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County of Alameda

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10 on behalf of the State of California,
11 and others similarly situated and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF ALAMEDA COUNTY**

14 PRICILLA COOPER, on behalf of the State
15 of California, and others similarly situated
16 and aggrieved,

17 Plaintiff,

18 v.

19 AMTEC HUMAN CAPITAL, INC., a
20 California Corporation; THE CLOROX
21 COMPANY, a Delaware Corporation; THE
22 CLOROX INTERNATIONAL COMPANY,
23 a Delaware Corporation; and DOES 1-100,
24 inclusive and DOES 1-100, inclusive,

25 Defendants.

Case No.: **23CV038864**

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

1 Plaintiff, PRICILLA COOPER (“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 AMTEC HUMAN CAPITAL, INC., a California Corporation; THE
4 CLOROX COMPANY, a Delaware Corporation; THE CLOROX INTERNATIONAL
5 COMPANY, a Delaware Corporation; and DOES 1-100, inclusive; and DOES 1-100, inclusive,
6 (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and
7 thereon alleges as follows:

8 **INTRODUCTION**

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

14 **JURISDICTION AND VENUE**

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

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

23 **THE PARTIES**

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

26 5. PLAINTIFF was employed by DEFENDANTS in the State of California as a non-
27 exempt employee from on or around September 30, 2021, through on or around June 14, 2022.

28 6. PLAINTIFF worked for DEFENDANTS as a warehouse worker, repacker, palleter

1 and/or similar title(s) and/or position(s). PLAINTIFF worked for DEFENDANTS at
2 DEFENDANTS' Fairfield, California location(s).

3 7. DEFENDANTS are either a California Corporation and/or Delaware Corporation
4 that, at all relevant times, were authorized to do business within the State of California and are doing
5 business in the State of California.

6 8. DEFENDANTS own, operate, manage and/or staff its employees to work at the
7 warehouse(s) and/or manufacturing/production/packaging facilit(ies) and/or other location(s) in
8 California, including but not limited to the warehouse(s) and/or
9 manufacturing/production/packaging facilit(ies) in Fairfield, California, among other locations in
10 California. DEFENDANTS, through its various locations serve including but not limited to, the
11 manufacturing and/or consumer products industry.¹

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

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

27 _____
28 ¹ See <https://www.thecloroxcompany.com/>. Last visited on June 16, 2023.
See <https://www.amtec.us.com/> Last visited on June 16, 2023.

1 controlled, aided and abetted the conduct of all other Defendants.

2 **JOINT LIABILITY**

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

20 12. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and other
21 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
22 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
23 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
24 over wages, hours and working conditions of PLAINTIFF and Aggrieved Employees; (2) suffered
25 or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged PLAINTIFF
26 and Aggrieved Employees to work for them.

27 13. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
28 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized

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

12 14. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
13 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
14 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
15 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
16 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
17 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
18 Employees

19 15. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
20 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
21 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
22 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
23 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
24 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
25 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
26 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
27 and Aggrieved Employees' employment with or without cause. Upon information and belief,
28 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in

1 writing the details of their compensation, and the manner in which they were to take meal and rest
2 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
3 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
4 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

5 16. Moreover, based on information and belief, AMTEC HUMAN CAPITAL, INC.
6 hired PLAINTIFF and entered into a written employment agreement with PLAINTIFF. During
7 PLAINTIFF's employment, AMTEC HUMAN CAPITAL, INC. maintained control over many
8 aspects of PLAINTIFF's employment, including, among other things, having the authority to
9 discipline PLAINTIFF, change PLAINTIFF's job assignment, change PLAINTIFF's work hours,
10 change PLAINTIFF's rates of pay, and to terminate PLAINTIFF's employment.

11 17. In addition, when PLAINTIFF was first hired, AMTEC HUMAN CAPITAL, INC.
12 provided PLAINTIFF with orientation and training materials. AMTEC HUMAN CAPITAL, INC.
13 issued PLAINTIFF written policies concerning meal periods, rest breaks, timekeeping, hours
14 worked, and payment of PLAINTIFF's wages, with which PLAINTIFF was required to comply.
15 Based on information and belief, among other things, these policies provided that PLAINTIFF's
16 weekly time records be submitted to AMTEC HUMAN CAPITAL, INC., and AMTEC HUMAN
17 CAPITAL, INC. was supposed to process PLAINTIFF's time records and pay PLAINTIFF for all
18 hours worked. AMTEC HUMAN CAPITAL, INC. exercised ultimate control over the payment of
19 PLAINTIFF's wages, as AMTEC HUMAN CAPITAL, INC. issued PLAINTIFF her paychecks.
20 Finally, AMTEC HUMAN CAPITAL, INC. directed PLAINTIFF to comply with THE CLOROX
21 COMPANY and/or THE CLOROX INTERNATIONAL COMPANY's policies and directions.
22 PLAINTIFF is informed and believes that AMTEC HUMAN CAPITAL, INC. exercised the same
23 control over, applied the same policies and practices, and engaged in the same acts and omissions
24 with regard to the other class members.

25 18. THE CLOROX COMPANY and/or THE CLOROX INTERNATIONAL
26 COMPANY (hereinafter collectively referred to as "CLOROX") similarly suffered or permitted
27 PLAINTIFF to work for them or engaged PLAINTIFF to work for them. PLAINTIFF is informed
28 and believes that CLOROX entered into a written agreement with AMTEC HUMAN CAPITAL,

1 INC., pursuant to which CLOROX paid AMTEC HUMAN CAPITAL, INC. to provide it with
2 workers, including PLAINTIFF, to conduct CLOROX's business operations - namely, to work in
3 CLOROX's manufacturing/production centers and/or administration offices. CLOROX suffered or
4 permitted PLAINTIFF to work at CLOROX and for the entirety of PLAINTIFF's employment.

5 19. CLOROX further exercised control over PLAINTIFF's wages, hours and working
6 conditions. CLOROX also: (1) set PLAINTIFF's work hours and provided PLAINTIFF with
7 PLAINTIFF's work schedule; (2) provided PLAINTIFF with policies regarding meal periods and
8 rest breaks, with which PLAINTIFF was required to comply; (3) directly supervised PLAINTIFF's
9 work through its employees; (4) assigned PLAINTIFF job duties and trained PLAINTIFF on said
10 job duties; (5) exercised authority to reprimand and counsel PLAINTIFF regarding any work
11 performance and other issues; (6) exercised authority to end PLAINTIFF's work assignment at any
12 time, which essentially equated to a termination of employment as PLAINTIFF was not guaranteed
13 any other job assignments; (7) required PLAINTIFF to use its timekeeping system for purposes of
14 recording time worked; (8) determined whether and when PLAINTIFF would receive meal periods
15 and rest breaks; (9) subjected PLAINTIFF to unlawful schedules for taking meal periods and rest
16 breaks; and, (10) was responsible for recording when PLAINTIFF began and ended work shifts. On
17 information and belief, CLOROX issued further written policies and practices and guidelines
18 governing PLAINTIFF's working conditions with which PLAINTIFF was required to comply.
19 PLAINTIFF is informed and believes that CLOROX exercised the same control over, applied the
20 same policies and practices, and engaged in the same acts and omissions with regard to the other
21 Aggrieved Employees.

22 20. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
23 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
24 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
25 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
26 PLAINTIFF seeks relief in this Complaint.

27 21. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
28 control over, applied the same policies and practices, and engaged in the same acts and omissions

1 with regard to the other Aggrieved Employees.

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

8 23. By reason of their status as joint employers of PLAINTIFF and Aggrieved
9 Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor
10 Code and applicable Wage Orders as to all Aggrieved Employees.

11 **PAGA ALLEGATIONS**

12 24. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
13 of the State of California and all Aggrieved Employees, regarding violations of the California Labor
14 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the
15 following subcategories and are collectively referred to herein as the “Aggrieved Employees”:

- 16 i. AMTEC HUMAN CAPITAL, INC. Direct Hires: All non-exempt workers who
17 were directly employed by AMTEC HUMAN CAPITAL, INC. – regardless of
18 where those non-exempt workers were assigned or staffed to work – at any
19 location in California at any time from one year plus 65 days from the filing of
20 the initial Complaint through the present (“PAGA Period”).
- 21 ii. CLOROX Temporary Hires: All non-exempt workers who were
22 assigned/staffed to work at CLOROX by AMTEC HUMAN CAPITAL, INC.
23 and/or any other staffing/temporary service agencies at any location in California
24 at any time from one year plus 65 days from the filing of the initial Complaint
25 through the present (“PAGA Period”).
- 26 iii. CLOROX Direct Hires: All non-exempt workers who were directly employed
27 by CLOROX at any location in California at any time from one year plus 65 days
28 from the filing of the initial Complaint through the present (“PAGA Period”).

1 25. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
2 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
3 limitations period and suffered one or more of the Labor Code violations set forth herein.
4 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
5 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
6 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
7 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
8 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
9 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
10 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
11 *Id.* at 760-761.

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

13 26. PLAINTIFF, on May 12, 2023, through counsel, gave written notice by online filing
14 with the California Labor and Workforce Development Agency (“LWDA”) informing the LWDA
15 and the Division of Occupational Safety and Health that DEFENDANTS failed to comply with
16 California’s labor laws with regard to the allegations alleged in this Complaint (“PAGA Notice”).

17 27. The PAGA Notice outlined PLAINTIFF’s claims for violations of the California
18 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
19 Employees.

20 28. The LWDA and/or Division of Occupational Safety and Health did not provide
21 notice of its intention to investigate DEFENDANTS’ violations after expiration of the statutorily-
22 mandated waiting-time period(s), or at any time. To the extent any of the alleged violations were
23 curable, DEFENDANTS failed to cure within the time allotted by PAGA. Accordingly, PLAINTIFF
24 has exhausted the administrative remedies as required by Labor Code section 2699.3. Consequently,
25 PLAINTIFF’s right to file the instant lawsuit against DEFENDANTS has duly accrued.

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

1 **FACTUAL ALLEGATIONS**

2 30. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees
3 worked for DEFENDANTS in the State of California. At all times referenced herein,
4 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees, and suffered and/or
5 permitted them to work.

6 31. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee.
7 PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title of warehouse
8 worker, repacker, palleter and/or similar title(s) and/or position(s) from on or around September 30,
9 2021, through on or around June 14, 2022. PLAINTIFF worked for DEFENDANTS at
10 DEFENDANTS' Fairfield, California location(s).

11 32. PLAINTIFF regularly worked at least eight (8) to eleven (11) hours per day.
12 DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours
13 worked. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly
14 basis for time counted by DEFENDANTS as hours worked.

15 33. **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 34. 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 35. 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, based on information and belief,
4 DEFENDANTS required Aggrieved Employees to be at their assigned workstations at the start of a
5 scheduled shift, thereby forcing Aggrieved Employees to gather work related equipment and/or
6 safety gear prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in
7 pre-shift off-the-clock work.

8 36. Based on information and belief, DEFENDANTS required Aggrieved Employees to
9 undergo security screenings before and/or after a scheduled shift and/or before or after clocking
10 in/out for work, resulting in pre-shift and/or post-shift off-the-clock work. Based on information
11 and belief, Aggrieved Employees were required to form a line and spend time waiting to access
12 DEFENDANTS' electronic employee timekeeping terminal before they could clock in for the start
13 of their shifts on most if not all shifts worked as well as when clocking back in from purported meal
14 periods. For example, PLAINTIFF was frequently required to wait in line for at least several minutes
15 before PLAINTIFF could access the terminal to clock in for the start of PLAINTIFF's shift. This
16 time spent under DEFENDANTS' control, including but not limited to, time spent waiting in line
17 behind other employees to access DEFENDANTS' electronic / timekeeping system, time spent
18 initiating and/or reinitiating the system was not recorded and not compensated, resulting in
19 DEFENDANTS' failure to pay PLAINTIFF and other Aggrieved Employees for all time worked.

20 37. Based on information and belief, at times, DEFENDANTS' electronic employee
21 time-keeping system malfunctioned such that Aggrieved Employees were required to either
22 reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable
23 to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-
24 the-clock work and the underpayment of wages owed to Aggrieved Employees. Based on
25 information and belief, Aggrieved Employees experienced the same issues when clocking out for
26 shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was not
27 recorded and not compensated and resulted in unpaid minimum wages owed to Aggrieved
28 Employees.

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

4 39. Based on information and belief, Aggrieved Employees were required to complete
5 other off-the-clock work tasks after clocking out for the end of their shifts and/or during
6 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum
7 and overtime wages owed to Aggrieved Employees. For example, there were numerous instances in
8 which PLAINTIFF's manager required PLAINTIFF to clock out for the end of PLAINTIFF's shift
9 but to continue working, resulting in consistent off-the-clock work and the underpayment of
10 minimum wages and overtime wages owed to PLAINTIFF.

11 40. Based on information and belief, DEFENDANTS have a policy and practice of
12 requiring, suffering and/or permitting other Aggrieved Employees to clock out for the end of their
13 shifts but to continue performing work tasks, resulting in the underpayment of wages owed to
14 Aggrieved Employees, among other violations of the Labor Code described herein, including
15 without limitation, the failure to list the total hours worked by Aggrieved Employees on wage
16 statements issued by DEFENDANTS.

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

23 42. Moreover, based on information and belief, DEFENDANTS failed to pay Aggrieved
24 Employees split shift premium wages when they worked split shifts during the relevant period. For
25 example, based on information and belief, at times, DEFENDANTS required Aggrieved Employees
26 to work two separate shifts in the same day. Based on information and belief, DEFENDANTS failed
27 to pay Aggrieved Employees split shift compensation whenever PLAINTIFF's and/or other
28 Aggrieved Employees work schedules were interrupted by non-paid non-working periods

1 established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See
2 section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay
3 at the minimum wage shall be paid in addition to the minimum wage for that workday...). See, also,
4 Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the
5 minimum wage shall be paid in addition to the minimum wage for that workday, except when the
6 employee resides at the place of employment). DEFENDANTS also failed to separately itemize
7 these split shift premium wages on PLAINTIFF's and/or other Aggrieved Employees' wage
8 statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders.
9 See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium
10 payment on the pay stub provided to the employee, and it should be shown as a separate category
11 such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus,
12 etc. DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF
13 and/or other Aggrieved Employees on their wage statements.

14 43. Based on information and belief, DEFENDANTS failed to pay Aggrieved
15 Employees for time they were required to spend completing orientation, policy questionnaires,
16 and/or time spent completing the onboarding process including but not limited to reviewing various
17 documents and policies provided by DEFEDANTS. Based on information and belief, this work time
18 was completed off-the-clock and was not compensated.

19 44. Based in information and belief, DEFENDANTS implemented a time-rounding
20 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees of
21 compensable time because the time-rounding system implemented by DEFENDANTS would
22 almost always, if not always, result in understating actual compensable work time.

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

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

6 47. Based on information and belief, DEFENDANTS failed and continue to fail to pay
7 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
8 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
9 a work week, in violation of California's overtime laws.

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

15 49. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
16 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
17 However, PLAINTIFF and other Aggrieved Employees would not receive legally compliant thirty
18 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
19 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
20 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
21 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
22 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
23 completely. For example, based on information and belief, Aggrieved Employees were forced to
24 take late meal periods in order to complete assigned job duties. Based on information and belief,
25 Aggrieved Employees were at times, interrupted during purported meal periods and/or had meal
26 periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned
27 job duties. For example, at times, PLAINTIFF was instructed by her supervisor to work through her
28 meal periods because it was too busy for PLAINTIFF to stop working. Other times, PLAINTIFF

1 was forced to take her meal period well beyond the fifth hour of work due to the need to complete
2 assigned job duties.

3 50. DEFENDANTS did not pay PLAINTIFF a meal period premium for each missed,
4 interrupted, shortened, late and/or otherwise legally noncompliant meal period. Moreover,
5 DEFENDANTS did not provide PLAINTIFF with any mechanism with which to record the start
6 and end times of meal periods, and, as such, PLAINTIFF did not record any meal periods. Rather,
7 based on information and belief, DEFENDANTS performed an automatic meal period deduction of
8 at least thirty minutes per shift even though DEFENDANTS had actual and/or constructive
9 knowledge that PLAINTIFF was required to work through her meal periods, take shortened meal
10 periods and/or otherwise legally noncompliant meal periods.

11 51. Based on information and belief, PLAINTIFF did not sign any valid meal period
12 waiver at any time during PLAINTIFF's employment.

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

18 53. Based on information and belief, DEFENDANTS implemented policies and/or
19 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
20 during unpaid meal periods.

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

25 55. Based on information and belief, despite DEFENDANTS' failure to provide lawful
26 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
27 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
28 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal

1 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Aggrieved
2 Employees did not receive lawful meal periods.

3 56. Moreover, based on information and belief, Aggrieved Employees who worked shifts
4 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.
5 For example, when PLAINTIFF worked shifts lasting longer than ten (10) and/or twelve (12) hours,
6 PLAINTIFF was not afforded with any version of a second meal period.

7 57. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
8 other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on further
9 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
10 did DEFENDANTS have any sort of compliant policy in practice.

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

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

21 60. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
22 additional hour of wages at their respective regular rates of compensation for each workday a lawful
23 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
24 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
25 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
26 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
27 compensation for purposes of calculating the owed meal period premium.

28 61. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide

1 PLAINTIFF and other Aggrieved Employees with legally compliant rest periods at a rate of every
2 four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the
3 middle of the work period, as required by law.

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

8 63. Based on information and belief, DEFENDANTS did not have a have a compliant
9 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
10 practice. For example, based on information and belief, Aggrieved Employees were frequently
11 unable to take compliant rest periods due to their need to complete assigned job duties and/or were
12 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods
13 restricted to DEFENDANTS' premises. For example, per DEFENDANTS' unlawful rest period
14 policy and practice, PLAINTIFF and other Aggrieved Employees were afforded no more than two
15 (2) purported rest periods per shift even on shifts lasting longer than ten (10) hours, and PLAINTIFF
16 was frequently required to work through one or both of her two purported rest periods each shift due
17 to explicit instruction from management to do so, understaffing, lack of coverage, the need to meet
18 production and/or other work deadlines, respond to work-related communications and/or complete
19 other work tasks.

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

24 65. Moreover, based on information and belief, DEFENDANTS failed to provide any
25 form of a third rest period on shifts lasting longer than ten hours. For example, when PLAINTIFF
26 worked shifts lasting longer than ten (10) hours, PLAINTIFF was not afforded with any version of
27 a third rest period.

28 66. Based on information and belief, DEFENDANTS implemented policies and/or

1 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all duties and
2 DEFENDANTS' control during rest periods.

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

6 68. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
7 which PLAINTIFF and other Aggrieved Employees experienced a missed/unlawful rest period in
8 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
9 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
10 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
11 shift differential pay, and/or other non-discretionary compensation into the regular rate of
12 compensation for purposes of calculating the owed rest period premium.

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

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

27 71. DEFENDANTS did not provide PLAINTIFF and Aggrieved Employees with
28 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

1 72. DEFENDANTS' failure to provide suitable resting facilities to PLAINTIFF and
2 Aggrieved Employees violated and continue to violate the applicable Wage Order, section 13(B)
3 and the California Labor Code, including but not limited to section 1198.

4 73. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
5 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
6 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
7 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
8 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
9 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
10 applicable hourly rates in effect during the pay period and the corresponding number of hours
11 worked at each hourly rate by the employee.

12 74. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
13 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
14 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF
15 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
16 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
17 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
18 other off-the-clock work policies and practices described above) which results in a violation of
19 Labor Code section 226(a).

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

24 76. Moreover, based on information and belief, DEFENDANTS issued wage statements
25 to PLAINTIFF and Aggrieved Employees that further violate Labor Code section 226(a), by among
26 other things, failing to list the correct name and/or address of the legal entity that is the employer,
27 in violation of Labor Code section 226(a)(8).

28 77. Based on information and belief, wage statements issued by DEFENDANTS failed

1 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid.

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

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

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

11 81. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
12 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
13 to said employee." Based on information and belief DEFENDANTS made unlawful deductions
14 from Aggrieved Employees paychecks during the relevant period. Such a practice is in violation of
15 including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil
16 penalties under Labor Code Section 2699.

17 82. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
18 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
19 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
20 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
21 required by law, including but not limited to the following records: total daily hours worked,
22 applicable rates of pay, time records showing when PLAINTIFF and other Aggrieved Employees
23 began and ended each work period, time records of meal periods, and accurate itemized wage
24 statements.

25 83. DEFENDANTS have failed and continue to fail to keep accurate and complete
26 records showing total hours worked by virtue of DEFENDANTS' time rounding, automatic meal
27 period deductions, failure to relieve PLAINTIFF and Aggrieved Employees of all duties and
28 employer control during unpaid meal periods, failure to record the true start and end times of meal

1 periods, shift start times and shift end times, and other off-the-clock work policies and practices
2 described herein.

3 84. **Unreimbursed Business Expenses.** Based on information and belief,
4 DEFENDANTS required PLAINTIFF and other Aggrieved Employees to incur business expenses
5 as a direct consequence of the performance of their job duties without providing reimbursement, in
6 violation of Labor Code section 2802. Based on information and belief, PLAINTIFF and other
7 Aggrieved Employees were improperly required to provide and maintain work tools that are
8 supposed to be the responsibility of the employer.

9 85. Based on information and belief, DEFENDANTS shifted the costs of doing business
10 onto Aggrieved Employees by requiring them to pay for business expenses. Based on information
11 and belief, DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by
12 requiring them to pay for their business expenses including but not limited to, uniforms/work
13 clothing/work shoes/personal protective/safety gear and the use of Aggrieved Employees' personal
14 mobile phone, internet and/or data usage for work related purposes, including but not limited to, to
15 receive and respond to work related messages and/or phone calls.

16 86. For example, DEFENDANTS required PLAINTIFF to purchase her own steel-toed
17 boots but did not provide any reimbursement for these business expenses. Based on information and
18 belief, other Aggrieved Employees were also not reimbursed for the cost of purchasing and/or
19 maintaining work uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).
20 Based on information and belief, Aggrieved Employees were at times required to make and/or
21 respond to work-related calls and/or messages on their personal cell phones/mobile devices
22 regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all
23 and/or in full for these business expenses.

24 87. For example, PLAINTIFF regularly received and was required to respond to text
25 messages from her supervisor on her personal cellphone / mobile device throughout most if not all
26 shifts PLAINTIFF worked but was not reimbursed by DEFENDANTS for this business use of her
27 personal cell phone/mobile device. Based on information and belief, DEFENDANTS failed to
28 reimburse Aggrieved Employees for expenses associated with having to purchase and/or maintain

1 their own hand tools and/or equipment required to perform their assigned job duties.

2 88. Based on information and belief, at times, Aggrieved Employees were not
3 reimbursed for the business use of their personal vehicles, including mileage, wear and tear, and
4 cost of fuel when they were required to drive around and/or between job sites, and/or use their
5 personal vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS
6 failed to compensate Aggrieved Employees at the legally mandated Internal Revenue Service (IRS)
7 per mile compensation rates in effect during the relevant period. As explained above, based on
8 information and belief, Aggrieved Employees were not reimbursed for the cost of using their
9 personal phone for work related purposes and/or the cost of purchasing and/or maintaining work
10 uniforms/work clothing/work shoes, personal protective/safety gear.

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

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

20 91. **Violation of California Day of Rest Law.** Under California law, every employee in
21 California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" its
22 employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor
23 Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

24 92. Based on information and belief, DEFENDANTS have and continue to have a
25 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
26 consecutively in a workweek, in violation of including but not limited to, Labor Code Section
27 551. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees were
28 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in

1 violation of California law, including but not limited to Labor Code Section 551.

2 93. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
3 provides as follows:

4 94. (A) Each workday an employee is required to report for work and does report, but is
5 not put to work or is furnished less than half said employee's usual or scheduled day's work, the
6 employee shall be paid for half the usual or scheduled day's work, but in no event for less than two
7 (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less
8 than the minimum wage. (B) If an employee is required to report for work a second time in any one
9 workday and is furnished less than two (2) hours of work on the second reporting said employee
10 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
11 minimum wage.

12 95. Based on information and belief, Aggrieved Employees were not paid reporting time
13 wages in accordance with California law, including but not limited to the applicable IWC Wage
14 Order. For example, based on information and belief, at times, Aggrieved Employees reported to
15 work for a scheduled shift but were sent home and/or were not put to work and were not paid all
16 owed reporting time pay wages in accordance with California law.

17 96. Based on information and belief, DEFENDANTS have a policy and practice of
18 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
19 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
20 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
21 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

22 97. **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 98. 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 99. 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.

17 100. 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.

22 101. 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.

26 102. **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.

5 103. **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.

9 104. 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.

16 105. 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).

20 106. 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.

23 107. 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.

28 108. **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 **109. 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 **110.** 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 **111.** For example, DEFENDANTS did not furnish PLAINTIFF with any final paycheck
20 until at least forty-eight hours following PLAINTIFF's date of termination, and PLAINTIFF's late
21 final paycheck was devoid of all wages owed, including but not limited to, all owed minimum
22 wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or paid time off
23 wages at the properly accrued rates.

24 **112.** Based on further information and belief, DEFENDANTS failed to timely provide all
25 owed wages immediately upon discharge of employment. Based in information and belief, at times,
26 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
27 Aggrieved Employees would not be called in for work for longer than a single pay period due to
28 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances

1 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
2 the end of such periods of employment, in violation of including but not limited to Labor Code
3 section 201-202.

4 **113. Unlawful Agreements-Unlawful Criminal History Inquiries.**

5 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

6 114. Based on information and belief, DEFENDANTS required Aggrieved Employees to
7 agree in writing to unlawful conditions of employment including but not limited to unlawful
8 criminal and/or financial checks as a condition of obtaining and/or continuing employment in
9 violation of Labor Code section 432.5.

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

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

24 117. Based on information and belief, DEFENDANTS required Aggrieved Employees to
25 agree in writing to a background check which failed to abide by the requirements set forth in CA
26 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
27 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
28 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for

1 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,
2 failing to provide a way by which the individual could request a copy of the report, failing to disclose
3 the name, address, and telephone number of the third party preparing the report, and failing to
4 properly obtain authorization or consent to such a background check, and thus was an unlawful
5 background check.

6 118. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
7 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
8 section 432.5.

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

14 120. Based on further information and belief, DEFENDANTS knew that requiring
15 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
16 condition of obtaining and/or holding employment was unlawful.

17 121. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
18 condition of employment, DEFENDANTS violated Labor Code section 432.5.

19 Unlawful Inquires into Criminal History

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

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

Unlawful PAGA Waiver

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

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

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

127. Upon information and belief, one or more of the DEFENDANTS required some Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring some Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

128. **Failure to Provide a Safe and Healthful Workplace.** During the PAGA Period, DEFENDANTS had a policy and practice of requiring or permitting employees to go or be in in any employment or place of employment which is not safe and healthful. Moreover, based on information and belief, DEFENDANTS have had a policy and practice of failing, within one business day after DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to COVID-19, to notify PLAINTIFF and other Aggrieved Employees who were on the premises at the same worksite as the qualifying individual within the infectious period, and the employers of subcontracted employees who were on the premises at the same worksite as the

1 qualifying individual within the infectious period and the exclusive representative, if any, of the
2 cleaning and disinfection plan that the employer is implementing per the guidelines of the COVID
3 10 prevention program per the Cal-OSHA COVID-19 Emergency Temporary Standards, among
4 other things in violation of Labor Code sections 6409.6 and/or 6432.

5 129. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
6 engaged in these same herein described unlawful practices, which led to violations of the California
7 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
8 unlawful practices to all of its employees that it applied to PLAINTIFF.

9 **FIRST CAUSE OF ACTION**
10 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
11 **2698, *ET SEQ.***
12 **(On behalf of PLAINTIFF, Aggrieved Employees and the State of California against all**
13 **Defendants)**

14 130. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

15 **Failure to Keep Accurate Records**

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

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

25 133. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
26 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
27 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
28 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay

1 period during which the referenced statutes and Wage Order provisions were violated.²

2 **Meal Period Violations**

3 134. California law requires employers to provide employees a duty-free, uninterrupted
4 thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and
5 it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and
6 all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior*
7 *Court* (2012) 53 Cal.4th 1004.

8 135. Employers must also provide employees with a second duty-free, uninterrupted thirty
9 (30) minute meal period when an employee works more than (10) hours in a workday, and it must
10 be provided before the end of the 10th hour of work. *Ibid.*

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

19 137. Employers must pay employees an additional hour of wages at the employees’
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
23 provide an employee a meal period in accordance with the applicable provision of this Order, the
24 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation

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

1 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

2 138. As explained above, PLAINTIFF and other Aggrieved Employees were consistently
3 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
4 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
5 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
6 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
7 periods completely.

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

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

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

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

23 143. These unlawful meal period policies and practices result in violations of Labor Code
24 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
25 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
26 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
27 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

28 **Rest Period Violations**

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

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

25 146. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
26 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained
27 above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject
28 to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties,

1 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
2 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

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

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

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

16 150. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
17 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
18 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

19 **Failure to Provide Suitable Resting Facilities**

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

24 152. DEFENDANTS' locations/facilities are generally similar in layout and design, and
25 there was, and continues to be, space that allows for a resting facility that employees may use to
26 cease work and recover during meal or rest periods. DEFENDANTS could have provided
27 PLAINTIFF and Aggrieved Employees with a resting facility within DEFENDANTS'
28 facilities/locations with reasonable or no modification, but instead denied and continues to deny,

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

5 153. DEFENDANTS did not provide PLAINTIFF and Aggrieved Employees with
6 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

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

10 **Minimum and Overtime Wage Violations**

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

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

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

1 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
2 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

3 158. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
4 Aggrieved Employees for all hours worked.

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

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

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

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

26 **Statutory Wage Violations**

27 163. California Labor Code section 223 makes it unlawful for an employer to secretly pay
28 wages lower than required by statute while purporting to pay legal wages. As described above,

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

10 **Refusal to Make Payment**

11 164. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
12 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
13 and continue to violate this section by failing to pay PLAINTIFF and Aggrieved Employees for all
14 hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
15 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
16 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
17 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
18 each Aggrieved Employee, for each pay period during which the statute provisions were violated.³

19 **Standard Conditions of Labor Violations**

20 165. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
21 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
22 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
23 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
24 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
25 minimum/overtime wages and other violations described herein result in separate violations of
26

27 ³ 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 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
2 1197.1 and 2699.

3 **Business Expense Violations**

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

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

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

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

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

28 171. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved

1 Employees have suffered injury in that they were not completely reimbursed as mandated by
2 California law.

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

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

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

14 **Wage Statement Violations**

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

24 176. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
25 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
26 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
27 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
28 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net

1 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
2 effect during the pay period and the corresponding number of hours worked at each hourly rate by
3 the employee, in violation of Labor Code section 226(a)(9).

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

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

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

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

1 181. Based on information and belief, wage statements issued by DEFENDANTS failed
2 to list the inclusive dates of the pay period for which the Class Member is being paid.

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

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

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

12 185. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
13 Aggrieved Employees with accurate, itemized wage statements.

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

23 187. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
24 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
25 during which the statute provisions were violated. ⁴

26 **Unlawful Deductions**

27 188. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
28

⁴ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 an employee any part of wages theretofore paid by said employer to said employee.” Based on
2 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
3 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
4 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
5 Section 2699.

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

12 **Reporting Time Pay Violations**

13 190. Section 5 of all applicable IWC Wage Orders, provides as follows:

14 191. (A) Each workday an employee is required to report for work and does report, but is
15 not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the
16 employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two
17 (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less
18 than the minimum wage. (B) If an employee is required to report for work a second time in any one
19 workday and is furnished less than two (2) hours of work on the second reporting said employee
20 shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the
21 minimum wage.

22 192. PLAINTIFF was not paid reporting time wages in accordance with California law,
23 including but not limited to the applicable IWC Wage Order. For example, based on information
24 and belief, at times, PLAINTIFF and/or other Aggrieved Employees reported to work for a
25 scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting
26 time pay wages in accordance with California law.

27 193. Based on information and belief, DEFENDANTS have a policy and practice of
28 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,

1 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
2 pay all reporting time wages to PLAINTIFF and Aggrieved Employees violated and continues to
3 violate the applicable Wage Order, and the California Labor Code, including but not limited to
4 section 1198.

5 **Violation of California Day of Rest Law**

6 194. Under California law, every employee in California is "entitled" to "one day's rest
7 [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in
8 seven." *See* Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of
9 the foregoing sections is a misdemeanor.

10 195. Based on information and belief, DEFENDANTS have and continue to have a
11 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
12 consecutively in a workweek, in violation of including but not limited to, Labor Code Section
13 551. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees were
14 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in
15 violation of California law, including but not limited to Labor Code Section 551.

16 **Seating Violations**

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

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

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

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

27 198. Suitable seating is one of the worker protections covered by California's Wage
28 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly

1 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
2 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

3 199. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
4 other Aggrieved Employees with suitable seating, and when such employees were not engaged in
5 duties which required them to stand, no seating was placed in reasonable proximity to their
6 workstations.

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

12 201. The Aggrieved Employees worked in various positions. The nature of PLAINTIFF's
13 and other Aggrieved Employees' work reasonably permitted the use of seats. However,
14 DEFENDANTS failed to provide suitable seating in reasonable proximity to Aggrieved Employees'
15 work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections
16 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and
17 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each
18 Aggrieved Employee, results in a separate civil penalty.

19 **Sick Leave Violations**

20 202. DEFENDANTS violated California's paid sick leave laws including, Labor Code
21 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
22 PLAINTIFF and other Aggrieved Employees or failed to properly accrue paid sick leave due to
23 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
24 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
25 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
26 compensation into the sick leave pay rate calculation.

27 203. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
28 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor

1 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
2 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
3 Aggrieved Employees' intelligent exercise of their paid sick leave.

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

8 205. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
9 documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all
10 Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees
11 were entitled to the maximum number of hours accruable.

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

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

18 208. On information and belief, PLAINTIFF alleges that all of these practices were
19 experienced and continue to be experienced by other Aggrieved Employees.

20 209. Accordingly, PLAINTIFF seeks all appropriate relief under the PAGA, the
21 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
22 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

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

24 210. Labor Code § 248.2 provides that all employers with 26 or more employees are
25 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
26 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
27 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved
28 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information

1 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
2 Labor Code section 248.6.

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

4 211. California Labor Code section 227.3 provides that when an employer policy provides
5 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
6 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
7 employee's final rate in accordance with such contract of employment or employer policy respecting
8 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
9 off upon termination.

10 212. Based on information and belief, DEFENDANTS had and continue to have a
11 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
12 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off
13 (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-
14 discretionary compensation, including but not limited to, shift differentials) to Aggrieved
15 Employees upon separation of employment, in violation of California law, including but not limited
16 to, Labor Code section 227.3.

17 **Untimely Payment of Final Wages**

18 213. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
19 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
20 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
21 employee not having a written contract for a definite period quits his or her employment, his or her
22 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
23 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
24 to his or her wages at the time of quitting."

25 214. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
26 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
27 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
28 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code

1 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
2 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

3 215. Based in information and belief, DEFENDANTS failed and continue to fail to timely
4 pay final wages to PLAINTIFF and Aggrieved Employees upon separation of employment in
5 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF
6 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
7 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
8 sick leave and/or paid time off wages at the properly accrued rates.

9 216. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
10 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
11 256.

12 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

13 217. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
14 require any employee or applicant for employment to agree, in writing, to any term or condition
15 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
16 continue to require PLAINTIFF and Aggrieved Employees to agree in writing to unlawful
17 conditions of employment including but not limited to unlawful criminal and/or financial checks as
18 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

19 218. The California Labor Code places certain procedural and substantive limits on an
20 employers’ ability to conduct employee background checks and on how employers can use the
21 information they obtain through those background checks. Labor Code section 1024.5 states that
22 employers, except for financial institutions, may order a credit check only if the individual works
23 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
24 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
25 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
26 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
27 background check, including but not limited to identifying an appropriate reason for the background
28 check, a separate consent form with required disclosures and certain formatting requirements,

1 additional forms such as a summary of rights, a way by which to request a copy of the report, as
2 well as proper notice of adverse actions taken, among other statutory requirements.

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

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

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

15 222. Based on further information and belief, DEFENDANTS knew that requiring
16 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
17 condition of obtaining and/or holding employment was unlawful.

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

20 Unlawful Inquires into Criminal History

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

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

1 application in violation of California law.

2 226. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
3 Code section 432.7. By asking about convictions at the application phase or prior to extending an
4 employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated
5 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
6 disclose arrests and/or convictions as a condition of employment.

7 Unlawful PAGA Waiver

8 227. Additionally, based on information and belief, one or more of the DEFENDANTS
9 violated Labor Code section 432.5 by requiring some Aggrieved Employees to agree in writing to
10 other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and/or
11 representative actions as a condition of employment.

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

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

23 230. Upon information and belief, one or more of the DEFENDANTS required some
24 Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation
25 of California law. By requiring these Aggrieved Employees to agree, in writing, to an unlawful
26 PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition
27 of employment which is a violation of labor code section 432.5.

28 **Failure to Provide a Safe and Healthful Workplace**

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

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

6 233. Labor Code section 6401 provides as follows:

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

11 235. Labor Code section 6402 prohibits the following:

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

14 237. Similarly, Labor Code section 6404 provides as follows:

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

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

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

20 241. (a) To provide and use safety devices and safeguards reasonably adequate to render
21 the employment and place of employment safe.

22 242. (b) To adopt and use methods and processes reasonably adequate to render the
23 employment and place of employment safe.

24 243. (c) To do every other thing reasonably necessary to protect the life, safety, and health
25 of employees.

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

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

1 246. Finally, Labor Code section 6407 provides:

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

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

8 249. At all relevant times, DEFENDANTS employed PLAINTIFF and Aggrieved
9 Employees subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times,
10 DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and
11 safeguards and of failing to adopt and use practices, means, methods, operations, and/or processes
12 which are reasonably adequate to render such employment and place of employment safe and
13 healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times
14 DEFENDANTS had and have a policy and practice of requiring or permitting employees to go or
15 be in in any employment or place of employment which is not safe and healthful, pursuant to Labor
16 Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of
17 failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render
18 the employment and place of employment safe; adopt and use methods and processes reasonably
19 adequate to render the employment and place of employment safe; and do every other thing
20 reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code
21 section 6403.

22 250. PLAINTIFF is informed and believes and thereon alleges that these failures include,
23 without limitation, failing to disinfect time clocks and other surfaces after use by PLAINTIFF and/or
24 other Aggrieved Employees; failing to provide adequate protection equipment (e.g., face masks) to
25 PLAINTIFF, other Aggrieved Employees; and failing to provide adequate distance in working
26 conditions between PLAINTIFF and/or other Aggrieved Employees.

27 251. At all relevant times, DEFENDANTS had a policy and practice of failing to give
28 sufficient, adequate and proper notice to PLAINTIFF and/or other Aggrieved Employees of the

1 COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace
2 exposure from a qualifying individual as required by Labor Code section 6409.6. PLAINTIFF is
3 informed and believes that numerous employees contracted COVID-19 during the relevant time
4 periods, but that DEFENDANTS failed to provide notice to employees. Based on further
5 information and belief, DEFENDANTS do not or did not keep adequate records of written
6 notifications required in subdivision (a) for a period of at least three years.

7 252. 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 notice
9 of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other Aggrieved
10 Employees and/or their exclusive representatives, who were on the premises at the same worksite
11 as a qualifying individual who was within the infectious period that they may have been exposed to
12 COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and
13 practice of failing within one business day after DEFENDANTS or a representative of EMLOYER
14 received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other Aggrieved
15 Employees who were on the premises at the same worksite as the qualifying individual within the
16 infectious period and the exclusive representative, if any, with information regarding COVID-19-
17 related benefits to which the employee may be entitled under applicable federal, state or local laws,
18 including but not limited to, workers' compensation, and options for exposed employees, including
19 COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or
20 negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the
21 employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and
22 6432.

23 253. At all relevant times, DEFENDANTS had and have a policy and practice of failing
24 within one business day after DEFENDANTS or a representative of DEFENDANTS received a
25 notice of potential exposure to COVID-19 to notify PLAINTIFF and other Aggrieved Employees
26 who were on the premises at the same worksite as the qualifying individual within the infectious
27 period, and the employers of the subcontracted employees who were on the premises at the same
28 worksite as the qualifying individual within the infectious period and the exclusive representative,

1 if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of
2 the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per
3 the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, DEFENDANTS violated,
4 without limitation, Labor Code sections 6409.6 and 6432.

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

13 255. PLAINTIFF is informed and believes, and based thereon alleges that
14 DEFENDANTS violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and
15 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule
16 for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and
17 serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or
18 blowers; and a sufficient number of toilets to be used by each of sex of employee.

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

26 257. Based on information and belief, DEFENDANTS failed to protect Aggrieved
27 Employees from exposure to COVID-19 due to, including but not limited to, failing to
28 maintain/update DEFENDANTS' workplace safety plans and/or procedures to properly address

1 hazards related to the COVID-19 virus.

2 258. As such, DEFENDANTS failed to comply with the occupational safety and health
3 standards, failed to do everything reasonably necessary to protect the health and safety of
4 employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices
5 necessary to maintain a safe and healthful workplace.

6 259. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
7 Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF and Aggrieved Employees and
8 is subject to civil penalties.

9 260. Under the provisions of PAGA and the above mentioned Labor Code sections,
10 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
11 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1194, 1197,
12 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 6400-6404, 6406-6407, 6409.6, 6432 and
13 all applicable Wage Orders as well as all interpretations of these laws by California Courts and
14 administrative bodies, as well as any other law that is enforceable through PAGA, DEFENDANTS
15 are liable for the following penalties:

- 16 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
17 relevant California Labor Code provisions listed herein only if permitted by the
18 PAGA statute, pursuant to Labor Code section 2699(a); and
19 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
20 violations without a civil penalty recoverable under the PAGA, all in the default
21 amounts provided by Labor Code section 2699(f).
22 c. The proper measure of penalties under PAGA is the number of violations,
23 whether those violations were committed as against PLAINTIFF or any
24 Aggrieved Employee, whether a party to this action or not.

25 261. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
26 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: July 19, 2023

CROSNER LEGAL, PC

By: 
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PRICILLA COOPER