

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
Artur Tunyan (SBN 349174)
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N Brand Blvd. Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

FILED
Superior Court of California
County of Los Angeles
04/08/2024

David W. Slayton, Executive Officer / Clerk of Court
By: B. Chavez Deputy

Attorneys for Plaintiff JORGE L. VASQUEZ HERNANDEZ as an individual
and on behalf of all employees similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JORGE L. VASQUEZ HERNANDEZ,
individually, and on behalf of all others
similarly situated,

Plaintiff,

vs.

CALIBER AEROSPACE, LLC, a Texas
Limited Liability Company; EMPLOYER
SOLUTIONS STAFFING GROUP II, LLC, a
Minnesota Limited Liability Company; and
DOES 1 through 10, inclusive,

Defendants

Case No. 23STCV20323

FIRST AMENDED COMPLAINT

1. Violation of Labor Code §§ 204, 246, 510, 1194, 1198 (Failure to Pay All Wages);
2. Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods);
3. Violation of Labor Code § 226.7 (Failure to Provide Rest Periods);
4. Violation of Labor Code § 226, (Failure to Keep Accurate Itemized Wage Statements);
5. Violation of Labor Code §§ 201-203 (Failure to Pay Wages Upon Termination of Employment);
6. Violation of Labor Code § 2802 (Failure to Reimburse for Necessary Expenditures);
7. Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices); and
8. Violation of the Private Attorneys General Act, Labor Code sections 2698, et seq

DEMAND FOR JURY TRIAL

1 Plaintiff JORGE L. VASQUEZ HERNANDEZ (hereinafter referred to as “Plaintiff”) on
2 behalf of himself and all others similarly situated, and as representative of the State of California
3 and the Labor and Workforce Development Agency (“LWDA”), based upon facts that either have
4 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
5 further investigation and discovery, complains and alleges as follows:

6 **INTRODUCTION**

7 1. This is a class action brought on behalf of Plaintiff and the class he seeks to
8 represent (“Class” or “Class Members”). Class Members consist of all non-exempt, hourly-paid
9 employees currently and/or formerly employed by CALIBER AEROSPACE, LLC and all non-
10 exempt, hourly-paid employees currently and/or formerly employed by EMPLOYER
11 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER AEROSPACE, LLC in the
12 State of California during the Class Period. The term “Class Period” is defined from June 20,
13 2022 through the date final judgment is entered.

14 2. Plaintiff, individually and on behalf of the class he seeks to represent, seeks relief
15 against CALIBER AEROSPACE, LLC, EMPLOYER SOLUTIONS STAFFING GROUP II,
16 LLC and Does 1 through 10 (CALIBER AEROSPACE, LLC, EMPLOYER SOLUTIONS
17 STAFFING GROUP II, LLC and Does 1 through 10 are collectively referred to as “Defendants”)
18 for Defendants’ failure to pay all wages due in violation of Labor Code Sections 204, 510 and
19 1194, including both regular and overtime wages; failure to pay sick leave and provide employees
20 with written notice of accrued sick leave in violation of Labor Code Section 246; failure to provide
21 meal periods or compensation in lieu thereof pursuant to Labor Code Sections 226.7 and 512, the
22 applicable Industrial Welfare Commission Wage Orders, and Code of Regulations, Title 8,
23 Section 11000 et seq.; failure to provide rest periods or compensation in lieu thereof pursuant to
24 Labor Code Sections 226.7 and 512, the applicable Industrial Welfare Commission Wage Orders,
25 and Code of Regulations, Title 8, Section 11000 et seq.; failure to provide accurate itemized wage
26 statements upon payment of wages pursuant to Labor Code Sections 226, subdivision (a), 1174,
27 and 1175; failure to reimburse for necessary expenditures pursuant to Labor Code Section 2802;

1 and failure to pay wages of terminated or resigned employees pursuant to Labor Code Sections
2 201, 202, and 203.

3 3. Plaintiff seeks equitable remedies in the form of declaratory relief and injunctive
4 relief, and relief under Business and Professions Code Section 17200 et seq. for unfair business
5 practices.

6 4. At all relevant times herein, Defendants have consistently maintained and enforced
7 against Plaintiff and Class the following unlawful practices and policies:

- 8 (a) willfully refusing to pay Plaintiff and Class for all hours worked, including
9 both regular and overtime;
- 10 (b) willfully refusing to permit Plaintiff and Class from taking meal periods or
11 compensation in lieu thereof;
- 12 (c) willfully refusing to permit Plaintiff and Class from taking rest periods or
13 compensation in lieu thereof;
- 14 (d) willfully refusing to furnish to Plaintiff and Class accurate itemized wage
15 statements upon payment of wages;
- 16 (e) willfully refusing to compensate Plaintiff and certain members of the Class
17 wages and accrued vacation due and owing at the time of Plaintiff and
18 Class Members' employment with Defendants ended; and
- 19 (f) willfully refusing to reimburse Plaintiff and Class for necessary
20 expenditures.

21 5. On information and belief, Defendants were on actual and constructive notice of
22 the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
23 Defendants' violations, as alleged above, during all relevant times herein were willful and
24 deliberate.

25 6. At all relevant times, Defendants were and are legally responsible for all of the
26 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
27 foregoing paragraphs as the employer of Plaintiff and Class. Further, Defendants are
28

1 responsible for each of the unlawful acts or omissions complained of herein under the doctrine
2 of “respondeat superior”.

3 7. Plaintiff further brings this action as a representative of the State of California
4 and the Labor and Workforce Development Agency (“LWDA”) to recover civil penalties
5 pursuant to the Private Attorneys General Act (“PAGA”), Labor Code sections 2698, et seq.,
6 for violations of numerous Labor Code provisions, including, but not limited to, sections 201-
7 203, 204, 226, 226.7, 246, 510, 512, 1174, 1194, 1198, 2802 as well as violations of the
8 applicable Wage Order.

9 **JURISDICTION AND VENUE**

10 8. Venue is proper in this judicial district and in the County of Los Angeles,
11 California because Defendants maintained their location and/or transacted business in this county,
12 the obligations and liability arise in this county, and work was performed by members of the
13 proposed class made the subject of this action in this county.

14 9. The wages, statutory penalties, monetary damages and restitution sought by
15 Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established
16 according to proof at trial. This Court has jurisdiction over this action pursuant to the California
17 Constitution, article VI, Section 10. The statutes under which this action is brought do not specify
18 any other basis for jurisdiction.

19 10. The California Superior Court has jurisdiction in the matter because the individual
20 claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional threshold for
21 Federal Court and the five million dollars (\$5,000,000.00) aggregate jurisdictional threshold for
22 Federal Court and, upon information and belief, Plaintiff and Defendants are residents of,
23 domiciled in, or otherwise subject to jurisdiction in the State of California. Further, there is no
24 federal question at issue as the issues herein are based solely on California statutes and law
25 including the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, the Code of
26 Civil Procedure, the Rules of Court, and the Business and Professions Code.

27 ///

THE PARTIES

A. Plaintiff

11. Plaintiff, at all relevant times herein, was Defendants' employee and was entitled to compensation for all hours worked, including regular time and overtime compensation, and penalties from Defendants. Plaintiff was employed by Defendants as a non-exempt, hourly paid employee during the Class Period. Specifically, Plaintiff worked as a machine operator from approximately July 2022 to May 17, 2023 at Defendants' facility located at 13226 Halldale Avenue, Gardena, California 90249. Each of the Class Members are identifiable, current and/or former similarly situated persons who were employed in non-exempt hourly positions in California by Defendants during the Class Period.

B. Defendants

12. Plaintiff is informed and believes, and based thereon alleges, that that Defendant CALIBER AEROSPACE, LLC is:

(a) A Texas Limited Liability Company doing business in Los Angeles, California.

(b) The former employer of Plaintiff, and the current and/or former employer of the Class Members.

13. Plaintiff is informed and believes, and based upon that information and belief alleges, that Defendant EMPLOYER SOLUTIONS STAFFING GROUP II, LLC is:

(a) A Minnesota Limited Liability Company doing business in Los Angeles, California.

(b) The former employer of Plaintiff, and the current and/or former employer of the Class Members.

14. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 10, inclusive, but on information and belief alleges that these Defendants are legally responsible for the payment of overtime compensation, rest and meal period compensation, and wages to Plaintiff and Class by virtue of their unlawful practices, and therefore sues these Defendants by such

1 fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of
2 each DOE Defendants when ascertained.

3 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
4 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
5 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants
6 are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as
7 the employer and/or joint employer of Plaintiff and Class.

8 16. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
9 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
10 managing agent, and/or principal of the Defendants, and in performing the actions mentioned
11 below was acting, at least in part, within the course and scope of that authority as such agent,
12 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
13 permission and consent of the Defendants. Plaintiff also alleges the acts of each Defendants are
14 legally attributable to the other Defendants.

15 17. Plaintiff is informed and believes, and based thereon alleges, that each of the
16 Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder,
17 principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing
18 agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in
19 part, within the course and scope of such employment and agency, with the express and implied
20 permission, consent, and knowledge, approval and/or ratification of the other Defendants.

21 18. The above Defendants, managing agents, and supervisors aided, abetted,
22 condoned, permitted, approved, authorized and/or ratified the unlawful acts described herein.

23 **ADMINISTRATIVE PREREQUISITE**

24 19. On June 20, 2023, prior to filing this complaint, Plaintiff gave written notice by
25 electronically filing the notice with the Labor Workforce Development Agency ("LWDA")
26 (LWDA Case No. LWDA- 963235-23) and by certified mail to Defendants of the specified
27 provisions alleged to have been violated, including the facts and theories to support the alleged
28 violations as required by Labor Code Section 2699.3.

1 employees all wages due, and failed to pay those wages twice a month, in that employees were
2 not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods
3 not authorized and permitted by Defendants, and all wages for all hours worked.

4 26. Further, Business and Professions Code Section 17203 provides that any person
5 who engages in unfair competition may be enjoined in any court of competent jurisdiction.
6 Business and Professions Code Section 17204 provides that any person who has suffered actual
7 injury and has lost money or property as a result of the unfair competition may bring an action in
8 a court of competent jurisdiction.

9 27. During all, or a portion of the Class Period, Plaintiff and each member of the Class
10 was employed by Defendants in the State of California.

11 28. Plaintiff and Class Members were non-exempt employees covered under one or
12 more IWC Wage Order(s), and Labor Code Section 510, and/or other applicable Wage Orders,
13 regulations and statutes, and each Class Member was not subject to an exemption for executive,
14 administrative or professional employees, which imposed obligations on the part of Defendants
15 to pay Plaintiff and Class Members lawful overtime compensation.

16 29. Plaintiff and Class were covered by one or more IWC Wage Order(s), and Labor
17 Code Section 226.7 and other applicable Wage Orders, regulations and statutes which imposed
18 an obligation on the part of Defendants to pay Plaintiff and Class rest and meal period
19 compensation.

20 30. During the Class Period, Defendants were obligated to pay Plaintiff and Class
21 Members for all hours worked. However, Defendants failed to pay Plaintiff and Class
22 Members for all hours worked at the legally mandated wage rates, including all overtime
23 wages. Defendants regularly used a system of time rounding in a manner that resulted, over a
24 period of time, in failing to compensate Plaintiff and Class Members properly for all the time
25 they have actually worked, even though the realities of Defendants' operations are such that it
26 is possible, practical, and feasible to count and pay for work time to the minute. Accordingly,
27 Defendants frequently paid Plaintiff and Class Members less than all their work time. Some of
28

1 this unpaid work also should have been paid at the overtime rate. Throughout the Class Period,
2 Defendants maintained a policy and practice of requiring Plaintiff and Class Members to
3 perform work “off-the-clock”. Plaintiff and Class Members were required to arrive earlier than
4 their scheduled start time to perform some preparatory work like turning on the machines and
5 other preparatory work but were only required to clock in to work five minutes prior to the
6 scheduled start of the shift not to create overtime. Plaintiff and Class Members were not
7 compensated for all the time worked prior to clocking in to work. Defendants regularly
8 required Plaintiff and Class Members to clock out at the end of their shifts but continue
9 working to complete additional tasks including but not limited to cleaning the working area.
10 Defendants required Plaintiff and Class Members to work through their meal periods requiring
11 them to clock out but continue working. Plaintiff and Class Members were also required to use
12 their personal cellular telephones for work purposes at home after their scheduled work time to
13 communicate with Defendants’ supervisors as well as to use the application downloaded on
14 their personal cell phones to check their schedules and worked hours. Plaintiff and Class
15 Members would also use their personal vehicles to drive to stores to purchase some materials
16 necessary to perform their work after their scheduled working hours but were not compensated
17 for that time. In maintaining a practice of not paying all wages owed, Defendants failed to
18 maintain accurate records of the hours Plaintiff and Class Members worked.

20 31. During the Class Period, Defendants were obligated to pay Plaintiff and Class
21 Members overtime compensation for all hours worked in excess of eight (8) hours of work in one
22 (1) day or forty (40) hours in one (1) week and double-time compensation for hours worked in
23 excess of twelve (12) in one (1) day. However, often times Plaintiff and Class Members were
24 required to work overtime in excess of eight (8) hours per workday and in excess of forty (40)
25 hours per workweek but were not paid at the proper overtime rate of pay.

26 32. During the Class Period, Defendants were obligated to provide Plaintiff and Class
27 with a work-free meal period within the first five (5) hours of a shift when the workday was
28 longer than six (6) hours. Plaintiff and Class Members were entitled to a full, thirty (30) minute,

1 off-duty meal period when they worked in excess of six (6) hours within the first five (5) hours
2 of their shifts. However, Plaintiff and Class Members were routinely not provided with timely,
3 30-minute off-duty meal periods, and were not permitted and authorized to take uninterrupted
4 rest periods. Moreover, Defendants did not have adequate written policies or practices providing
5 meal periods for Plaintiff and Class, nor did Defendants have adequate policies or practices
6 regarding the timing of meal periods. Plaintiff and Class Members would often times miss their
7 meal periods, have interrupted, late or short meal periods. Defendants required Plaintiff and
8 Class Members to work through their meal periods requiring them to clock out but continue
9 working. Plaintiff and Class Members had never been authorized or taken their second meal
10 periods when their shifts exceeded 10 hours. Accordingly, Defendants' policy and practice was
11 to not provide meal periods to Plaintiff and Class in compliance with California law.

12 33. Additionally, Defendants were obligated to provide Plaintiff and Class Members
13 with a ten (10) minute rest break for every four (4) hours, or major fraction thereof, worked each
14 day. Defendants prevented Plaintiff and Class Members from taking rest breaks throughout their
15 shifts. Plaintiff and Class Members were generally precluded from taking rest periods due to
16 Defendants' failure to maintain the rest break policy to provide relief and thereby allow Plaintiff
17 and Class Members the opportunity to take rest breaks. Moreover, Defendants did not have
18 adequate policies or practices permitting or authorizing rest periods for Plaintiff and Class, nor
19 did Defendants have adequate policies or practices regarding the timing of rest periods. Plaintiff
20 and Class Members would mostly miss their first, second and third rest periods or have interrupted
21 or short rest periods. Defendants required Plaintiff and Class Members to interrupt their rest
22 periods and return to work as soon as they had an assignment to do. Accordingly, Defendants'
23 policy and practice was for Plaintiff and Class to work through rest periods and to not authorize
24 or permit them to take any rest periods.

25 34. Further, due to the pressure from Defendants and failure to maintain an adequate
26 policy, and in violation of Labor Code and applicable IWC Wage Orders, Plaintiff was not
27 authorized and permitted to take a second rest period, on shifts exceeding six hours of work,
28 and/or third rest breaks, on shifts exceeding ten hours of work. *Brinker Restaurant Corp. v.*

1 *Superior Court*, 53 Cal.4th 1004, 1030 (2012). “Employees are entitled to 10 minutes rest for
2 shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours
3 up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.”

4 35. Furthermore, Defendants failed and/or refused to pay Plaintiff and Class Members
5 one (1) hour’s pay at the employees’ regular rate of pay as premium compensation for
6 Defendants’ failure to provide lawful thirty (30) minute, off-duty meal periods and failure to
7 provide lawful ten (10) minute rest periods within the statutory time frames.

8 36. Defendants also failed to indemnify Plaintiff and Class Members all necessary
9 expenditures incurred in direct discharge of their duties. During the Class Period, Defendants
10 required Plaintiff and Class Members to purchase some materials necessary for performing their
11 work but failed to reimburse them for those expenses. Plaintiff and Class Members were also
12 required to use their personal vehicles to drive to stores to purchase some materials necessary to
13 perform their work but were not reimbursed for mileage. Further, Plaintiff and Class Members
14 were required to use their cellular telephones for work purposes to communicate with supervisors
15 as well as to use the application downloaded on their personal cell phones to check their schedules
16 and hours, but they were not reimbursed for cell phone usage. Plaintiff and Class incurred these
17 substantial expenses as a direct result of performing their job duties for Defendants, and
18 Defendants have failed to indemnify Plaintiff and Class for these employment-related expenses.

19 37. Labor Code § 246 (a) an employee who, on or after July 1, 2015, works in
20 California for the same employer for 30 or more days within a year from the commencement of
21 employment is entitled to paid sick days. Labor Code § 246 (i) requires employers to provide an
22 employee with written notice that sets forth the amount of paid sick leave available.

23 38. Throughout the Class Period, Defendants maintained a policy and practice of
24 failing to provide Plaintiff and Class Members with paid sick leave as well as to provide a written
25 notice of accrued paid sick leave. On information and belief, Defendants’ failure to provide an
26 employee with written notice that sets forth the amount of paid sick leave available was not a
27 single, isolated incident, but was instead part of Defendants’ policy and practice that applied to
28 Class Members.

1 39. Defendants continue to employ non-exempt, hourly-paid employees within
2 California.

3 40. Plaintiff and Class Members primarily performed non-exempt work, often in
4 excess of the maximum regular rate hours set forth in the applicable IWC Wage Order(s),
5 regulations or statutes, and therefore entitled the Plaintiff and Class Members to overtime
6 compensation at the rate of one and a half times their regular rate of pay and, when applicable,
7 double time compensation as set forth by the applicable IWC Wage Order(s), regulations and/or
8 statutes.

9 41. During the Class Period, Defendants required Plaintiff and Class Members to work
10 regular hours, off the clock hours, and overtime hours without lawful compensation in violation
11 of the applicable IWC Wage Order(s), regulations and statutes, and Defendants: (1) willfully
12 failed and refused, and continue to fail and refuse to pay compensation for all hours worked,
13 including lawful regular time and overtime compensation, to Class Members; and (2) willfully
14 failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon
15 termination of employment to Plaintiff and affected Class Members.

16 42. Class Members who ended their employment with Defendants during the Class
17 Period but were not paid the above due compensation for all hours worked timely upon the
18 termination of their employment as required by Labor Code Sections 201, 202, and 203 are
19 entitled to penalties as provided by Labor Code Section 203.

20 43. During the Class Period, Defendants failed to furnish Plaintiff and Class with
21 accurate, itemized wage statements showing all applicable hourly rates, and all gross and net
22 wages earned (including correct hours worked, correct wages earned for hours worked, correct
23 overtime hours worked, correct wages for meal periods that were not provided in accordance
24 with California law, correct wages for rest periods that were not authorized and permitted to
25 take in accordance with California law). As a result of these violations of California Labor
26 Code § 226(a), Plaintiff and Class suffered injury because, among other things:
27
28

- 1 (a) the violations led them to believe that they were not entitled to be paid
2 minimum wages, overtime wages, meal period premium wages, and rest
3 period premium wages to which they were entitled, even though they were
4 entitled;
- 5 (b) the violations led them to believe that they had been paid the minimum,
6 overtime, meal period premium, and rest period premium wages, even
7 though they had not been;
- 8 (c) the violations led them to believe they were not entitled to be paid overtime,
9 meal period premium, and rest period premium wages at the correct
10 California rate even though they were;
- 11 (d) the violations led them to believe they had been paid overtime, meal period
12 premium, and rest period premium wages at the correct California rate even
13 though they had not been;
- 14 (e) the violations hindered them from determining the amounts of overtime,
15 meal period premium, and rest period premium owed to them;
- 16 (f) in connection with their employment before and during this action, and in
17 connection with prosecuting this action, the violations caused them to have
18 to perform mathematical computations to determine the amounts of wages
19 owed to them, computations they would not have to make if the wage
20 statements contained the required accurate information;
- 21 (g) by understating the wages truly due them, the violations caused them to lose
22 entitlement and/or accrual of the full amount of Social Security, disability,
23 unemployment, and other governmental benefits;
- 24 (h) the wage statements inaccurately understated the wages, hours, and wages
25 rates to which Plaintiff and Class were entitled, and Plaintiff and Class were
26 paid less than the wages and wage rates to which they were entitled.
27
28

1 Thus, Plaintiff and Class are owed the amounts provided for in California Labor Code §
2 226(e), including actual damages.

3 44. Defendants knew or should have known that Plaintiff and Class members were
4 entitled to receive accurate wage statements, which would include meal break premiums, and/or
5 rest break premiums, as required by Labor Code 226.

6 45. Defendants knew or should have known that Plaintiff and Class Members were
7 entitled to timely payment of all wages earned upon termination. Plaintiff and Class Members did
8 not receive payment of all wages, including but not limited to, meal and rest break premiums, in
9 violation of the Labor Code.

10
11 **CLASS ALLEGATIONS**

12 46. Plaintiff brings this action on behalf of himself and all other similarly situated
13 persons as a class action pursuant to Code of Civil Procedure Section 382. The Class is composed
14 of and defined as follows:

15 (a) All non-exempt, hourly-paid employees currently and/or formerly employed
16 by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
17 employees currently and/or formerly employed by EMPLOYER
18 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
19 AEROSPACE, LLC in the State of California from June 20, 2022 to the
20 present, and who were not paid all wages owed, including but not limited to
21 the legally requisite regular time rate, overtime rate and/or double-time rate as
22 specifically described herein;

23 (b) (a) All non-exempt, hourly-paid employees currently and/or formerly
24 employed by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
25 employees currently and/or formerly employed by EMPLOYER
26 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
27 AEROSPACE, LLC in the State of California from June 20, 2022 to the
28 present, and who have not been provided a meal period for shifts in excess of

1 five (5) hours within the first five (5) hours such shifts, and were not provided
2 one (1) hour's pay for each day during which a lawful meal period was not
3 provided;

4 (c) All non-exempt, hourly-paid employees currently and/or formerly employed
5 by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
6 employees currently and/or formerly employed by EMPLOYER
7 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
8 AEROSPACE, LLC in the State of California from June 20, 2022 to the
9 present, and who have not been provided a rest period for every four (4) hours,
10 or major fraction thereof, worked per day, and were not provided
11 compensation of one (1) hour's pay for each day on which such rest period(s)
12 was not provided;

13 (d) All non-exempt, hourly-paid employees currently and/or formerly employed
14 by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
15 employees currently and/or formerly employed by EMPLOYER
16 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
17 AEROSPACE, LLC in the State of California from June 20, 2022 to the
18 present, and who have worked as non-exempt employees and have not been
19 reimbursed expenditures in discharge of their duties;

20 (e) All non-exempt, hourly-paid employees currently and/or formerly employed
21 by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
22 employees currently and/or formerly employed by EMPLOYER
23 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
24 AEROSPACE, LLC in the State of California from June 20, 2022 to the
25 present, and who have been terminated or resigned, and have not been paid
26 wages pursuant to Labor Code Section 203 and are owed restitution and
27 waiting time penalties for unpaid wages;
28

1 (f) All non-exempt, hourly-paid employees currently and/or formerly employed
2 by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
3 employees currently and/or formerly employed by EMPLOYER
4 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
5 AEROSPACE, LLC in the State of California, and who, within the one (1)
6 year of the filing of this Complaint to the present have worked as non-exempt
7 employees and were not provided an accurate payroll record or wage statement
8 as required under Labor Code Sections 226 and 1174;

9 (g) All non-exempt, hourly-paid employees currently and/or formerly employed
10 by CALIBER AEROSPACE, LLC and all non-exempt, hourly-paid
11 employees currently and/or formerly employed by EMPLOYER
12 SOLUTIONS STAFFING GROUP II, LLC to work for CALIBER
13 AEROSPACE, LLC from June 20, 2022 to the present in the State of
14 California, and who were subjected to unlawful and unfair business practices
15 within the meaning of California's Unfair Competition Law and who suffered
16 injury, including lost money, as a result of Defendants' unlawful and unfair
17 business practices.

18 47. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or
19 necessary to amend the definition of the Class. Plaintiff will formally define and designate a class
20 definition at such time when Plaintiff seeks to certify the Class alleged in this Complaint.

21 48. This action has been brought and may be maintained as a class action pursuant to
22 Code of Civil Procedure Section 382 because there is a well-defined common interest of many
23 persons and it is impractical to bring them all before the court.

24 49. The Court should permit this action to be maintained as a class action pursuant to
25 Code of Civil Procedure Section 382 because:

26 (a) The questions of law and fact common to Class predominate over any
27 question affecting only individual class members;
28

- (b) A class action is superior to any other available method for the fair and efficient adjudication of the claims of the Class members;
- (c) Class is so numerous that it is impractical to bring all members of the Class before the Court;
- (d) Plaintiff and Class Members will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the common law and statutory violations and other improprieties and in obtaining adequate compensation for the damages and injuries which Defendants' actions have inflicted upon Class;
- (f) There is a community of interest in ensuring that the combined assets and available insurance of the Defendants are sufficient to adequately compensate Class Members for the injuries sustained;
- (g) Without class certification, the prosecution of separate actions by individual members of the Class would create a risk of:
- (1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish an incompatible standard of conduct for Defendants; and/or
 - (2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and
- (h) Defendants have acted or refused to act on grounds generally applicable to Class, thereby making final injunctive relief appropriate with respect to Class as a whole.

50. There is a well-defined community of interest in the litigation and Class is

1 readily ascertainable:

- 2 (a) Numerosity: The members of Class (and each subclass, if any) are so
3 numerous that joinder of all members would be unfeasible and impractical.
4 The membership of the entire Class is unknown to Plaintiff at this time,
5 however, the Class is estimated to be greater than 80 individuals and the
6 identity of such membership is readily ascertainable by inspection of
7 Defendants' records.
- 8 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
9 interests of each Class Member with whom there is a shared, well-defined
10 community of interest, and Plaintiff's claims (or defenses, if any) are typical
11 of all Class Members' claims as demonstrated herein.
- 12 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
13 the interests of each Class Member with whom there is a shared, well-
14 defined community of interest and typicality of claims, as demonstrated
15 herein. Plaintiff has no conflicts with or interests antagonistic to any Class
16 Member. Plaintiff's attorneys, the proposed class counsel, are versed in the
17 rules governing class action discovery, certification, and settlement.
18 Plaintiff has incurred, and throughout the duration of this action, will
19 continue to incur costs and attorneys' fees that have been, are, and will be
20 necessarily expended for the prosecution of this action for the substantial
21 benefit of each class member.
- 22 (d) Superiority: A Class Action is superior to other available methods for the
23 fair and efficient adjudication of the controversy, including consideration of:
24
25 1. The interests of the members of the Class in individually
26 controlling the prosecution or defense of separate actions;
27
28 2. The extent and nature of any litigation concerning the

1 controversy already commenced by or against members of the
2 Class;

3 3. The desirability or undesirability of concentrating the
4 litigation of the claims in the particular forum; and

5 4. The difficulties likely to be encountered in the management of
6 a class action.

7 (e) Public Policy Considerations: The public policy of the State of California is
8 to resolve the California Labor Code claims of many employees through a
9 class action. Indeed, current employees are often afraid to assert their rights
10 out of fear of direct or indirect retaliation. Former employees are also
11 fearful of bringing actions because they believe their former employers
12 might damage their future endeavors through negative references and/or
13 other means. Class actions provide the class members who are not named in
14 the complaint with a type of anonymity that allows for the vindication of
15 their rights at the same time as their privacy is protected.
16

17 51. Plaintiff contemplates the eventual issuance of notice to the proposed members of
18 the Class that would set forth the subject and nature of the instant action. Defendants' own
19 business records may be utilized for assistance in the preparation and issuance of the
20 contemplated notices. To the extent that any further notices may be required, Plaintiff would
21 contemplate the use of additional techniques and forms commonly used in class actions, such as
22 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by
23 other methods suitable to Class and deemed necessary and/or appropriate by the Court.

24 **FIRST CAUSE OF ACTION**

25 **Failure to Pay All Wages for All Hours Worked**

26 **(Against Defendants, DOES 1 through 10, and each of them)**

27 52. Plaintiff and Class Members re-allege and incorporate by reference all preceding
28 paragraphs of this First Amended Complaint as though fully set forth herein.

1 53. Labor Code Section 510, subdivision (a) states in pertinent part: “Any work in
2 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek...
3 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for
4 any employee.”

5 54. Labor Code Section 1194, subdivision (a) states: “Notwithstanding any agreement
6 to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
7 overtime compensation applicable to the employee is entitled to recover in a civil action the
8 unpaid balance of the full amount of this minimum wage or overtime compensation, including
9 interest thereon, reasonable attorney's fees, and costs of suit.”

10 55. Further, pursuant to Labor Code Section 1197, payment of less than the minimum
11 wage fixed by the Labor Commission is unlawful.

12 56. Pursuant to Labor Code Section 1198, it is unlawful to employ persons for longer
13 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
14 IWC Wage Order(s).

15 57. Pursuant to the IWC Wage Order(s), Defendants is required to pay Plaintiff and
16 Class Members for all hours worked, meaning the time during which an employee is subject to
17 the control of an employer, including all the time the employee is suffered or permitted to work,
18 whether or not required to do so.

19 58. Pursuant to Labor Code Section 551 that every person employed in any
20 occupation of labor is entitled to one day’s rest in seven. Additionally, Labor Code Section 552
21 prohibits employers from requiring employees to work more than six consecutive days without a
22 day of rest. Defendants scheduled Plaintiff and Class Members to work six (6) or more hours per
23 day and more than seven (7) consecutive days in a workweek in violation of Labor Code
24 requirements.

25 59. Plaintiff and Class Members were required to work overtime in excess of eight (8)
26 hours per workday and in excess of forty (40) hours per workweek, but were not paid at the proper
27 overtime rate of pay.

60. Labor Code Section 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as regular paydays. Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during Class period, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked.

61. Defendants' pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code Section 218, to recovery by Plaintiff and the members of the Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the appropriate rate.

62. Pursuant to Labor Code Section 1194.2(a) (which provides that in any action under Labor Code § 1194, an employee shall be entitled to recover liquidated damages), the members of Class seek recovery of liquidated damages on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

63. That calculation of individual damages for Class Members may at some point be required does not foreclose the possibility of taking common evidence on questions regarding their entitlement to overtime compensation. *Collins v. Rocha* (1972) 7 Cal.3d 232; *Hypolite v.*

1 *Carleson* (1975) 52 Cal.App.3d 566; *Employment Development Dept. v. Superior Court* (1981)
2 30 Cal.3d 256).

3 64. Pursuant to Labor Code Sections 218.6 and 1194(a) and Civil Code Section 3287,
4 Class Members seek recovery of pre-judgment interest on all amounts recovered herein.

5 65. Pursuant to Labor Code Sections 218.5 and/or 1194, Class Members request that
6 the Court award reasonable attorneys' fees and costs incurred by them in this action.

7 **SECOND CAUSE OF ACTION**

8 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**

9 **(Against Defendants, DOES 1 through 10, and each of them)**

10 66. Plaintiff and Class Members re-allege and incorporate by reference all preceding
11 paragraphs of this First Amended Complaint as though fully set forth herein.

12 67. Labor Code Sections 226.7 and 512 provide that no employer shall employ any
13 person for a work period of more than five (5) hours without providing a meal period of not less
14 than thirty (30) minutes within the fifth (5th) hour of work, or employ any person for a work
15 period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30)
16 minutes.

17 68. Labor Code Section 226.7 provides that if an employer fails to provide an
18 employee a meal period in accordance with this Section, the employer shall pay the employee one
19 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
20 period is not provided in accordance with this Section.

21 69. Defendants failed to schedule Plaintiff and Class Members in a manner as to
22 reasonably ensure that Plaintiff and Class Members could take such meal periods within the
23 statutory timeframe. As a result, Plaintiff and Class were often forced to forego their meal
24 periods, work during their meal periods and/or take meal periods after the fifth (5th) hour of their
25 shifts. In so doing, Defendants has intentionally and improperly denied meal periods to Plaintiff
26 and Class Members in violation of Labor Code Sections 226.7 and 512, and other regulations and
27 statutes.

1 70. At all times relevant hereto, Plaintiff and Class have worked more than five (5)
2 hours in a workday.

3 71. At all times relevant hereto, Defendants failed to schedule Plaintiff and Class
4 Members in a manner so as to reasonably provide work-free meal periods in accordance with
5 Labor Code Sections 226.7 and 512.

6 72. By virtue of Defendants' failure to schedule Plaintiff and Class Members in such
7 a way as to provide a timely and/or work free meal period to Plaintiff and Class Members, Plaintiff
8 and Class Members have suffered, and will continue to suffer, damages in an amount which is
9 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
10 ascertained according to proof at trial.

11 73. Plaintiff, individually and on behalf of Class Members, requests recovery of meal
12 period compensation pursuant to Labor Code Section 226.7 for the four (4) years prior to filing
13 this complaint, as well as the assessment of any statutory penalties against Defendants in a sum
14 as provided by the Labor Code and/or other statutes.

15 **THIRD CAUSE OF ACTION**

16 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**

17 **(Against Defendants, DOES 1 through 10, and each of them)**

18 74. Plaintiff and Class Members re-allege and incorporate by reference all preceding
19 paragraphs of this First Amended Complaint as though fully set forth herein.

20 75. The IWC Wage Orders and Labor Code Section 226.7 provides that employers
21 must authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest
22 time per four (4) work hours or major fraction thereof.

23 76. Labor Code Section 226.7, subdivision (b) provides that if an employer fails to
24 provide an employee rest period in accordance with this Section, the employer shall pay the
25 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
26 that the rest period is not provided.

77. During the Class Period, Defendants did not provide Plaintiff and Class Members with a ten-minute rest period for every four (4) work hours or major fraction thereof. Therefore, Plaintiff and Class Members were not provided lawful rest periods.

78. Defendants failed and/or refused to implement a policy by which Plaintiff and Class Members could receive rest periods and/or work free rest periods. By and through its actions, Defendants intentionally and improperly denied rest periods to Plaintiff and Class Members in violation of Labor Code Sections 226.7 and 512.

79. At all times relevant hereto, Plaintiff and Class have worked more than four (4) hours in a workday.

80. By virtue of the Defendants' unlawful failure to provide rest periods to Plaintiff and Class Members, Plaintiff and Class Members have suffered, and will continue to suffer, damages, in amounts which are presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

81. Plaintiff, individually and on behalf of employees similarly situated, requests recovery of rest period compensation pursuant to Labor Code Section 226.7 for the four (4) years prior to filing this Complaint, as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or any other statute.

FOURTH CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements

(Against Defendants, DOES 1 through 10, and each of them)

82. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs of this First Amended Complaint as though fully set forth herein.

83. Labor Code Section 1174, subdivision (d) requires an employer to keep at a central location in California, or at the plant or establishment at which the employee is employed, payroll records showing the hours worked daily by, and the wages paid to, each employee.

84. Labor Code Section 226, subdivision (a) requires an employer to provide employees—either as a detachable part of the check, draft, or voucher paying the employee’s

1 wages, or separately when wages are paid by personal check or cash—an accurate itemized wage
2 statement in writing showing

3 (1) gross wages earned, (2) total hours worked by the employee . . . , (4) all
4 deductions . . . , (5) net wages, (6) the inclusive dates of the period for which
5 the employee is paid, (7) the name of the employee and only the last four
6 digits of his or her social security number or an employee identification
7 number other than a social security number, (8) the name and address of the
8 legal entity that is the employer . . . , and (9) all applicable hourly rates in
9 effect during the pay period and corresponding number of hours worked at
10 each hourly rate by the employee

11 85. Moreover, the IWC Wage Orders require that every employer shall keep accurate
12 information with respect to each employee, including time records showing when each employee
13 begins and ends each work period, the total daily hours worked by each employee and the total
14 hours worked in each payroll period, and applicable rates of pay.

15 86. Plaintiff is informed and believes that Defendants willfully and intentionally
16 failed to make and/or keep records which accurately reflect the hours worked by Plaintiff and
17 Class. Specifically, Plaintiff believes that Defendants' records do not accurately reflect when
18 Plaintiff and Class worked during their meal and rest periods and/or took untimely meal periods
19 or worked for hours not paid. Defendants also failed to include an hourly rate which is a blatant
20 violation of the Labor Code.

21 87. Labor Code Section 226, subdivision (e) provides that if an employer knowingly
22 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,
23 the total hours worked by the employee and the applicable hourly overtime rates, causing the
24 employee injury, then the employee is entitled to recover the greater of all actual damages or
25 fifty dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each
26 subsequent violation, up to four thousand dollars (\$4,000.00). Plaintiff is informed and believes
27 that Defendants willfully failed to make or keep accurate records for Plaintiff and Class.

28 88. Plaintiff is informed and believes that Defendants' failure to keep accurate payroll

1 records, as described above, violated Labor Code Section 1174, subdivision (d) and Section 226,
2 subdivision (a), and the applicable IWC Wage Order(s). Pursuant to Labor Code Section 2699,
3 subdivision (f)(2), Plaintiff and Class are entitled to penalties of \$100.00 and for the initial
4 violation and \$200.00 for each subsequent violation for every pay period during which these
5 records and information were not kept by Defendants.

6 89. Plaintiff is informed and believes that Defendants' failure to keep and maintain
7 accurate records and information, as described above, was willful, and Plaintiff and Class are
8 entitled to statutory penalties pursuant to Labor Code Section 1174.5.

9 **FIFTH CAUSE OF ACTION**

10 **Failure to Pay Wages upon Termination of Employment**

11 **(Against Defendants, DOES 1 through 10, and each of them)**

12 90. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs
13 of this First Amended Complaint as though fully set forth herein.

14 91. Plaintiff and certain Class who ended their employment with Defendants during
15 the Class Period, were entitled to be promptly paid for all hours worked, including lawful regular
16 time compensation, overtime compensation, double-time compensation, and other premiums, as
17 required by Labor Code Sections 201 through 203. Plaintiff is also entitled to meal period and
18 rest period premium pay in accordance with Labor Code Sections 226 and 226.7.

19 92. Plaintiff and Class were not compensated for their unlawful and/or missed meal
20 periods and/or rest periods, and were not paid proper regular time compensation, overtime
21 compensation or double-time compensation in accordance with law as a result of Defendants'
22 illegal rounding practice.

23 93. To date, Plaintiff and Class Members who ended their employment with
24 Defendants during the Class Period have not been compensated for all hours worked.

25 94. Plaintiff and the affected Class Members seek the payment of penalties pursuant
26 to Labor Code Section 203, according to proof.

27 95. Plaintiff is also entitled to attorneys' fees and costs, pursuant to Labor Code
28 Section 1194, and prejudgment interest.

1 **SIXTH CAUSE OF ACTION**

2 **Failure to Reimburse for Necessary Business Expenditures**

3 **(Against Defendants, DOES 1 through 10, and each of them)**

4 96. Plaintiff and Class re-allege and incorporate by reference all the above paragraphs
5 of this First Amended Complaint as if fully alleged herein.

6 97. California Labor Code §2802, states "An employer shall indemnify his or her
7 employee for all necessary expenditures or losses incurred by the employee in direct consequence
8 of the discharge of his or her duties."

9 98. Plaintiff and Class were not reimbursed by Defendants for necessary expenditures
10 as a direct consequence of the discharge of their duties. Plaintiff and Class incurred these
11 substantial expenses as a direct result of performing their job duties for Defendants, and
12 Defendants have failed to indemnify Plaintiff and Class for these employment-related expenses.

13 99. Defendants knowingly, willingly and intentionally attempted to offset the cost of
14 doing business on the Plaintiff and Class.

15 100. Defendants had a corporate practice and policy of requiring Plaintiff and Class to
16 shoulder the burden of Defendants' cost of doing business by failing to reimburse Plaintiff and
17 Class for necessary expenditures, specifically requiring Plaintiff and Class to use their personal
18 cell phones, vehicles for work and to purchase tools.

19 101. Accordingly, Plaintiff and Class are entitled to an award of "necessary
20 expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's
21 fees and interest.

22 ///

23 **SEVENTH CAUSE OF ACTION**

24 **Unfair Business Practices**

25 **(Against Defendants, DOES 1 through 10, and each of them)**

26 102. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs
27 of this First Amended Complaint as though fully set forth herein.

28 103. Business and Professions Code Section 17200 et seq. (also referred to herein as

1 the “Unfair Business Practices Act” or “Unfair Competition Law”) prohibits unfair competition
2 in the form of any unlawful, unfair or fraudulent business act or practice.

3 104. Business and Professions Code Section 17204 allows “a person who has suffered
4 injury in fact and has lost money or property as a result of the unfair competition” to prosecute a
5 civil action for violation of the Unfair Competition Law (“UCL”).

6 105. Labor Code Section 90.5, subdivision (a) states that it is the public policy of
7 California to vigorously enforce minimum labor standards in order to ensure employees are not
8 required to work under substandard and unlawful conditions, and to protect employers who
9 comply with the law from those who attempt to gain competitive advantage at the expense of their
10 workers by failing to comply with minimum labor standards.

11 106. Beginning at an exact date unknown to Plaintiff, but at least since the date four (4)
12 years prior to the filing of this lawsuit, Defendants has committed acts of unfair competition as
13 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent
14 business practices and acts described in this Complaint including but not limited to violations of
15 Labor Code Sections 201-203, 204, 226, 226.7, 246, 510, 512, 1174, 1194, 1198, 2802 as well as
16 other statutes.

17 107. The violations of these laws and regulations, as well as of the fundamental
18 California public policies protecting workers, serve as unlawful predicate acts and practices for
19 purposes of Business and Professions Code Section 17200 et seq.

20 108. The acts and practices described above constitute unfair, unlawful and fraudulent
21 business practices, and unfair competition, within the meaning of Business and Professions Code
22 Section 17200 et seq. Among other things, the acts and practices have forced Plaintiff and other
23 similarly situated employees to labor for many consecutive hours without receiving the meal and
24 rest periods and overtime compensation to which they are entitled by law, while enabling
25 Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

26 109. As a result of Defendants’ acts, Plaintiff and Class Members have suffered injury
27 in fact in being denied their statutorily entitled meal and rest periods and full compensation for
28 hours worked.

1 110. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
2 and Class have suffered lost wages in an amount to be proven at trial.

3 111. Business and Professions Code Section 17203 provides that a court may make
4 such orders or judgments as may be necessary to prevent the use or employment by any person
5 of any practice which constitutes unfair competition. Injunctive relief is necessary and
6 appropriate to prevent Defendants from repeating its unlawful, unfair and fraudulent business acts
7 and business practices alleged above.

8 112. Business and Professions Code Section 17203 provides that the Court may restore
9 to any person in interest any money or property that may have been acquired by means of such
10 unfair competition. Plaintiff and Class are entitled to restitution pursuant to Business and
11 Professions Code Section 17203 for all wages and payments unlawfully withheld from
12 employees, including the fair value of the meal and rest periods taken away from them during the
13 four-year period prior to the filing of this Complaint, as well as for all expenses or losses incurred
14 by Plaintiff and Class in direct consequence of the discharge of his or her duties, or of his or her
15 obedience to the directions of the employer.

16 113. Business and Professions Code Section 17202 provides, “Notwithstanding Section
17 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
18 forfeiture, or penal law in a case of unfair competition.” Plaintiff and Class are entitled to enforce
19 all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code
20 Section 17202.

21 114. Plaintiff’s success in this action will enforce important rights affecting public
22 interest, and in that regard, Plaintiff sues on behalf of the general public, as well as herself and
23 other similarly situated employees. Plaintiff and Class seek and are entitled to restitution, civil
24 penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

25 115. Plaintiff herein takes upon herself enforcement of these laws and lawful claims.
26 There is a financial burden involved in pursuing this action. The action is seeking to vindicate a
27 public right, and it would be against the interests of justice to penalize Plaintiff by forcing her to
28

1 pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to
2 Code of Civil Procedure Section 1021.5 and otherwise.

3 **EIGHTH CAUSE OF ACTION**

4 **Violation of California Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.***
5 **(Against Defendants, DOES 1 through 10, and each of them)**

6 116. Plaintiff re-alleges and incorporates by reference all preceding paragraphs of this
7 First Amended Complaint, as if fully alleged herein.

8 117. Plaintiff seeks recovery of penalties under the Labor Code Private Attorney
9 General Act of 2004 ("PAGA.") (Labor Code sections 2698 *et seq.*) for which Defendants is
10 liable as a result of violations of the Labor Code, as set forth in this First Amended Complaint
11 and the letter to LWDA attached hereto as **Exhibit A** and incorporated by reference including,
12 but not limited to, violations of Labor Code Sections 201-203, 204, 226, 226.7, 246, 510, 512,
13 1174, 1194, 1198, 2802 as well as violations of the applicable Wage Order Sections.

14 118. PAGA permits an "aggrieved employee" to recover penalties on behalf of
15 himself/herself and other employees subject to violations of the Labor Code, including violations
16 of sections 201-203, 204, 226, 226.7, 510, 512, 1174, 1194, 1198, 2802 as well as applicable
17 Wage Order.

18 119. Plaintiff is informed and believes Defendants at all relevant times employed one
19 or more employees.

20 120. For those code sections that provide for the recovery of civil penalties, Plaintiff
21 will seek on behalf of all aggrieved employees those penalties. For those sections of the Labor
22 Code that do not specifically provide for civil penalties, Plaintiff will seek civil penalties of one
23 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
24 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
25 subsequent violation pursuant to Labor Code section 2699, subdivision (f).

26 121. The State of California, Plaintiff and aggrieved employees are, therefore, entitled
27 to civil penalties, attorneys' fees and costs, according to proof.
28

1 **PRAYER FOR RELIEF**

2 Plaintiff, individually, and on behalf of all others similarly situated only with respect to
3 the class claims, prays for relief and judgment against Defendants as follows:

4 **Class Certification**

5 1. That this action be certified as a class action with respect to the First, Second,
6 Third, Fourth, Fifth, Sixth and Seventh Causes of Action;

7 2. That Plaintiff be appointed as the representative of the Class; and

8 3. That counsel for Plaintiff be appointed as Class Counsel.

9 **As to the First Cause of Action**

10 4. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code §§ 204, 246, 510, 551, 552, 1194, 1198 and applicable IWC Wage Orders by
12 willfully failing to pay all wages due and sick pay;

13 5. For general unpaid wages as may be appropriate;

14 6. For pre-judgment interest on any unpaid compensation commencing from the
15 date such amounts were due;

16 7. For liquidated damages;

17 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
18 California Labor Code § 1194(a); and,

19 9. For such other and further relief as the Court may deem equitable and
20 appropriate.

21 **As to the Second Cause of Action**

22 10. That the Court declare, adjudge and decree that Defendants violated California
23 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

24 11. For unpaid meal period premium wages as may be appropriate;

25 12. For pre-judgment interest on any unpaid compensation commencing from the
26 date such amounts were due;
27
28

1 13. For reasonable attorneys' fees under California Code of Civil Procedure §
2 1021.5, and for costs of suit incurred herein; and

3 14. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 As to the Third Cause of Action

6 15. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

8 16. For unpaid rest period premium wages as may be appropriate;

9 17. For pre-judgment interest on any unpaid compensation commencing from the
10 date such amounts were due;

11 18. For reasonable attorneys' fees under California Code of Civil Procedure §
12 1021.5, and for costs of suit incurred herein; and

13 19. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 As to the Fourth Cause of Action

16 20. That the Court declare, adjudge and decree that Defendants violated the record
17 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders,
18 and willfully failed to provide accurate itemized wage statements thereto;

19 21. For penalties and actual damages pursuant to California Labor Code § 226(e);

20 22. For injunctive relief to ensure compliance with this Section, pursuant to
21 California Labor Code § 226(h);

22 23. For reasonable attorneys' fees and for costs of suit incurred herein; and

23 24. For such other and further relief as the Court may deem equitable and
24 appropriate.
25

26 As to the Fifth Cause of Action

1 25. That the Court declare, adjudge and decree that Defendants violated California
2 Labor Code §§ 201, 202, 203 by willfully failing to pay all compensation owed at the time
3 of termination of the employment;

4 26. For statutory wage penalties pursuant to California Labor Code § 203 for former
5 employees who have left Defendants' employ;

6 27. For pre-judgment interest on any unpaid wages from the date such amounts were
7 due;

8 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

9 29. For such other and further relief as the Court may deem equitable and
10 appropriate.
11

12 As to the Sixth Cause of Action

13 30. That the Court declare, adjudge and decree that Defendants violated Labor Code
14 § 2802 and the IWC Wage Orders;

15 31. For general unpaid wages and reimbursement of business expenses as may be
16 appropriate;

17 32. For pre-judgment interest on any unpaid compensation commencing from the
18 date such amounts were due;

19 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

20 34. For such other and further relief as the Court may deem equitable and
21 appropriate.
22

23 As to the Seventh Cause of Action

24 35. That the Court declare, adjudge and decree that Defendants violated California
25 Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours, failing
26 to provide meal periods, failing to maintain accurate records of meal periods, failing to
27 authorize and permit rest periods, and failing to maintain accurate records of all hours
28

1 worked and meal periods, failing to furnish accurate wage statements, and failing to
2 indemnify necessary business expenses;

3 36. For restitution of unpaid wages to Plaintiff and all Class Members and
4 prejudgment interest from the day such amounts were due and payable;

5 37. For the appointment of a receiver to receive, manage and distribute any and all
6 funds disgorged from Defendants and determined to have been wrongfully acquired by
7 Defendants as a result of violations of California Business & Professions Code §§ 17200 *et*
8 *seq.*;

9 38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
10 California Code of Civil Procedure § 1021.5;

11 39. For injunctive relief to ensure compliance with this Section, pursuant to
12 California Business & Professions Code §§ 17200, *et seq.*; and,

13 40. For such other and further relief as the Court may deem equitable and
14 appropriate.
15

16 As to the Eighth Cause of Action

17 41. That the Court declare, adjudge and decree that Defendants violated the
18 California Labor Code Sections 201-203, 204, 226, 226.7, 246, 510, 512, 1174, 1194, 1198,
19 2802 as well as applicable Wage Order;

20 42. For all civil penalties pursuant to California Labor Code § 2699, *et seq.*, and all
21 other applicable Labor Code provisions;

22 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
23 California Labor Code § 2699;

24 44. For such other and further relief as the Court may deem equitable and
25 appropriate.
26

27 As to all Causes of Action

28 45. For any additional relief that the Court deems just and proper.

1
2 Dated: April 8, 2024

TUNYAN LAW, APC

3
4
5 

6 Lilit Tunyan
7 Artur Tunyan

8 Attorneys for Plaintiff JORGE L. VASQUEZ HERNANDEZ
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: April 8, 2024

Thurs

Attorneys for Plaintiff JORGE L. VASQUEZ
HERNANDEZ

Exhibit “A”



Lilit Tunyan, Esq.
1336 Rossmoyne Avenue,
Glendale, CA 91207
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

March 15, 2023

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

Caliber Aerospace, LLC
12103 Clark Street,
Santa Fe Springs, CA 90670

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process for
Caliber Aerospace, LLC
The Corporation Company
555 Capitol Mall, Suite 1150
Sacramento, CA 95814

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process for
Employer Solutions Staffing Group II, LLC
CSC-Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150-N
Sacramento, CA 95833

VIA CERTIFIED MAIL

Return Receipt Requested

Caliber Aerospace, LLC
6625 Iron Horse Blvd,
North Richland Hills, TX 76180

VIA CERTIFIED MAIL

Return Receipt Requested

Employer Solutions Staffing Group II, LLC
7480 Flying Cloud Drive
Eden Prairie, MN 55344

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Jorge L. Vasquez Hernandez v. Caliber Aerospace, LLC, Employer Solutions Staffing Group II, LLC*

To Whom It May Concern:

Please be advised that my office has been retained by Jorge L. Vasquez Hernandez ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employers Caliber Aerospace, LLC, Employer Solutions Staffing Group II, LLC ("Defendants"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which he alleges Defendants engaged in with respect to Plaintiff and all of Defendants' aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendants in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendants suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendants

Defendants own and operate an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendants are subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendants as a machine operator from approximately July 2022 to May 17, 2023, primarily in Los Angeles County. Defendants classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendants, Plaintiff typically worked 5-6 days per week, and between 10 to 12 hours each workday.

Throughout Plaintiff's employment, Defendants committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the time period involved in this case, Defendants maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked including straight time wages and overtime wages. Throughout the statutory period, Defendants regularly used a system

of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, Defendants frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. Throughout the statutory period, Defendants maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work "off-the-clock". Plaintiff and the Aggrieved employees were required to arrive earlier than their scheduled start time to perform some preparatory work like turning on the machines and other preparatory work but were only required to clock in to work 5 minutes prior to the scheduled start of the shift not to create overtime. Plaintiff and the Aggrieved Employees were not compensated for all the time worked prior to clocking in to work. Defendants regularly required Plaintiff and the Aggrieved Employees to clock out at the end of their shifts but continue working to complete additional tasks including but not limited to cleaning the working area. Defendants required Plaintiff and the Aggrieved Employees to work through their meal periods requiring them to clock out but continue working. Plaintiff and the Aggrieved Employees were also required to use their personal cellular telephones for work purposes at home after their scheduled work time to communicate with Defendants' supervisors as well as to use the application downloaded on their personal cell phones to check their schedules and worked hours. Plaintiff and the Aggrieved Employees would also use their personal vehicles to drive to stores to purchase some materials necessary to perform their work after their scheduled working hours but were not compensated for that time. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In doing so, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without

providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendants did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendants did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees. Plaintiff and the Aggrieved Employees would often times miss their meal periods, have interrupted, late or short meal periods. Defendants required Plaintiff and the Aggrieved Employees to work through their meal periods requiring them to clock out but continue working. Plaintiff and the Aggrieved Employees had never been authorized or taken their second meal periods when their shifts exceeded 10 hours. Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit periods of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest periods. Each failure to authorize rest periods as so required is itself a violation of California's rest period laws.

Defendants, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendants did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendants did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the timing of rest periods. Plaintiff and the Aggrieved Employees would mostly miss their first, second and third rest periods or have interrupted or

short rest periods. Defendants required Plaintiff and the Aggrieved Employees to interrupt their rest periods and return to work as soon as they had an assignment to do. Accordingly, Defendants' policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendants' failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. Defendants required Plaintiff and the Aggrieved Employees to purchase some materials necessary for performing their work but failed to reimburse them for those expenses. Plaintiff and the Aggrieved Employees were also required to use their personal vehicles to drive to stores to purchase some materials necessary to perform their work but were not reimbursed for mileage. Further, Plaintiff and the Aggrieved Employees were required to use their cellular telephones for work purposes to communicate with supervisors as well as to use the application downloaded on their personal cell phones to check their schedules and hours but they were not reimbursed for cell phone usage. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendants, and Defendants have failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." Lab. Code § 226(e)(1).

Defendants intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to identify pay period, the failure to identify the correct address of Defendants, the failure to identify accrued paid sick leave, the failure to correctly list gross wages earned, the failure to list the true net wages earned, wages for meal and rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendants violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Provide Paid Sick Leave and Written Notice of Available Paid Sick Leave

Labor Code § 246 (a) an employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days.

Labor Code § 246 (i) requires employers to provide an employee with written notice that sets forth the amount of paid sick leave available.

During the statutory period, Defendants maintained a policy and practice of failing to provide Plaintiff and the Aggrieved Employees with paid sick leave as well as to provide a written notice of accrued paid sick leave. On information and belief, Defendants' failure to provide an employee with written notice that sets forth the amount of paid sick leave available was not a single, isolated incident, but was instead part of Defendant's policy and practice that applied to the Aggrieved Employees.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to provide any information on accrued sick leave.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and
9. Labor Code § 204 by failing to pay all earned wages two times per month.
10. Labor Code § 246 by failing to provide paid sick leave and written notice of available paid sick leave.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendants or any additional facts, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
Partner
TUNYAN LAW, APC

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: ltunyan@tunyanlaw.com
Subject: Thank you for submission of your PAGA Case.
Date: Tuesday, June 20, 2023 1:22:42 PM

6/20/2023

LWDA Case No. LWDA-CM-963235-23
Law Firm : Tunyan Law, APC
Plaintiff Name : Jorge L. Vasquez Hernandez
Employer: Caliber Aerospace, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

USPS TRACKING #



9590 9402 8114 2349 9465 64

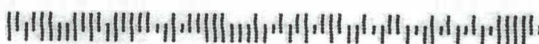
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•



TUNYAN LAW, APC
1336 Rossmoyne Avenue
Glendale, CA 91207



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

CSC-Lawyers Incorporating Service
Agent for Service of Process for
Employer Solutions Staffing Group II, LLC
2710 Gateway Oaks Drive, Suite 150-N
Sacramento, CA 95833



9590 9402 8114 2349 9465 64

2. Article Number (Transfer from service label)

9589 0710 5270 0112 6453 94

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

SHAMEEL MOHAMMED
A/A/O CSC

D. Is delivery address different from item 1?
If YES, enter delivery address below:

- ☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9000

Domestic Return Receipt

USPS TRACKING#

NORTH TEXAS TX 750

28 JUN 2023 PM 4 L



9590 9402 8114 2349 9467 79

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

TUNYAN LAW, APC
1336 Rossmoyne Avenue
Glendale, CA 91207First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Caliber Aerospace, LLC
6625 Iron Horse Blvd,
North Richland Hills, TX 76180

9590 9402 8114 2349 9467 79

2. Article Number (transfer from service label)

9589 0710 5270 0112 6453 70

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Manderion

☐ Agent☐ Addressee

B. Received by (Printed Name)

Amanda Crowder

C. Date of Delivery

6/26/23

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Mail Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

) ss

3 COUNTY OF LOS ANGELES)

4 I am employed in the county of Los Angeles, State of California. I am over the age of 18
5 and not a party to the within action; my business address is 1336 Rossmoyne Avenue
6 Glendale, California 91207.

7 On the date indicated below, I served the document described as: **FIRST AMENDED
8 COMPLAINT** on the interested parties in this action by sending a true copy thereof to
9 interested parties as follows and as stated on the attached service list:

John R. Carrigan, Jr.

jcarrigan@cozen.com

Sarah Fan

HFan@cozen.com

COZEN O'CONNOR

401 Wilshire Blvd., #850

Santa Monica, CA 90401

Telephone: 310-943-4819

Attorneys for Defendant CALIBER AEROSPACE, LLC

David Fishman

dfishman@brgslaw.com

Keith Rossman

krossman@brgslaw.com

Darla Salter

dsalter@brgslaw.com

Lisa Aguilar

laguilar@brgslaw.com

BALLARD ROSENBERG GOLPER & SAVITT, LLP

15760 Ventura Boulevard, Eighteenth Floor

Encino, CA 91436

Telephone: (818) 508-3700

Attorneys for Defendant **EMPLOYER SOLUTIONS STAFFING GROUP II, LLC**

20 [✓] **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept electronic
21 service, I caused the documents to be sent to the persons at the electronic service addresses
22 listed above via electronic mail. I did not receive an error message.

23 [✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale, California,
24 by e-mail delivery on the parties listed herein at their most recent known e-mail
25 address or e-mail of record in this action.

26 I declare under penalty of perjury under the laws of the State of California that the
27 above is true and correct. Executed on April 8, 2024 at Glendale, California.

28 Lilit Tunyan

Name

Signature