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7 Attorneys for Plaintiff PEDRO CEDENO
8 on behalf of the State of California,
9 and others similarly situated and aggrieved

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE**

12 PEDRO CEDENO, on behalf of the State of
California, and others similarly situated and
13 aggrieved,

14 Plaintiff,

15 v.

16
17 SANNIPOLI CORPORATION, a California
Corporation; MATTHEWS
18 INTERNATIONAL CORPORATION, a
Pennsylvania Corporation; THE YORK
19 GROUP, INC., a Delaware Corporation; and
DOES 1-100, inclusive,

20 Defendants.
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Case No.: **CVRI 2304132**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, PEDRO CEDENO (“PLAINTIFF”), an individual on behalf of PLAINTIFF, the
2 State of California, and all other Aggrieved Employees (as defined below), hereby files this
3 Complaint against Defendants SANNIPOLI CORPORATION, a California Corporation;
4 MATTHEWS INTERNATIONAL CORPORATION, a Pennsylvania Corporation; THE YORK
5 GROUP, INC., a Delaware Corporation; and DOES 1-100, inclusive, (collectively referred to herein
6 as “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

7 **INTRODUCTION**

8 1. This is a representative action filed by PLAINTIFF on behalf of PLAINTIFF, all
9 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
10 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
11 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
12 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

13 **JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
15 California statutes, including but not limited to the PAGA, and decisional law and regulations.

16 3. Venue is proper in this judicial district and the County of Riverside pursuant to
17 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
18 this judicial district and conduct alleged by PLAINTIFF herein occurred in this this judicial district.
19 *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue
20 in a PAGA action is proper in any county where the defendants committed Labor Code violations
21 against some of its employees).

22 **THE PARTIES**

23 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
24 California and a citizen of the State of California.

25 5. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
26 DEFENDANTS as a non-exempt employee with a job title of laborer and/or quality control
27 inspector or a similar title from in or around April 2022 through in or around April 25, 2023.
28 PLAINTIFF worked for DEFENDANTS at DEFENDANTS’ Menifee, California locations(s).

1 PLAINTIFF regularly worked at least eight (8) to ten (10) hours per day hours, at least at least five
2 (5) days per week.

3 6. Defendant SANNIPOLI CORPORATION is a California Corporation that, at all
4 relevant times, was authorized to do business within the State of California and is doing business in
5 the State of California.

6 7. Defendant MATTHEWS INTERNATIONAL CORPORATION, is a Pennsylvania
7 Corporation that, at all relevant times, was authorized to do business within the State of California
8 and is doing business in the State of California.

9 8. Defendant THE YORK GROUP, INC., is a Delaware Corporation that, at all relevant
10 times, was authorized to do business within the State of California and is doing business in the State
11 of California.

12 9. DEFENDANTS own, operate, manage and/or staff its employees to work at
13 production plants and/or other location(s) in California, including but not limited to the production
14 plant in Menifee and Whittier, California. DEFENDANTS, through its various production
15 plants/other locations serve the manufacturing industry. DEFENDANTS own, operate and/or
16 otherwise manage a manufacturing business, specializing in manufacturing concrete burial vaults,
17 among other related products, producing more than 200 units per day at its various California,
18 warehouses, locations and/or production plants, including but not limited warehouses, locations
19 and/or production plants located in the cities of Whittier and Menifee, including but not limited to,
20 DEFENDANTS' ten-acre production plant in Menifee, California, consisting of a fully enclosed
21 44,000 square foot production, testing, and holding facility at which DEFENDANTS assigned
22 Aggrieved Employees to work during the relevant period.

23 10. The true names and capacities of the DOE Defendants sued herein as DOES 1
24 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
25 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
26 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
27 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
28 become known.

11. PLAINTIFF is further informed and believes that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all relevant times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

JOINT LIABILITY

12. Under California law, the definition of the terms “to employ” are broadly construed under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3) to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control was to reach situations in which multiple entities control different aspects of the employment relationship. Supervision of the work, in the specific sense of exercising control over how services are properly performed, is properly viewed as one of the “working conditions” mentioned in the wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a temporary employment agency) hires and pays a worker, and the other entity supervises the work. *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in California, applying a less stringent standard to what constitutes sufficient control by a business over its vendor’s employees’ wages and working conditions to render that business liable as a joint employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the wages, hours, or working conditions of the employee, that is a sufficient showing of joint employment,” *Id.* at 875 [emphasis added].

1 13. During PLAINTIFF's employment by DEFENDANTS, PLAINTIFF and other
2 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
3 the Wage Orders, under the alternative definitions of "to employ" adopted by the California
4 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
5 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
6 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
7 and Aggrieved Employees to work for them.

8 14. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
9 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
10 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
11 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
12 policies and practices regardless of the location(s) where they worked. Among other things,
13 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
14 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
15 over the day-to-day operations and employment matters, including the power to hire and fire, set
16 schedules, issue employee policies, and determine rates of compensation across its locations in
17 California; (3) DEFENDANTS utilize the same policies and procedures for all California
18 employees, including issuing the same employee handbooks and other form agreements; (4)
19 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
20 employment matters; and, (6) DEFENDANTS share employees.

21 PLAINTIFF is informed and believes, and thereon alleges that at all times relevant to this
22 Complaint, DEFENDANTS were the joint employers of PLAINTIFF and Aggrieved Employees
23 upon whose behalf PLAINTIFF brings these allegations and cause of action, in that
24 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
25 wages, hours and working conditions, and/or suffered or permitted them to work so as to be
26 considered the joint employers of PLAINTIFF and Aggrieved Employees. For example, based on
27 information and belief, at times during the relevant period, DEFENDANTS issued wage statements
28 to PLAINTIFF that identify "York Group Inc." as the name of the legal entity that is PLAINTIFF's

1 employer. Additionally, during the relevant period, DEFENDANTS issued wage statements to
2 PLAINTIFF that identified "Whited Cemetery Service" as the legal entity that is the employer.
3 Based on information and belief, Whited Cemetery Service is a division and/or a fictitious business
4 name of Defendant SANNIPOLI CORPORATION. Moreover, some documents in PLAINTIFF's
5 personnel file identify Matthews International as the employer and/or include the logo for Matthews
6 International. Other documents in PLAINTIFF's personnel file identify Whited Cemetery Service
7 and Sannipoli Corporation as PLAINTIFF's employer. Moreover, based on information and belief,
8 DEFENDANTS, and each of them, maintain the same agent for service of process and/or principal
9 place of business as provided to the California Secretary of State and/or use some of the same
10 attorneys and/or human resources personnel to oversee employment-related matter.

11 15. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
12 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
13 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
14 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
15 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
16 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
17 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
18 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
19 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
20 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
21 writing the details of their compensation, and the manner in which they were to take meal and rest
22 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
23 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
24 collectively would evaluate their wage rates.

25 16. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
26 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
27 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
28 Employees' employment, including the instrumentality that resulted in the illegal conduct for which

1 PLAINTIFF seeks relief in this Complaint.

2 17. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
3 control over, applied the same policies and practices, and engaged in the same acts and omissions
4 with regard to the other Aggrieved Employees.

5 18. PLAINTIFF is informed and believes and hereon alleges that DEEFENDANTS must
6 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
7 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
8 services from which they benefited, and furthermore that the aforementioned entities had the right
9 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
10 times herein, so as to be considered the joint employers of PLAINTIFF.

11 19. By reason of their status as joint employers of PLAINTIFF and Aggrieved
12 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
13 Code and applicable Wage Orders as to all Aggrieved Employees.

14 **PAGA ALLEGATIONS**

15 20. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
16 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
17 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include:

18 All current and former non-exempt employees that worked either
19 directly or via a staffing agency for any one or more of the
20 DEFENDANTS at any location in California at any time from one
21 year plus 65 days from the filing of the initial Complaint through the
22 present (“PAGA Period”).

23 21. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
24 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
25 limitations period and suffered one or more of the Labor Code violations set forth herein.
26 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
27 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
28 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved

1 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
2 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
3 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
4 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
5 *Id.* at 760-761.

6 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

7 22. PLAINTIFF, on May 18, 2023, through counsel, gave written notice by online filing
8 with the California Labor and Workforce Development Agency (“LWDA”) informing it that
9 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
10 in this Complaint (“PAGA Notice”).

11 23. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
12 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
13 Employees.

14 24. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
15 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
16 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
17 Accordingly, PLAINTIFF has exhausted the administrative remedies as required by Labor Code
18 section 2699.3. Consequently, PLAINTIFF’s right to file the instant lawsuit against DEFENDANTS
19 has duly accrued.

20 25. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
21 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
22 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

23 **FACTUAL ALLEGATIONS**

24 26. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees
25 worked for DEFENDANTS in the State of California. At all times referenced herein,
26 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or
27 permitted them to work.

28 27. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees

1 worked for DEFENDANTS in the State of California. At all times referenced herein,
2 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or
3 permitted them to work.

4 28. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
5 DEFENDANTS as a non-exempt employee with a job title of laborer and/or quality control
6 inspector or a similar title from in or around April 2022 through in or around April 25, 2023.
7 PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Menifee, California locations(s).
8 PLAINTIFF regularly worked at least eight (8) to ten (10) hours per day hours, at least at least five
9 (5) days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by
10 DEFENDANTS as hours worked. At all relevant times, PLAINTIFF was a non-exempt employee
11 that was paid on an hourly basis for time counted by DEFENDANTS as hours worked.

12 29. Based on information and belief, DEFENDANTS also compensated PLAINTIFF
13 and other Aggrieved Employees with bonuses/incentive pay (e.g., bonuses for attendance and/or
14 safety/PPE bonuses) and/or other non-discretionary compensation.

15 30. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
16 PLAINTIFF and Aggrieved Employees for all hours worked, resulting in the underpayment of
17 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Aggrieved
18 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
19 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
20 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
21 below.

22 31. Based on information and belief, DEFENDANTS implemented a policy and/or
23 practice of rounding meal period start and end times and/or automatically deducting at least thirty
24 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
25 PLAINTIFF and other Aggrieved Employees were subject to DEFENDANTS' control during
26 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
27 PLAINTIFF and Aggrieved Employees of all wages owed.

28 32. Based on information and belief, Aggrieved Employees were not paid for all hours

1 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
2 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
3 the clock work policies and/or practices. For example, PLAINTIFF was frequently required to clock
4 out for the end of his shift but to continue working due to the need to discuss work-related matters
5 with the foreman and/or other employees and/or complete other post-shift off-the-clock work tasks,
6 resulting in the consistent underpayment of minimum wages and overtime wages owed to
7 PLAINTIFF. Based on information and belief, DEFENDANTS also require other Aggrieved
8 Employees to clock out for the end of their shifts but to continue working due to the need to respond
9 to work related communications and/or complete other work tasks.

10 33. Based on information and belief, DEFENDANTS required Aggrieved Employees to
11 be at their assigned workstations at the start of a scheduled shift, thereby forcing Aggrieved
12 Employees to gather work related equipment and/or safety gear prior to their scheduled shift and/or
13 prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

14 34. Based on information and belief, DEFENDANTS required Aggrieved Employees to
15 undergo security screenings before and/or after a scheduled shift and/or before or after clocking
16 in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

17 35. Based on information and belief, Aggrieved Employees were required to form a line
18 to undergo security screenings and/or to and spend time waiting to access DEFENDANTS'
19 electronic/biometric timekeeping system before they could clock in for the start of their shifts on
20 most if not all shifts worked as well as when clocking back in from purported meal periods. For
21 example, PLAINTIFF was frequently required to wait in line for at least several minutes before
22 PLAINTIFF could clock in for the start of his shift. This time spent under DEFENDANTS' control,
23 including but not limited to, time spent waiting in line behind other employees for employer-
24 mandated screenings and/or to access DEFENDANTS' electronic / biometric timekeeping system,
25 time spent initiating and/or reinitiating the system was not recorded and not compensated, resulting
26 in DEFENDANTS' failure to pay PLAINTIFF and other Aggrieved Employees for all time worked.

27 36. Based on information and belief, at times, DEFENDANTS' electronic/biometric
28 employee time-keeping system/app malfunctioned such that Aggrieved Employees were required

1 to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or
2 were unable to clock in at all for the start of their shifts and/or clock back in from meal periods,
3 resulting in off-the-clock work and the underpayment of wages owed to Aggrieved Employees.
4 Based on information and belief, Aggrieved Employees experienced the same issues when clocking
5 out for shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was
6 not recorded and not compensated and resulted in unpaid minimum wages owed to Aggrieved
7 Employees.

8 37. Based on information and belief, DEFENDANTS required Aggrieved Employees to
9 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
10 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

11 38. Based on information and belief, Aggrieved Employees were required to complete
12 other off-the-clock work tasks after clocking out for the end of their shifts and/or during
13 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum
14 and overtime wages owed to Aggrieved Employees.

15 39. Additionally, PLAINTIFF and other Aggrieved Employees were required to perform
16 other off-the-clock work for which they were not compensated. For example, based on information
17 and belief, DEFENDANTS did not compensate Aggrieved Employees for time spent donning and
18 doffing personal protective equipment, safety equipment and/or uniforms (e.g., safety
19 googles/glasses, hard hats/safety caps, gloves and/or face masks) during meal periods, rest periods,
20 before the start of a scheduled shift, and after completing a scheduled shift.

21 40. Based on information and belief, DEFENDANTS's Kronos timekeeping software
22 was hacked in 2021 and DEFENDANTS failed to maintain accurate records of hours worked during
23 pay periods following the hack and/or during the hack and instead paid PLAINTIFF and/or other
24 Aggrieved Employees based on scheduled hours worked rather than actual hours worked and/or
25 otherwise failed to pay for all hours worked due to a failure to maintain accurate records of the total
26 hours worked, leading to unpaid minimum and overtime wages.

27 41. Based on information and belief, DEFENDANTS failed to pay Aggrieved
28 Employees for time they were required to spend completing orientation, policy questionnaires,

1 and/or time spent completing the onboarding process including but not limited to reviewing various
2 documents and policies provided by DEFENDANTS. Based on information and belief, this work time
3 was completed off-the-clock and was not compensated.

4 42. Based in information and belief, DEFENDANTS implemented a time-rounding
5 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
6 compensable time because the time-rounding system implemented by DEFENDANTS would
7 almost always, if not always, result in understating actual compensable work time. For example,
8 DEFENDANTS issued wage statements to PLAINTIFF that show PLAINTIFF's hours were
9 rounded to the nearest tenth of an hour. For example, on February 3, 2023, PLAINTIFF received a
10 wage statement in which his hours worked were rounded to "44.50." On January 20, 2023,
11 PLAINTIFF's wage statement shows his hours rounded to "45.40." Similarly, on April 14, 2023,
12 PLAINTIFF's hours were rounded to "47.20." Based on information and belief, each of
13 PLAINTIFF's wage statements include regular, overtime, and total hours that are rounded to the
14 nearest tenth of an hour.

15 43. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
16 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
17 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
18 minimum wages owed to PLAINTIFF and Aggrieved Employees as well as unpaid overtime wages
19 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
20 forty (40) hours in a week.

21 44. Based on information and belief, DEFENDANTS had actual and/or constructive
22 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
23 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
24 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
25 of California's minimum and overtime wage laws.

26 45. Based on information and belief, DEFENDANTS failed and continue to fail to pay
27 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
28 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in

1 a work week, in violation of California's overtime laws.

2 46. Based on information and belief, DEFENDANTS failed to incorporate all non-
3 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
4 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
5 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
6 wages owed to PLAINTIFF and other Aggrieved Employees.

7 47. For example, based on information and belief, DEFENDANTS compensated
8 PLAINTIFF and other Aggrieved Employees with bonuses/incentive pay (e.g., bonuses for
9 attendance and/or safety/PPE bonuses) and/or other non-discretionary compensation yet
10 DEFENDANTS failed to incorporate all non-discretionary remuneration into the regular rate(s) of
11 pay for purposes of calculating the owed overtime rate, resulting in the miscalculation and
12 underpayment of overtime wages owed to Aggrieved Employees.

13 48. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
14 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
15 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
16 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
17 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
18 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
19 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
20 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
21 completely. For example, based on information and belief, Aggrieved Employees were forced to
22 take late meal periods in order to complete assigned job duties. Based on information and belief,
23 Aggrieved Employees were at times, interrupted during purported meal periods and/or had meal
24 periods cut short and/or restricted to Respondents' premises due to the need to continue assigned
25 job duties. For example, PLAINTIFF was frequently required to take his single meal period after
26 the fifth hour of work due to the need to complete assigned work tasks. Other times, PLAINTIFF
27 was required to clock out for purported meal periods but to continue working due to the need to
28 meet production / other work deadlines and/or complete other work tasks.

1 49. Based on information and belief, other Aggrieved Employees were consistently
2 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
3 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
4 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
5 expectations.

6 50. Based on information and belief, DEFENDANTS implemented policies and/or
7 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
8 during unpaid meal periods.

9 51. Based on information and belief, DEFENDANTS required Aggrieved Employees to
10 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
11 into account when scheduling meal periods for Aggrieved Employees. Based on information and
12 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

13 52. Based on information and belief, despite DEFENDANTS' failure to provide lawful
14 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
15 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
16 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
17 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
18 Employees did not receive lawful meal periods.

19 53. Moreover, based on information and belief, Aggrieved Employees who worked shifts
20 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.
21 For example, DEFENDANTS frequently required PLAINTIFF to work shifts lasting longer than
22 ten (10) hours without providing PLAINTIFF with any form of a second meal period.

23 54. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
24 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
25 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
26 did DEFENDANTS have any sort of compliant policy in practice.

27 55. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
28 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.

1 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
2 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other
3 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
4 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

5 56. Based on information and belief, DEFENDANTS had actual and/or constructive
6 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
7 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees, in
8 violation of California's meal period laws.

9 57. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
10 additional hour of wages at their respective regular rates of compensation for each workday a lawful
11 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
12 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
13 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
14 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
15 compensation for purposes of calculating the owed meal period premium.

16 58. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
17 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
18 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
19 middle of the work period, as required by law.

20 59. PLAINTIFF and other Aggrieved Employees were not adequately informed,
21 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
22 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
23 the taking or timing of duty-free rest periods.

24 60. Based on information and belief, DEFENDANTS did not have a have a compliant
25 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
26 practice. For example, based on information and belief, Aggrieved Employees were at times, unable
27 to take compliant rest periods due to Aggrieved Employees' need to complete assigned job duties
28 and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported

1 rest periods restricted to DEFENDANTS' premises. For example, PLAINTIFF and other Aggrieved
2 Employees were prohibited from leaving the work premises even to go to their vehicles during
3 purportedly off-duty rest periods, and as such, PLAINTIFF and other Aggrieved Employees were
4 not relieved of all duties and DEFENDANTS' control during purportedly off-duty rest periods, in
5 violation of California rest period law.

6 61. Based on information and belief, any purported rest periods were interrupted, cut
7 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
8 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
9 completely and/or take non-compliant rest periods.

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

12 63. Based on information and belief, DEFENDANTS implemented policies and/or
13 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
14 DEFENDANTS' control during rest periods.

15 64. Based on information and belief, Aggrieved Employees were pressured to complete
16 their work duties according to a designated schedule such that rest periods were only taken once
17 tasks were completed, and/or as time permitted.

18 65. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
19 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
20 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
21 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
22 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
23 shift differential pay, and/or other non-discretionary compensation into the regular rate of
24 compensation for purposes of calculating the owed rest period premium.

25 66. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
26 Wage Orders, including but not limited to Wage Order 4, employees shall be provided with suitable
27 resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be
28 provided in an area separate from the toilet rooms and shall be available to employees during work

1 hours.”

2 67. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
3 there was, and continues to be, space that allows for a resting facility that employees may use to
4 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
5 Employees with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no
6 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
7 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to
8 resting, including but not limited to leaning up against the wall, or search for facilities outside of
9 DEFENDANTS’ premises which are not designated or reserved for their rest, such as their personal
10 vehicles.

11 68. Based on information and belief, DEFENDANTS did not provide Aggrieved
12 Employees with suitable resting facilities during their hours of work, particularly during meal and/or
13 rest periods.

14 69. DEFENDANTS’ failure to provide suitable resting facilities to Aggrieved
15 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
16 California Labor Code, including but not limited to section 1198.

17 70. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
18 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
19 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
20 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
21 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
22 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
23 applicable hourly rates in effect during the pay period and the corresponding number of hours
24 worked at each hourly rate by the employee.

25 71. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
26 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
27 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
28 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal

1 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
2 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
3 other off-the-clock work policies and practices described above) which results in a violation of
4 Labor Code section 226(a).

5 72. Based on information and belief, wage statements issued by DEFENDANTS failed
6 to list all applicable hourly rates in effect during the pay period and the corresponding number of
7 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
8 Code section 226(a)(9).

9 73. Moreover, based on information and belief, DEFENDANTS issued wage statements
10 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
11 other things, failing to list the correct name and/or address of the legal entity that is the employer,
12 in violation of Labor Code section 226(a)(8). For example, at times during the relevant period,
13 PLAINTIFF's wage statements including but not limited to wage statements issued July 2022
14 through December 2022, identified "Whited Cemetery Service" as the legal entity that is the
15 employer, but based on information and belief, a legal entity with this name does not exist.

16 74. Based on information and belief, wage statements issued by DEFENDANTS failed
17 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

18 75. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
19 not include all of the statutorily required information, including but not limited to, the correct name
20 and/or address of the legal entity that is the employer.

21 76. Based on further information and belief, DEFENDANTS issued wage statements to
22 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential
23 wages were paid in violation of Labor Code section 226.

24 77. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
25 Employees that were not accurate and did not include all of the statutorily required information. As
26 such, DEFENDANTS violated Labor Code section 226.

27 78. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
28 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as

1 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
2 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
3 required by law, including but not limited to the following records: total daily hours worked,
4 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
5 began and ended each work period, time records of meal periods, and accurate itemized wage
6 statements.

7 79. DEFENDANTS have failed and continue to fail to keep accurate and complete
8 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
9 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
10 employer control during unpaid meal periods, failure to record the true start and end times of meal
11 periods, shift start times and shift end times, and other off-the-clock work policies and practices
12 described herein.

13 80. **Unreimbursed Business Expenses.** Based on information and belief,
14 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses
15 as a direct consequence of the performance of their job duties without providing reimbursement, in
16 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
17 Aggrieved Employees were improperly required to provide and maintain work tools that are
18 supposed to be the responsibility of the employer.

19 81. Based on information and belief, DEFENDANTS shifted the costs of doing business
20 onto Aggrieved Employees by requiring them to pay for business expenses. For example, based on
21 information and belief DEFENDANTS required Aggrieved Employees to pay for business
22 expenses including but not limited to including but not limited to, uniforms/work clothing/work
23 shoes/personal protective/safety gear (e.g., gloves, work shoes and/or face masks) and the use of
24 Aggrieved Employees' personal mobile phone, internet and/or data usage for work related purposes,
25 including but not limited to, to receive and respond to work related messages and/or phone calls.

26 82. For example, PLAINTIFF was required to purchase work shoes DEFENDANTS
27 required PLAINTIFF wear for work, but DEFENDANTS did not provide PLAINTIFF with any
28 reimbursement for these business expenses. Based on information and belief, Aggrieved Employees

1 were required to receive and respond to work-related calls and/or messages from supervisors and/or
2 other Aggrieved Employees regarding scheduling and/or other work tasks but were not reimbursed
3 by DEFENDANTS at all and/or in full for these business expenses.

4 83. Based on information and belief, DEFENDANTS failed to reimburse Aggrieved
5 Employees or expenses associated with having to purchase and/or maintain their own hand tools
6 and/or equipment required to perform their assigned job duties.

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

13 85. Based on information and belief, DEFENDANTS regularly failed to reimburse and
14 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
15 2802, PLAINTIFF and Aggrieved Employees were entitled to be reimbursed for all reasonable
16 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
17 assigned by DEFENDANTS.

18 86. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
19 for all reasonable expenses associated with carrying out their duties required that Aggrieved
20 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
21 2802.

22 87. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
23 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees. DEFENDANTS
24 either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the
25 sick leave rate of pay owed to PLAINTIFF and other Aggrieved Employees by failing to base the
26 accrued sick leave hours on the correct number of hours worked (as a result of the
27 rounding/automatic deduction policies and practices for meal periods and/or shift start and end
28 times/other required off-the-clock work including but not limited to unpaid meal periods) and by

1 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
2 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
3 compensation into the sick leave pay rate calculation.

4 88. Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
5 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
6 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
7 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
8 PLAINTIFF and other Aggrieved Employees on their wage statements or other written statement.
9 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
10 used sick leave and the balance of paid sick leave.

11 89. Based on information and belief, throughout the relevant time period,
12 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
13 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
14 this failure, PLAINTIFF and all Aggrieved Employees would have used their paid sick leave at least
15 prior to their respective separations, for as on several occasions thereafter, he or she would have
16 been entitled to use the banked sick leave and earn appropriate compensation.

17 90. Upon information and belief, DEFENDANTS failed and continue to fail to comply
18 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
19 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
20 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
21 wages.

22 91. As such, DEFENDANTS have violated California's paid sick leave laws and
23 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
24 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
25 unlawful practices and policies violate Labor Code sections 245-248.5.

26 92. **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides
27 that all employers with 26 or more employees are required to provide up to 80 hours for covered
28 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care

1 for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS
2 violated Labor Code § 248.2 by not providing Aggrieved Employees with required 2021 COVID-
3 19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to
4 provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

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

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

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

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

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

20 96. Based on information and belief, DEFENDANTS failed to provide Aggrieved
21 Employees with suitable seating, and when such employees were not engaged in duties which
22 required them to stand, no seating was placed in reasonable proximity to their workstations.

23 97. Moreover, based on information and belief, the nature of the work reasonably
24 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
25 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
26 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
27 of seats would not interfere with the performance of their duties.

28 98. **Failure to Pay Vested Vacation/Paid Time Off:** Based on information and belief,

1 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
2 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
3 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
4 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
5 limited to, shift differentials) to Aggrieved Employees upon separation of employment, in violation
6 of California law, including but not limited to, Labor Code section 227.3.

7 **99. Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
8 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
9 were due and owing upon termination or resignation. Based on information and belief,
10 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
11 requirements of Labor Code sections 201-202.

12 **100.** Upon separation of employment, Aggrieved Employees' final paychecks were not
13 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
14 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
15 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
16 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
17 accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate
18 including non-discretionary compensation, including but not limited to, shift differentials).

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

27 **102. Unlawful Agreements-Unlawful Criminal History Inquiries.**

28 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

1 103. Based on information and belief, DEFENDANTS required Aggrieved Employees to
2 agree in writing to unlawful conditions of employment including but not limited to unlawful non-
3 solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements,
4 unlawful releases and/or waivers, unlawful forum selection clauses and/or choice of law
5 provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining
6 and/or continuing employment in violation of Labor Code section 432.5.

7 104. Based on information and belief, DEFENDANTS ordered unlawful financial credit
8 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
9 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
10 employment, in violation of California and Federal law, which results in a further violation of Labor
11 Code section 432.5.

12 105. Based on information and belief, DEFENDANTS also required Aggrieved
13 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as
14 a condition of obtaining and/or holding employment in violation of the Investigative Consumer
15 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit
16 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*). Based on information and belief,
17 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and
18 FCRA when conducting background screenings for applicants, including but not limited to
19 Aggrieved Employees that were subject to a background check as a condition of employment during
20 the application phase.

21 106. Based on information and belief, DEFENDANTS required Aggrieved Employees to
22 agree in writing to a background check which failed to abide by the requirements set forth in CA
23 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
24 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
25 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for
26 the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA,
27 failing to provide a way by which the individual could request a copy of the report, failing to disclose
28 the name, address, and telephone number of the third party preparing the report, and failing to

1 properly obtain authorization or consent to such a background check, and thus was an unlawful
2 background check.

3 107. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
4 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
5 section 432.5.

6 108. Based on further information and belief, DEFENDANTS also required Aggrieved
7 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
8 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
9 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
10 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

11 109. Based on further information and belief, DEFENDANTS knew that requiring
12 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
13 condition of obtaining and/or holding employment was unlawful.

14 110. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
15 condition of employment, DEFENDANTS violated Labor Code section 432.5.

16 Unlawful Inquires into Criminal History

17 111. Labor Code section 432.7 prohibits an employer from asking applicants about past
18 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
19 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
20 convictions on its employment application, in violation of California law.

21 112. Upon information and belief, DEFENDANTS, in violation of California law,
22 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
23 ("FEHA"), asked Aggrieved Employees about convictions prior to extending an offer of
24 employment and/or otherwise impermissibly inquired into criminal history on its employment
25 application in violation of California law, and in violation of Labor code section 432.5.

26 Unlawful PAGA Waiver

27 113. Additionally, based on information and belief, DEFENDANTS violated Labor Code
28 section 432.5 by requiring some Aggrieved Employees to agree in writing to other unlawful

1 agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions
2 as a condition of employment.

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

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

14 116. Upon information and belief, DEFENDANTS required some Aggrieved Employees
15 to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By
16 requiring some Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver,
17 DEFENDANTS required written agreement to an unlawful provision as a condition of employment
18 which is a violation of labor code section 432.5.

19 117. **Failure to Provide a Safe and Healthful Workplace.** Based on information and
20 belief, DEFENDANTS failed to provide a safe and healthful Workplace. Based on further
21 information and belief, during the PAGA Period, DEFENDANTS have had a policy and practice of
22 failing, within one business day after DEFENDANTS or a representative of DEFENDANTS
23 received a notice of potential exposure to COVID-19, to notify PLAINTIFF and other Aggrieved
24 Employees who were on the premises at the same worksite as the qualifying individual within the
25 infectious period, and the employers of subcontracted employees who were on the premises at the
26 same worksite as the qualifying individual within the infectious period and the exclusive
27 representative, if any, of the cleaning and disinfection plan that the employer is implementing per
28 the guidelines of the COVID 10 prevention program per the Cal-OSHA COVID-19 Emergency

1 Temporary Standards, among other things in violation of Labor Code sections 6409.6 and/or 6432.
2 118. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
3 engaged in these same herein described unlawful practices, which led to violations of the California
4 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
5 unlawful practices to all of its employees that it applied to PLAINTIFF.

6 **FIRST CAUSE OF ACTION**
7 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
8 **2698, *ET SEQ.***
9 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
10 **Defendants)**

11 119. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 **Failure to Keep Accurate Records**

13 120. California Labor Code § 1174 requires employers to keep “accurate and complete”
14 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
15 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
16 times during which all owed meal periods were provided each day.

17 121. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
18 and complete records as required by law, including but not limited to the following records: total
19 daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other
20 Aggrieved Employees began and ended each work period, time records of meal periods, and
21 accurate itemized wage statements.

22 122. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
23 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
24 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
25 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
26 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
27 period during which the referenced statutes and Wage Order provisions were violated.¹

28 ¹ Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor
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

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124. 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.*

126. 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.

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”) (emphasis added).

1 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
2 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
3 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
4 periods completely.

5 128. Based on information and belief, DEFENDANTS had and continue to have a policy
6 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
7 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and
8 Aggrieved Employees did not receive compliant meal periods.

9 129. Moreover, based on information and belief, Aggrieved Employees did not receive a
10 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

11 130. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
12 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
13 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
14 violation of California's meal period laws.

15 131. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
16 periods in violation of California law and/or failed to pay the proper meal period premium for failure
17 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
18 differential pay and/or other non-discretionary compensation into the regular rate or compensation
19 for purposes of calculating the owed meal period premium.

20 132. These unlawful meal period policies and practices result in violations of Labor Code
21 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
22 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
23 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
24 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

25 **Rest Period Violations**

26 133. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
27 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
28 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period

1 “insofar as practicable.” In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012),
2 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
3 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
4 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
5 1029). The rest period requirement obligates employers to permit and authorize employees to take
6 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
7 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
8 257. If the employer fails to provide any required rest period, the employer must pay the employee
9 one hour of pay at the employee’s regular rate of compensation for each workday the employer did
10 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
11 applicable IWC Wage Order, §12(B).

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

22 135. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
23 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
24 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
25 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,
26 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
27 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

28 136. Based on information and belief, DEFENDANTS implemented policies and/or
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1 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
2 employer control during rest periods. Based on further information and belief, Aggrieved
3 Employees were pressured to complete their work duties according to a designated schedule such
4 that rest periods were only taken once tasks were completed, and/or as time permitted.

5 137. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
6 first, second, or third rest periods as required by California law.

7 138. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
8 period premium to PLAINTIFF and other Aggrieved Employees for each workday in which there
9 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
10 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
11 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
12 the regular rate of compensation for purposes of determining the owed rest period premium.

13 139. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
14 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
15 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

16 **Failure to Provide Suitable Resting Facilities**

17 140. Per section 13 of all applicable IWC Wage Orders, including but not limited to Wage
18 Order 4, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage
19 Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet
20 rooms and shall be available to employees during work hours."

21 141. DEFENDANTS' locations/facilities are generally similar in layout and design, and
22 there was, and continues to be, space that allows for a resting facility that employees may use to
23 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
24 Employees with a resting facility within DEFENDANTS' facilities/locations with reasonable or no
25 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
26 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to
27 resting, including but not limited to leaning up against the wall, or search for facilities outside of
28 DEFENDANTS' premises which are not designated or reserved for their rest, such as their personal

1 vehicles.

2 142. Based on information and belief, DEFENDANTS did not provide Aggrieved
3 Employees with suitable resting facilities during their hours of work, particularly during meal and/or
4 rest periods.

5 143. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved
6 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
7 California Labor Code, including but not limited to section 1198.

8 **Minimum and Overtime Wage Violations**

9 144. California law provides that employees in California must be paid for all hours
10 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
11 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
12 The minimum wage standard applies to each hour employees worked for which they were not paid.
13 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
14 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
15 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

16 145. California law also provides that employees in California must be paid overtime,
17 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
18 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
19 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
20 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
21 consecutive day of work in a work week. *Ibid.*

22 146. As explained above, DEFENDANTS violated California's minimum and overtime
23 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
24 by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for shift
25 start and end times and meal period start and end times), payment according to scheduled hours
26 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
27 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
28 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

1 147. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
2 Aggrieved Employees for all hours worked.

3 148. Based on information and belief, DEFENDANTS had actual or constructive
4 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
5 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
6 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
7 underpayment of minimum and overtime wages owed to PLAINTIFF and other Aggrieved
8 Employees.

9 149. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
10 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
11 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
12 violation of California's overtime laws.

13 150. Based on information and belief, DEFENDANTS further violated California's
14 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
15 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
16 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
17 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
18 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
19 other Aggrieved Employees.

20 151. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
21 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
22 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
23 Wage Orders, section 20.

24 **Statutory Wage Violations**

25 152. California Labor Code section 223 makes it unlawful for an employer to secretly pay
26 wages lower than required by statute while purporting to pay legal wages. As described above,
27 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
28 earned minimum and overtime compensation for all hours worked which resulted in the payment of

1 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
2 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
3 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
4 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
5 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved
6 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
7 Labor Code § 2699(f)-(g).

8 **Refusal to Make Payment**

9 153. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
10 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
11 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
12 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
13 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
14 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
15 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
16 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

17 **Standard Conditions of Labor Violations**

18 154. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
19 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
20 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
21 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
22 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
23 minimum/overtime wages and other violations described herein result in separate violations of
24 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
25 1197.1 and 2699.

26 _____
27 ² Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty
28 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).

1 **Business Expense Violations**

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

8 156. Among other things, under California law, when employees must use their personal
9 cellphones for work-related purposes, the employer must reimburse them for a reasonable
10 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
11 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
12 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
13 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
14 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
15 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

16 157. Further, “any contract or agreement, express or implied, made by any employee to
17 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
18 any employee or his personal representative of any right or remedy to which he is entitled to under
19 the laws of this State.” *See* Cal. Lab. Code section 2804.

20 158. As described above, PLAINTIFF and the Aggrieved Employees were improperly
21 required to pay for business expenses that are legally the responsibility of the employer.

22 159. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
23 full reimbursement for all reasonable expenses associated with carrying out their duties required
24 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
25 expenses in violation of Labor Code section 2802.

26 160. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
27 Employees have suffered injury in that they were not completely reimbursed as mandated by
28 California law.

1 161. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
2 full reimbursement for all reasonable expenses associated with carrying out their duties required
3 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
4 expenses in violation of Labor Code section 2802.

5 162. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
6 Employees have suffered injury in that they were not completely reimbursed as mandated by
7 California law.

8 163. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
9 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
10 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
11 Code § 2802 and the applicable Wage Order.

12 **Wage Statement Violations**

13 164. California law requires every employer semi-monthly or at the time of each payment
14 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
15 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
16 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
17 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
18 is paid; (7) the name of the employee and only the last four digits of his or her social security number
19 or an employee identification number other than a social security number; (8) the name and address
20 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
21 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

22 165. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
23 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
24 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
25 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
26 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
27 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
28 effect during the pay period and the corresponding number of hours worked at each hourly rate by

1 the employee, in violation of Labor Code section 226(a)(9).

2 166. Moreover, due to violations detailed above, including but not limited to,
3 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
4 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
5 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
6 PLAINTIFF and other Aggrieved Employees with accurate, itemized wage statements that listed
7 the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based
8 on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
9 compensation earned during the pay period into the regular rate of pay for purposes of calculating
10 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
11 overtime worked by PLAINTIFF and other Aggrieved Employees.

12 167. As explained above, wage statements issued by DEFENDANTS failed to list the
13 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of rounded time entries,
14 automatic deduction for meal periods/failure to relieve Aggrieved Employees of all duties and
15 employer control during unpaid meal periods, and/or other off-the-clock work policies and practices
16 described above), which results in a violation of Labor Code section 226(a). Failure to list all hours
17 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
18 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

19 168. Based on information and belief, wage statements issued by DEFENDANTS failed
20 to list all applicable hourly rates in effect during the pay period and the corresponding number of
21 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
22 Code section 226(a)(9).

23 169. Separately, and independent from the above allegations, based on information and
24 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees that
25 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
26 entity that is the employer.

27 170. Based on information and belief, wage statements issued by DEFENDANTS failed
28 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

1 171. DEFENDANTS' failure to accurately list all hours worked on all wage statements
2 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
3 Employees over whether they received all wages owed to them.

4 172. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
5 they could not easily determine whether they received all wages owed to them and whether they
6 were paid for all hours worked.

7 173. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
8 address of the legal entity that is the employer, PLAINTIFF and Aggrieved Employees have suffered
9 injury as they could not contact their employer regarding any question(s) they had about wages paid.

10 174. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
11 Aggrieved Employees with accurate, itemized wage statements.

12 175. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
13 Employees have suffered injury. The absence of accurate information on their wage statements has
14 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
15 mathematical computations to determine the amount of wages owed, and will cause difficulty and
16 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
17 submission of inaccurate information about wages and amounts deducted from wages to state and
18 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
19 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
20 and pay records than if DEFENDANT had complied with its legal obligations.

21 176. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
22 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
23 during which the statute provisions were violated.³

24 **Seating Violations**

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

28 ³ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

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

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

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

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

12 180. Based on information and belief, DEFENDANTS failed to provide Aggrieved
13 Employees with suitable seating, and when such employees were not engaged in duties which
14 required them to stand, no seating was placed in reasonable proximity to their workstations.

15 181. Moreover, based on information and belief, the nature of the work reasonably
16 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
17 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
18 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
19 of seats would not interfere with the performance of their duties.

20 182. The Aggrieved Employees worked in various positions. The nature of Aggrieved
21 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
22 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
23 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
24 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
25 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
26 separate civil penalty.

27 **Sick Leave Violations**

28 183. DEFENDANTS violated California's paid sick leave laws including, Labor Code

1 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
2 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
3 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
4 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
5 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
6 compensation into the sick leave pay rate calculation.

7 184. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
8 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
9 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
10 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
11 Aggrieved Employees' intelligent exercise of their paid sick leave.

12 185. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
13 their paid sick leave at least prior to their respective separations, for as on several occasions
14 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
15 compensation.

16 186. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
17 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
18 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
19 were entitled to the maximum number of hours accruable.

20 187. Upon information and belief, DEFENDANTS failed and continue to fail to comply
21 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees with
22 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
23 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
24 wages.

25 188. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

26 189. On information and belief, PLAINTIFF alleges that all of these practices were
27 experienced and continue to be experienced by other Aggrieved Employees.

28 190. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the

1 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
2 seeks injunctive relief, attorney’s fees, declaratory relief, and penalties as permitted by law.

3 **Failure To Provide Supplemental Paid Sick Leave**

4 191. Labor Code § 248.2 provides that all employers with 26 or more employees are
5 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
6 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
7 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved
8 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
9 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
10 Labor Code section 248.6.

11 **Failure to Pay Vested Vacation/Paid Time Off**

12 192. California Labor Code section 227.3 provides that when an employer policy provides
13 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
14 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
15 employee’s final rate in accordance with such contract of employment or employer policy respecting
16 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
17 off upon termination.

18 193. Based on information and belief, DEFENDANTS had and continue to have a
19 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
20 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
21 (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-
22 discretionary compensation, including but not limited to, shift differentials) to Aggrieved
23 Employees upon separation of employment, in violation of California law, including but not limited
24 to, Labor Code section 227.3.

25 **Untimely Payment of Final Wages**

26 194. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
27 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
28 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an

1 employee not having a written contract for a definite period quits his or her employment, his or her
2 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
3 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
4 to his or her wages at the time of quitting.”

5 195. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
6 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
7 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
8 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
9 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
10 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

11 196. Based in information and belief, DEFENDANTS failed and continue to fail to timely
12 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
13 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
14 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
15 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
16 sick leave and/or paid time off wages at the properly accrued rates(including but not limited to, all
17 owed vacation pay/paid time off paid at the final rate including non-discretionary compensation,
18 including but not limited to, shift differentials).

19 197. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
20 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
21 256.

22 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

23 198. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
24 require any employee or applicant for employment to agree, in writing, to any term or condition
25 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
26 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
27 conditions of employment including but not limited to unlawful non-solicitation/non-compete
28 agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or

1 waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or
2 unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment
3 in violation of Labor Code section 432.5.

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

16 200. Based on information and belief, DEFENDANTS ordered unlawful financial credit
17 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to
18 provide ongoing written consent to the unlawful credit checks as a condition of employment, in
19 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

20 201. Based on information and belief, DEFENDANTS required Aggrieved Employees to
21 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
22 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

23 202. Based on further information and belief, DEFENDANTS required Aggrieved
24 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
25 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
26 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
27 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

28 203. Based on further information and belief, DEFENDANTS knew that requiring

1 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
2 condition of obtaining and/or holding employment was unlawful.

3 204. By requiring that Aggrieved Employees sign off on the illegal background and/or
4 financial checks, DEFENDANTS violated Labor Code section 432.5.

5 Unlawful Inquires into Criminal History

6 205. Labor Code section 432.7 prohibits an employer from asking applicants about past
7 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
8 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
9 convictions on its employment application, in violation of California law.

10 206. Upon information and belief, DEFENDANTS, in violation of California law,
11 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
12 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
13 employment and/or otherwise impermissibly inquired into criminal history on its employment
14 application in violation of California law.

15 207. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
16 Code section 432.7. By asking about convictions at the application phase or prior to extending an
17 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated
18 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
19 disclose arrests and/or convictions as a condition of employment.

20 Unlawful PAGA Waiver

21 208. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring some
22 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
23 to, an unlawful waiver of PAGA and/or representative actions as a condition of employment.

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

1 claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

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

7 211. Upon information and belief, DEFENDANTS at times required some Aggrieved
8 Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California
9 law. By requiring some Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver,
10 DEFENDANTS required written agreement to an unlawful provision as a condition of employment
11 which is a violation of labor code section 432.5.

12 **Failure to Provide a Safe and Healthful Workplace.**

13 212. Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the
14 California Occupational Safety and Health Act (“Cal OSHA”), employers must maintain a safe and
15 healthful place of employment. Specifically, Labor Code section 6400, requires the following:

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

18 214. Labor Code section 6401 provides as follows:

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

23 216. Labor Code section 6402 prohibits the following:

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

26 218. Similarly, Labor Code section 6404 provides as follows:

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

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

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

4 222. (a) To provide and use safety devices and safeguards reasonably adequate to render
5 the employment and place of employment safe.

6 223. (b) To adopt and use methods and processes reasonably adequate to render the
7 employment and place of employment safe.

8 224. (c) To do every other thing reasonably necessary to protect the life, safety, and health
9 of employees.

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

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

13 227. Finally, Labor Code section 6407 provides:

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

17 229. Moreover, Labor Code section 6409.6 sets forth the actions an employer (or
18 representative of employer) must take within one business day of receiving notice of potential
19 exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

20 230. At all relevant times, DEFENDANTS employed PLAINTIFF and Aggrieved
21 Employees subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times,
22 DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and
23 safeguards and of failing to adopt and use practices, means, methods, operations, and/or processes
24 which are reasonably adequate to render such employment and place of employment safe and
25 healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times
26 DEFENDANTS had and have a policy and practice of requiring or permitting employees to go or
27 be in in any employment or place of employment which is not safe and healthful, pursuant to Labor
28 Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of

1 failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render
2 the employment and place of employment safe; adopt and use methods and processes reasonably
3 adequate to render the employment and place of employment safe; and do every other thing
4 reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code
5 section 6403.

6 231. PLAINTIFF is informed and believes and thereon alleges that these failures include,
7 without limitation, failing to disinfect time clocks and other surfaces after use by PLAINTIFF and/or
8 other Aggrieved Employees; failing to provide adequate protection equipment (e.g., face masks) to
9 PLAINTIFF, other Aggrieved Employees; and failing to provide adequate distance in working
10 conditions between PLAINTIFF and/or other Aggrieved Employees.

11 232. At all relevant times, DEFENDANTS had a policy and practice of failing to give
12 sufficient, adequate and proper notice to PLAINTIFF and/or other Aggrieved Employees of the
13 COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace
14 exposure from a qualifying individual as required by Labor Code section 6409.6. PLAINTIFF is
15 informed and believes that numerous employees contracted COVID-19 during the relevant time
16 periods, but that DEFENDANTS failed to provide notice to employees. Based on further
17 information and belief, DEFENDANTS do not or did not keep adequate records of written
18 notifications required in subdivision (a) for a period of at least three years.

19 233. At all relevant times, DEFENDANTS had and have a policy and practice of failing
20 within one business day after DEFENDANTS or a representative of DEFENDANTS received notice
21 of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other Aggrieved
22 Employees and/or their exclusive representatives, who were on the premises at the same worksite
23 as a qualifying individual who was within the infectious period that they may have been exposed to
24 COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and
25 practice of failing within one business day after DEFENDANTS or a representative of EMLOYER
26 received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other Aggrieved
27 Employees who were on the premises at the same worksite as the qualifying individual within the
28 infectious period and the exclusive representative, if any, with information regarding COVID-19-

1 related benefits to which the employee may be entitled under applicable federal, state or local laws,
2 including but not limited to, workers' compensation, and options for exposed employees, including
3 COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or
4 negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the
5 employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and
6 6432.

7 234. At all relevant times, DEFENDANTS had and have a policy and practice of failing
8 within one business day after DEFENDANTS or a representative of DEFENDANTS received a
9 notice of potential exposure to COVID-19 to notify PLAINTIFF and other Aggrieved Employees
10 who were on the premises at the same worksite as the qualifying individual within the infectious
11 period, and the employers of the subcontracted employees who were on the premises at the same
12 worksite as the qualifying individual within the infectious period and the exclusive representative,
13 if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of
14 the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per
15 the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, DEFENDANTS violated,
16 without limitation, Labor Code sections 6409.6 and 6432.

17 235. At all relevant times, DEFENDANTS had and have a policy and practice of failing
18 to notify the local public health agency in the jurisdiction of the worksite of the names, number,
19 occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as
20 defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed
21 health care provider; a COVID-19 related order to isolate provided by a public health official; or
22 died due to COVID-19, in the determination of a county public health department or per inclusion
23 in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation,
24 Labor Code sections 6409.6 and 6432.

25 236. PLAINTIFF is informed and believes, and based thereon alleges that
26 DEFENDANTS violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and
27 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule
28 for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and

1 serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or
2 blowers; and a sufficient number of toilets to be used by each of sex of employee.

3 237. PLAINTIFF is informed and believes and based thereon alleges that DEFENDANTS
4 violated the Labor Code sections described herein, including without limitation, for failure to:
5 furnish and use safety devices and safeguards; give sufficient, adequate and proper notice to
6 employees of COVID-19 exposures, to provide written notice to PLAINTIFF and/or other
7 Aggrieved Employees, who were on the premises at the same worksite as a qualifying individual
8 who was within the infectious period that they may have been exposed to COVID-19 pursuant to
9 California and local laws.

10 238. Based on information and belief, DEFENDANTS failed to protect Aggrieved
11 Employees from exposure to COVID-19 due to, including but not limited to, failing to
12 maintain/update DEFENDANTS' workplace safety plans and/or procedures to properly address
13 hazards related to the COVID-19 virus.

14 239. As such, DEFENDANTS failed to comply with the occupational safety and health
15 standards, failed to do everything reasonably necessary to protect the health and safety of
16 employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices
17 necessary to maintain a safe and healthful workplace.

18 240. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
19 Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF and Aggrieved Employees and
20 is subject to civil penalties.

21 241. Under the provisions of PAGA and the above mentioned Labor Code sections,
22 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
23 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
24 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 6400-6404, 6406-6407, 6409.6, 6432 and all applicable
25 Wage Orders as well as all interpretations of these laws by California Courts and administrative
26 bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS are liable for
27 the following penalties:

28 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the

- 1 relevant California Labor Code provisions listed herein only if permitted by the
2 PAGA statute, pursuant to Labor Code section 2699(a); and
- 3 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
4 violations without a civil penalty recoverable under the PAGA, all in the default
5 amounts provided by Labor Code section 2699(f).
- 6 c. The proper measure of penalties under PAGA is the number of violations,
7 whether those violations were committed as against PLAINTIFF or any
8 Aggrieved Employee, whether a party to this action or not.

9 242. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
10 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of PLAINTIFF, the State of California, and all Aggrieved Employees:

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: August 11, 2023

CROSNER LEGAL, PC

By: 
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PEDRO CEDENO