated and continue to violate Labor Code section 216 by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) 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; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As DEFENDANTS failed to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

DEFENDANTS' issued wage statements to PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work

⁷ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

Based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE or EXEMPT AGGRIEVED EMPLOYEE is being paid.

DEFENDANTS' failure to accurately list all hours worked on all wage statements caused confusion to PLAINTIFF and caused and continue to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by DEFENDANTS' failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

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

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

Unlawful Deductions: Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said

⁸ See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

employee.” Based on information and belief DEFENDANTS made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period, including but not limited to, from paychecks of employees correctly classified as exempt, during the relevant period, including but not limited to deducting costs of uniforms and/or other business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully deducting wages for negligently damaged property. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. DEFENDANTS violated this section by, including but not limited to, failing to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject DEFENDANTS to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute’s provisions were violated.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California’s Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, DEFENDANTS' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, seating, suitable resting, and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, DEFENDANTS willfully and systematically denied PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, DEFENDANTS paid PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that PLAINTIFF and all NON-

⁹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials) to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, DEFENDANTS failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, DEFENDANTS untimely provide final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,

premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials).

Based on further information and belief, DEFENDANTS failed to timely provide all owed wages immediately upon discharge of employment. Based in information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES experienced breaks in employment caused by DEFENDANTS whereby NON-EXEMPT AGGRIEVED EMPLOYEES would not be called in for work for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

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

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145

California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the

¹⁰ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

laws of this State.” *See* Cal. Lab. Code § 2804.

Based on information and belief, PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses, including but not limited to, personal mobile phones, cost of internet and/or data usage for work related purposes, including but not limited to, to receive and respond to work related messages and/or phone calls. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to receive and respond to work-related calls (e.g., regarding scheduling and/or other work tasks) on their personal cell phones/mobile devices without being provided any and/or full reimbursement from DEFENDANTS for these business expenses.

Based on information, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were required to purchase and/or maintain their own uniforms, work clothing/work shoes and/or safety/protective gear, such as, but not limited to, work shoes, gloves, and work equipment including but not limited to hand tools (e.g., scissors, razors, ratchets, blades and/or knives), ear plugs/ear muffs and/or face masks which DEFENDANTS required, yet NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed by DEFENDANTS for the business expenses they incurred in connection therewith.

Based on information and belief, at times, DEFENDANTS failed to reimburse NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for expenses associated with having to purchase and/or maintain their own hand tools and/or equipment required to perform their assigned job duties.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the business use of their personal vehicles, including mileage, wear and tear, and cost of fuel when they were required to drive around and/or between job sites, and/or use their personal vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES at the legally mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

As a pattern and practice, DEFENDANTS regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be

reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

As described herein, DEFENDANTS regularly failed to reimburse and indemnify PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. DEFENDANTS' failure to provide PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

Based on information and belief, DEFENDANTS ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in

writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to DEFENDANTS to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, DEFENDANTS knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, DEFENDANTS asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, DEFENDANTS, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA "...is a representative action on behalf of the state" *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee's right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 ("We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.")

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is no individual component to a PAGA action because 'every PAGA action ... is a representative action on behalf of the state.'")

Upon information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Failure to Provide a Safe and Healthful Workplace:

Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the California Occupational Safety and Health Act ("Cal OSHA"), employers must maintain a safe and healthful place of employment.

Specifically, Labor Code section 6400, requires the following:

(a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein...

Labor Code section 6401 provides as follows:

Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

Labor Code section 6402 prohibits the following:

No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

Similarly, Labor Code section 6404 provides as follows:

No employer shall occupy or maintain any place of employment that is not safe and healthful.

In addition to the above, Labor Code section 6403 requires that employees provide safety devices to its employees. Labor Code section 6403 states:

No employer shall fail or neglect to do any of the following:

- (a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.
- (b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.
- (c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.

Similarly, Labor Code section 6406(d) states the following:

No person shall do any of the following ... (d) Fail or neglect to do every other thing reasonably necessary to protect the life, safety, and health of employees.

Finally, Labor Code section 6407 provides:

Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

At all relevant times, DEFENDANTS employed PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times, DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and/or provide reasonable access to sanitation facilities (including, but not limited to, toilet facilities) and/or otherwise comply with sanitation standards reasonably adequate to render the employment and place of employment safe and healthful and of failing to adopt and use practices, means, methods, operations, and/or processes which are

reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times DEFENDANTS had and have a policy and practice of requiring or permitting employees to go or be in in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of failing or neglecting to: provide and use safety devices and/or provide reasonable access to sanitation facilities (e.g., toilet facilities) and/or otherwise comply with sanitation standards and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403.

PLAINTIFF is informed and believes and thereon alleges that these failures include, without limitation, failing to provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES with adequate and readily accessible sanitation facilities and/or otherwise failing to comply with the sanitation standards as set forth in including but not limited to, California Code of Regulations, title 8, sections 1527, 3366, 3457, and 8397.4. For example, at times during the relevant period and/or at certain job sites, PLAINTIFF was denied access to any toilet facility for the duration of his shift. Based on information and belief, DEFENDANTS have a policy and practice of failing to provide adequate and readily accessible sanitation facilities, and to the extent sanitation facilities were provided/made accessible at all to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, a regular schedule for servicing, cleaning, and supplying for any sanitation facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each of sex of employee.

Moreover, California Code of Regulations, Title 8, section 3395 mandates that all employers with “outdoor places of employment” implement a heat illness prevention program that includes, among other requirements, providing workers “cool-down” periods of at least five minutes in the shade. Specifically, section 3395 provides that “employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating” and that “such access to shade shall be permitted at all times.”

Based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to spend multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS failed to provide proper heat illness prevention training and/or heat illness policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS maintained a policy and practice of not permitting necessary time for cooldown recovery breaks.

As such, DEFENDANTS failed to comply with the occupational safety and health standards, failed to do everything reasonably necessary to protect the health and safety of employees, failed to

maintain a safe and healthful workplace, and failed to provide the safety devices necessary to maintain a safe and healthful workplace.

As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor Code section 6400-6404 and 6406-6407 as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES and is subject to civil penalties.

Conclusion

DEFENDANTS have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code. Likewise, PLAINTIFF requests that the Division of Occupational Safety and Health investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA's provisions. Alternatively, PLAINTIFF requests that the agency and division inform PLAINTIFF if they do not intend to investigate these violations so that PLAINTIFF may file a lawsuit with respect to the allegations discussed in this NOTICE.

If the LWDA and/or the Division of Occupational Safety and Health elect not to take any action with respect to any of the foregoing claims, PLAINTIFF will seek these penalties in a civil action, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of DEFENDANTS within one year of the date of this letter as allowed by law.

///
///
///
///
///
///
///

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco, Esq.
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 866.276.7637
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Kiara Bramasco", written in a cursive style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Manny Martinez <manny@crosnerlegal.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "prelit@crosnerlegal.com" <prelit@crosnerlegal.com>

Fri, May 19, 2023 at 9:18 AM

5/19/2023

LWDA Case No. LWDA-CM-956075-23
Law Firm : Crosner Legal, PC
Plaintiff Name : Arturo Salas Garcia
Employer: Stay Green Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT

4



Mathew Adame <mathew@crosnerlegal.com>

Thank you for your Court Complaint Submission.

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: mathew@crosnerlegal.com

Wed, Sep 13, 2023 at 10:54 AM

09/13/2023 10:53:21 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT

5

EXHIBIT

6

**ARTURO SALAS GARCIA V. STAY GREEN INC.
(Los Angeles Case No. 23STCV17296)**

Crosner Legal Time Report

Tasks	Zachary Crosner	Jamie Serb	Sepideh Ardestani	Kiara Bramasco	Branden Hamilton
Pre-filing Case Investigation	8.4	0.0	0.0	1.5	7.2
Pleadings and Law and Motion	10.2	0.0	0.0	5.0	0.0
Discovery and Post-Filing Investigation	3.5	0.0	2.8	0.0	0.0
Court Appearances	0.0	0.0	1.2	0.0	0.0
Case Management; Litigation Strategy & Analysis	9.6	20.3	3.5	0.0	0.0
Mediation and Settlement	5.7	2.1	15.0	0.0	0.0
Total Hours	37.4	22.4	22.5	6.6	7.2
Hourly Rate	\$800	\$750	\$700	\$650	\$600
Lodestar	\$29,920.00	\$16,800.00	\$15,750.00	\$4,290.00	\$4,320.00

Total Hours: 96.1

Total Lodestar: \$71,080.00