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As an individual and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

SANDON PATTERSON, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

v.

FUGRO USA LAND, INC., a Texas
Corporation; FUGRO (USA) HOLDINGS
INC., a Delaware Corporation; and DOES
1-100, inclusive,

Defendants.

Case No.: 23CV003496

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- 1. Recovery of Unpaid Minimum Wages and Liquidated Damages**
- 2. Recovery of Unpaid Overtime Wages**
- 3. Failure to Provide Meal Periods or Compensation in Lieu Thereof**
- 4. Failure to Provide Rest Periods or Compensation in Lieu Thereof**
- 5. Violations of Labor Code Section 226**
- 6. Failure to Timely Pay All Wages Due Upon Separation of Employment**
- 7. Failure to Reimburse Business Expenses**
- 8. Unfair Competition and**
- 9. Violation of the Private Attorneys General Act of 2004**

DEMAND FOR JURY TRIAL

1
2 Plaintiff, SANDON PATTERSON, (“PLAINTIFF”), as an individual and on behalf of all
3 other similarly situated Class Members (as defined below) and Aggrieved Employees (as defined
4 below), hereby files this First Amended Complaint against Defendants FUGRO USA LAND,
5 INC., a Texas Corporation; FUGRO (USA) HOLDINGS INC., a Delaware Corporation; and
6 DOES 1-100, inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is
7 informed and believes and thereon alleges as follows:
8

9 **JURISDICTION AND VENUE**

10 1. This court possesses original subject matter jurisdiction over this matter. Venue is
11 proper in the County of Sacramento pursuant to California Code of Civil Procedure section 395.5
12 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
13 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
14 PLAINTIFF herein occurred in this this judicial district.

15 2. *See also Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th
16 1069 (venue in a PAGA action is proper in any county where the defendants committed Labor Code
17 violations against some of its employees).

18 **THE PARTIES**

19 3. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
20 California and a citizen of the State of California.

21 4. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
22 DEFENDANTS as a non-exempt employee with a job title of driller's helper and/or a similar title(s)
23 and/or position(s) from in or around early September 2022 through on or around February 2, 2023.
24 PLAINTIFF worked for DEFENDANTS at DEFENDANTS’ Colusa and Sacramento, California
25 location(s). PLAINTIFF regularly worked at least eight (8) hours per day, often working at least
26 eleven (11) hours per day, at least at least five (5) days per week.

27 5. DEFENDANTS are either a Texas Corporation and/or a Delaware Corporation that,
28 at all relevant times, was authorized to do business within the State of California and is doing

1 business in the State of California.

2 6. DEFENDANTS own, operate, manage and/or staff its employees to work at the sites,
3 yards, facilities and/or other location(s) in California, including but not limited to the sites, yards,
4 facilities in Colusa and Sacramento California. DEFENDANTS, through its various sites, yards,
5 facilities and/or other locations serve the construction industry.

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

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

22 **JOINT LIABILITY**

23 9. Under California law, the definition of the terms “to employ” are broadly construed
24 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
25 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
26 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
27 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
28 was to reach situations in which multiple entities control different aspects of the employment

1 relationship. Supervision of the work, in the specific sense of exercising control over how services
2 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
3 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
4 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
5 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
6 California, applying a less stringent standard to what constitutes sufficient control by a business
7 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
8 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
9 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
10 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
11 employment,” *Id.* at 875 [emphasis added].

12 10. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
13 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
14 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
15 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
16 hours and working conditions of PLAINTIFF and the Class Members and Aggrieved Employees;
17 (2) suffered or permitted PLAINTIFF and Class Members and Aggrieved Employees to work for
18 them; and (3) engaged PLAINTIFF and Class Members and Aggrieved Employees to work for them.

19 11. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
20 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
21 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
22 across all of their locations/facilities and subjected all of the Class Members and Aggrieved
23 Employees to these same policies and practices regardless of the location(s) where they worked.
24 Among other things, PLAINTIFF is informed and believes that: (1) there is common ownership in,
25 and financial control, in DEFENDANTS’ companies, (2) DEFENDANTS utilize common
26 management, who have control over the day-to-day operations and employment matters, including
27 the power to hire and fire, set schedules, issue employee policies, and determine rates of
28 compensation across its locations in California; (3) DEFENDANTS utilize the same policies and

1 procedures for all California employees, including issuing the same employee handbooks and other
2 form agreements; (4) DEFENDANTS use at least some of the same Human Resources personnel
3 and attorneys to oversee employment matters; and, (6) DEFENDANTS share employees.

4 12. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
5 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
6 and Aggrieved Employees upon whose behalf PLAINTIFF brings these allegations and causes of
7 action, in that DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class
8 Members' and Aggrieved Employees' wages, hours and working conditions, and/or suffered or
9 permitted PLAINTIFF and the Class Members and Aggrieved Employees to work so as to be
10 considered the joint employers of PLAINTIFF and the Class Members and Aggrieved Employees.
11 For example, based on information and belief, DEFENDANTS' wage statements issued to
12 PLAINTIFF identify "Fugro USA Land, Inc." as the name of PLAINTIFF's employer. However,
13 document(s) contained in PLAINTIFF's personnel file including without limitation, confidentiality
14 agreement(s), policy documents and/or other employment documents identify "Fugro (USA)
15 Holdings Inc." as the name of PLAINTIFF's employer.

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

1 and the policies applicable to PLAINTIFF and Class Members and Aggrieved Employees by which
2 DEFENDANTS collectively would evaluate the wage rates of PLAINTIFF and Class Members and
3 Aggrieved Employees.

4 14. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
5 and working conditions of PLAINTIFF and Class Members and Aggrieved Employees. As such,
6 DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and
7 the Class Members and Aggrieved Employees' employment, including the instrumentality that
8 resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

9 15. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
10 control over, applied the same policies and practices, and engaged in the same acts and omissions
11 with regard to the other Class Members and Aggrieved Employees.

12 **CLASS ALLEGATIONS**

13 16. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
14 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
15 seeks to represent are defined as follows and referred to as the "Class" or "Class Members":

16 All current and former non-exempt employees that worked either
17 directly or via a staffing agency for any one or more of the
18 DEFENDANTS at any location in California at any time within the
19 four years prior to the filing of the initial Complaint ("Class Period").

20 a. Numerosity. While the exact number of Class Members is unknown to
21 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
22 all members is impractical under the circumstances of this case. PLAINTIFF is
23 informed and believes the Class consists of at least 100 individuals.

24 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
25 because common questions of law and fact predominate over individual issues.
26 Common questions include, but are not limited to, the following: (1) whether
27 DEFENDANTS understated hours worked and failed to pay all amounts due to
28 PLAINTIFF and the Class Members for wages earned, including minimum and

1 overtime wages, under California law; (2) whether DEFENDANTS provided
2 PLAINTIFF and the Class Members with all meal periods or premium payments
3 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
4 provided PLAINTIFF and the Class Members with all rest periods or premium
5 payments in lieu thereof, in compliance with California law; (4) whether
6 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
7 itemized wage statements in compliance with California law, displaying,
8 including but not limited to, the total hours worked during the pay period; (5)
9 whether DEFENDANTS timely produced to PLAINTIFF and Class Members
10 complete employment records upon written request(s) by PLAINTIFF and Class
11 Members; (6) whether DEFENDANTS timely paid PLAINTIFF and the Class
12 Members all wages due upon separation of employment; (7) whether
13 DEFENDANTS failed to reimburse PLAINTIFF and the Class Members for all
14 business expenses; and (8) whether DEFENDANTS violated California
15 Business and Professions Code sections 17200, *et seq.*

16 c. Ascertainable Class. The proposed Class is ascertainable as members can be
17 identified and located using information in DEFENDANTS' business, payroll
18 and personnel records.

19 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
20 PLAINTIFF suffered a similar injury as members of the Class as a result of
21 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
22 and pay all owed minimum and overtime wages, failure to provide proper meal
23 periods and rest periods or premium compensation in lieu thereof, failure to
24 provide accurate wage statements, failure to timely produce complete
25 employment records, failure to reimburse business expenses, and failure to
26 timely pay all wages due upon separation of employment.

27 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
28 Class Members. PLAINTIFF has no interests adverse to the interests of the other

1 Class Members. Counsel who represent PLAINTIFF are competent and
2 experienced in litigating similar class action cases and are California lawyers in
3 good standing. Counsel for PLAINTIFF have the experience and resources to
4 vigorously prosecute this case.

- 5 f. Superiority. A class action is superior to other available means for the fair and
6 efficient adjudication of this controversy since individual joinder of all members
7 of the class is impractical. Class action treatment will permit a large number of
8 similarly situated persons to prosecute their common claims in a single forum
9 simultaneously, efficiently, and without the unnecessary duplication of effort
10 and expense that numerous individual actions would engender. Furthermore, as
11 the damages suffered by each individual member of the Class may be relatively
12 small, the expenses and burden of individual litigation would make it difficult
13 or impossible for individual members of the Class to redress the wrongs done to
14 them, while an important public interest will be served by addressing the matter
15 as a class action. The cost to the court system of adjudication of such
16 individualized litigation would be substantial. Individualized litigation would
17 also present the potential for inconsistent or contradictory judgments. Finally,
18 the alternative of filing a claim with the California Labor Commissioner is not
19 superior, given the lack of discovery in such proceedings, the fact that there are
20 fewer available remedies, and the losing party has the right to a trial de novo in
21 the Superior Court.

22 **FACTUAL AND LEGAL ALLEGATIONS**

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

27 18. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
28 DEFENDANTS as a non-exempt employee with a job title of driller's helper and/or a similar title(s)

1 and/or position(s) from in or around early September 2022 through on or around February 2, 2023.
2 PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Colusa and Sacramento, California
3 location(s). PLAINTIFF regularly worked at least eight (8) hours per day, often working at least
4 eleven (11) hours per day, at least at least five (5) days per week. DEFENDANTS paid PLAINTIFF
5 an hourly rate for time counted by DEFENDANTS as hours worked. At all relevant times,
6 PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time counted by
7 DEFENDANTS as hours worked. Based on information and belief, Class Members and Aggrieved
8 Employees were also compensated with non-discretionary compensation, including but not limited
9 to, non-discretionary bonuses/incentive pay and/or other non-discretionary compensation.

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

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

23 21. Based on information and belief, Class Members and Aggrieved Employees were
24 not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to
25 scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies
26 and/or practices.

27 22. For example, based on information and belief, DEFENDANTS rounded PLAINTIFF
28 and other Class Members and Aggrieved Employees' total hours worked during most if not all pay

1 periods during the relevant period, resulting in DEFENDANTS' failure to pay PLAINTIFF and
2 other Class Members and Aggrieved Employees for all time worked and the underpayment of wages
3 owed to PLAINTIFF and other Class Members and Aggrieved Employees. For example,
4 DEFENDANTS' wage statements issued to PLAINTIFF evidence rounding to at least the nearest
5 quarter, half and/or whole hour. For example, DEFENDANTS' wage statement issued to
6 PLAINTIFF for check date of November 10, 2022, shows precisely 80.00 regular hours worked,
7 precisely 35.50 overtime hours worked and precisely 14.00 "overtime-2" hours worked. Similarly,
8 DEFENDANTS' wage statement for PLAINTIFF for check date of December 8, 2022, shows
9 exactly 64.00 regular hours worked, exactly 14.00 overtime hours worked and exactly 1.50
10 "overtime-2" hours worked. Likewise, DEFENDANTS' wage statement issued to PLAINTIFF for
11 check date of December 22, 2022, shows precisely 72.00 regular hours worked, precisely 24.50
12 overtime hours worked and precisely 4.00 "overtime-2" hours worked. Likewise, DEFENDANTS'
13 wage statement issued to PLAINTIFF for pay date of January 5, 2023, shows precisely 56.00 regular
14 hours worked, precisely 10.00 overtime hours worked and precisely 1.50 "overtime-2" hours
15 worked. Similarly, DEFENDANTS' wage statement issued to PLAINTIFF for check date of
16 February 7, 2023 shows precisely 56.00 regular hours worked, precisely 12.00 overtime hours
17 worked and precisely 1.00 "overtime-2" hours worked.

18 23. Based on information and belief, PLAINTIFF's time entries were rounded up to
19 PLAINTIFF's scheduled start time and/or to at least the nearest quarter hour when PLAINTIFF
20 clocked in before the scheduled start time. For example, PLAINTIFF was unable to clock in and out
21 for his scheduled shifts as Defendant's time keeping application did not allow PLAINTIFF to clock
22 in at his actual start time and instead rounded the time to up to the nearest quarter hour. Moreover,
23 PLAINTIFF's supervisor instructed PLAINTIFF not to clock out at the end of PLAINTIFF's shift
24 and instead input his estimated total daily time, resulting in off-the-clock work and the
25 underpayment of wages owed to PLAINTIFF.

26 24. Based on information and belief, at times, Class Members and Aggrieved Employees
27 were required to spend time initiating, booting up and/or logging onto DEFENDANTS'
28 apps/electronic systems so they could then clock in for the start of their shifts which said time spent

1 under DEFENDANTS' control, including but not limited to, waiting time and/or time spent
2 initiating, booting up and/or logging into DEFENDANTS' app(s)/electronic time keeping system,
3 was neither recorded nor compensated, resulting in off-the-clock work and violations of California's
4 minimum wage laws, among other violations of the Labor Code described herein.

5 25. Based on information and belief, DEFENDANTS' required Class Members and
6 Aggrieved Employees to be at their assigned workstations at the start of a scheduled shift, thereby
7 forcing Class Members and Aggrieved Employees to gather work related equipment and/or safety
8 gear prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-
9 shift off-the-clock work. Based on information and belief, DEFENDANTS also failed to
10 compensate Class Members and Aggrieved Employees for post-shift off-the-clock work, such as
11 but not limited to, returning tools and/or equipment to DEFENDANTS'
12 facilities/locations/sites/yards, performing maintenance or cleaning-related tasks and/or completing
13 other work tasks. Based on information and belief, DEFENDANTS did not compensate Class
14 Members and Aggrieved Employees for all time spent donning and doffing personal protective
15 equipment, safety equipment and/or uniforms/work clothing (e.g., reflective vests, gloves, and/or
16 face masks) during meal periods, rest periods, before the start of a scheduled shift, and after
17 completing a scheduled shift.

18 26. Based on information and belief, DEFENDANTS required/requires Class Members
19 and Aggrieved Employees to travel between DEFENDANTS' yards, facilities/locations and/or
20 between job sites without compensating Class Members and Aggrieved Employees for all travel
21 time, resulting in off-the-clock work and the underpayment of wages owed to Class Members and
22 Aggrieved Employees.

23 27. Based on information and belief, Class Members and Aggrieved Employees were
24 also pressured to complete at least some of their work tasks off-the-clock in order to meet
25 DEFENDANTS' goals and expectations. On information and belief, Class Members and Aggrieved
26 Employees were also required to complete off-the-clock work outside of scheduled shifts due to
27 work-related phone calls and/or messages they received to their personal phones and were required
28 to respond to, including but not limited to, communications from supervisors regarding scheduling

1 and/or other work tasks, resulting in the underpayment of wages owed to Class Members and
2 Aggrieved Employees.

3 28. Based on information and belief, Class Members and Aggrieved Employees were
4 required to complete additional off-the-clock work in connection with DEFENDANTS' mandated
5 trainings, refresher courses, and/or certification(s) and/or recertification(s) requirements, resulting
6 in violations of including but not limited to California's minimum wage laws and the underpayment
7 of wages owed to Class Members and Aggrieved Employees.

8 29. Based on information and belief, DEFENDANTS failed to pay the prevailing wage
9 to Class Members and Aggrieved Employees.

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

15 31. Based on further information and belief, DEFENDANTS implemented a time-
16 rounding system that as applied systematically deprived PLAINTIFF and other Class Members and
17 Aggrieved Employees of compensable time because the time-rounding system implemented by
18 DEFENDANTS would almost always, if not always, result in understating actual compensable work
19 time. For example, as explained above, based on information and belief, DEFENDANTS rounded
20 PLAINTIFF and other Class Members and Aggrieved Employees' total hours worked during most
21 if not all pay periods during the relevant period, resulting in DEFENDANTS' failure to pay
22 PLAINTIFF and other Class Members and Aggrieved Employees for all time worked and the
23 underpayment of wages owed to PLAINTIFF and other Class Members and Aggrieved Employees.
24 For example, DEFENDANTS' wage statements issued to PLAINTIFF evidence rounding to at least
25 the nearest quarter, half and/or whole hour. For example, DEFENDANTS' wage statement issued
26 to PLAINTIFF for check date of November 10, 2022, shows precisely 80.00 regular hours worked,
27 precisely 35.50 overtime hours worked and precisely 14.00 "overtime-2" hours worked. Similarly,
28 DEFENDANTS' wage statement for PLAINTIFF for check date of December 8, 2022, shows

1 exactly 64.00 regular hours worked, exactly 14.00 overtime hours worked and exactly 1.50
2 “overtime-2” hours worked. Likewise, DEFENDANTS’ wage statement issued to PLAINTIFF for
3 check date of December 22, 2022, shows precisely 72.00 regular hours worked, precisely 24.50
4 overtime hours worked and precisely 4.00 “overtime-2” hours worked. Likewise, DEFENDANTS’
5 wage statement issued to PLAINTIFF for pay date of January 5, 2023, shows precisely 56.00 regular
6 hours worked, precisely 10.00 overtime hours worked and precisely 1.50 “overtime-2” hours
7 worked. Similarly, DEFENDANTS’ wage statement issued to PLAINTIFF for check date of
8 February 7, 2023 shows precisely 56.00 regular hours worked, precisely 12.00 overtime hours
9 worked and precisely 1.00 “overtime-2” hours worked.

10 32. DEFENDANTS’ failure to pay for all time worked by virtue of its time rounding,
11 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
12 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
13 minimum wages owed to PLAINTIFF and Class Members and Aggrieved Employees as well as
14 unpaid overtime wages for those Class Members and Aggrieved Employees who worked more than
15 eight (8) hours in a day and/or more than forty (40) hours in a week.

16 33. Based on information and belief, DEFENDANTS had actual and/or constructive
17 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
18 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
19 underpayment of minimum wages owed to PLAINTIFF and other Class Members and Aggrieved
20 Employees, in violation of California's minimum and overtime wage laws.

21 34. Based on information and belief, DEFENDANTS failed and continue to fail to pay
22 Class Members and Aggrieved Employees two times their regular rate of pay for time worked
23 beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh
24 consecutive day of work in a work week, in violation of California’s overtime laws.

25 35. Based on information and belief, DEFENDANTS failed to incorporate all non-
26 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or
27 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
28 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other

1 Class Members and Aggrieved Employees.

2 36. **Meal Period Violations.** PLAINTIFF and other Class Members and Aggrieved
3 Employees consistently worked shifts of at least five and one-half hours or more, entitling them to
4 at least one meal period. However, PLAINTIFF and other Class Members and Aggrieved
5 Employees would not receive legally compliant thirty (30) minute first and second meal periods.
6 Based on information and belief, Class Members and Aggrieved Employees were consistently
7 unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take
8 late meal periods, interrupted meal periods, and/or work through part or all their meal periods due
9 to understaffing, the nature and constraints of their job duties and/or commentary from supervisors
10 pressuring them to take non-compliant meal periods or skip meal periods completely.

11 37. For example, based on information and belief, Class Members and Aggrieved
12 Employees were forced to take late meal periods in order to complete assigned job duties. Based on
13 information and belief, Class Members and Aggrieved Employees were frequently if not always
14 interrupted during purported meal periods and/or had meal periods cut short and/or restricted to
15 DEFENDANTS' premises due to the need to continue assigned job duties. For example,
16 DEFENDANTS did not require PLAINTIFF and other Class Members and Aggrieved Employees
17 to record the start and stop times of any meal periods. For example, DEFENDANTS' time records
18 for PLAINTIFF reflect only purported daily total hours worked without showing any start and/or
19 end time(s) for any meal periods. Based on information and belief, PLAINTIFF and other Class
20 Members and Aggrieved Employees were suffered, permitted and/or required to work through part
21 or all of their owed meal periods most if not all days worked during the relevant period due to the
22 need to keep up with their assigned workloads. Based on information and belief, DEFENDANTS
23 performed an automatic meal period deduction of at least thirty minutes for each NON-EXEMPT
24 AGGRIEVED EMPLOYEE during most if not all shifts Class Members and Aggrieved Employees
25 worked during the relevant period even though DEFENDANTS had actual and/or constructive
26 knowledge that Class Members and Aggrieved Employees were consistently required to work
27 through part or all of their owed meal periods, resulting in consistently denied meal periods, off-
28 the-clock work and the underpayment of wages owed to Class Members and Aggrieved Employees,

1 including but not limited to, minimum wages and overtime wages. Based on information and belief,
2 DEFENDANTS did not pay any meal period premiums and/or did not pay a meal period premium
3 for each missed and/or otherwise legally noncompliant meal period.

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

9 39. Based on information and belief, DEFENDANTS implemented policies and/or
10 practices that failed to relieve Class Members and Aggrieved Employees of all duties and
11 DEFENDANTS' control during unpaid meal periods.

12 40. Based on information and belief, DEFENDANTS required Class Members and
13 Aggrieved Employees to complete off-the-clock work prior to their scheduled shift time which
14 DEFENDANTS failed to take into account when scheduling meal periods for Class Members and
15 Aggrieved Employees. Based on information and belief, meal periods were late, in part due to
16 unaccounted pre-shift off-the-clock work.

17 41. Based on information and belief, despite DEFENDANTS' failure to provide lawful
18 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
19 times of PLAINTIFF's and other Class Members and Aggrieved Employees' meal periods and/or
20 automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal
21 periods despite having actual and/or constructive knowledge that PLAINTIFF and other Class
22 Members and Aggrieved Employees did not receive lawful meal periods.

23 42. Moreover, per DEFENDANTS' uniform policy and practice, Class Members and
24 Aggrieved Employees who worked shifts of more than ten hours did not receive a second legally
25 compliant thirty (30) minute second meal period. For example, when PLAINTIFF worked shifts
26 lasting longer than ten (10) and/or twelve (12) hours, PLAINTIFF was not provided with a thirty-
27 minute, uninterrupted, off-duty meal period.

28 43. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
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1 other Class Members and Aggrieved Employees as to the timing and duty-free nature of meal
2 periods. Based on further information and belief, DEFENDANTS did not have a written meal period
3 policy, nor did DEFENDANTS have any sort of compliant policy in practice.

4 44. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
5 records of the true start and end times of PLAINTIFF's and Class Members and Aggrieved
6 Employees' meal periods. Based on information and belief, to the extent meal period were recorded,
7 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in
8 PLAINTIFF and other Class Members and Aggrieved Employees not being paid for all time worked
9 as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th
10 58.

11 45. Based on information and belief, DEFENDANTS had actual and/or constructive
12 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
13 were free of DEFENDANTS' control owed to PLAINTIFF and other Class Members and Aggrieved
14 Employees, in violation of California's meal period laws.

15 46. DEFENDANTS failed to pay PLAINTIFF and other Class Members and Aggrieved
16 Employees, an additional hour of wages at their respective regular rates of compensation for each
17 workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period
18 premium at all for each workday a lawful meal period was not provided and/or failed to pay the
19 proper meal period premium for failure to incorporate all non-discretionary remuneration, including
20 but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into
21 the regular rate or compensation for purposes of calculating the owed meal period premium.

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

26 48. PLAINTIFF and other Class Members and Aggrieved Employees were not
27 adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest
28 periods per California law. Based on information and belief, DEFENDANTS had no policy in place

1 nor instruction as to the taking of duty-free rest periods.

2 49. Based on information and belief, DEFENDANTS did not have a have a compliant
3 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
4 practice.

5 50. For example, based on information and belief, Class Members and Aggrieved
6 Employees, including but not limited to, PLAINTIFF, were frequently if not always unable to take
7 compliant rest periods due to their need to complete assigned job duties and/or were unable to take
8 a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to
9 DEFENDANTS' premises.

10 51. Based on information and belief, Class Members and Aggrieved Employees' rest
11 periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing,
12 the nature and constraints of their job duties, and/or due to commentary from supervisors/managers
13 pressuring them to skip rest periods completely or otherwise take non-compliant rest periods.

14 52. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
15 lasting longer than ten hours. For example, when PLAINTIFF worked shifts lasting longer than ten
16 (10) hours, PLAINTIFF was not provided with any version of a third rest period.

17 53. Based on information and belief, DEFENDANTS implemented policies and/or
18 practices that failed to relieve PLAINTIFF and other Class Members and Aggrieved Employees of
19 all duties and DEFENDANTS' control during rest periods.

20 54. Based on information and belief, Class Members and Aggrieved Employees were
21 pressured to complete their work duties according to a designated schedule such that rest periods
22 were only taken once tasks were completed, and/or as time permitted.

23 55. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
24 which PLAINTIFF and Class Members and Aggrieved Employees experienced a missed/unlawful
25 rest period in violation of California law. DEFENDANTS either failed to pay a rest period premium
26 at all for each workday a proper rest period was not provided and/or failed to pay the proper rest
27 period premium for failure to incorporate all non-discretionary remuneration, including but not
28 limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the

1 regular rate of compensation for purposes of calculating the owed rest period premium.

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

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

19 58. As described herein, based on information and belief, DEFENDANTS also failed to
20 incorporate all forms of non-discretionary compensation earned during the pay period into the
21 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
22 of overtime worked by PLAINTIFF and other Class Members and Aggrieved Employees.

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

25 60. Based on information and belief, wage statements issued by DEFENDANTS failed
26 to list all applicable hourly rates in effect during the pay period and the corresponding number of
27 hours worked at hear hourly rate by the employee, in violation of including but not limited to, Labor
28 Code section 226(a)(9).

1 61. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
2 Members and Aggrieved Employees that were not accurate and did not include all of the statutorily
3 required information. As such, DEFENDANTS violated Labor Code section 226.

4 62. **Failure to Produce Employment Records.** Based on information and belief,
5 DEFENDANTS have a uniform policy and practice of failing to timely produce or make available
6 a current or former employee's time, pay, and/or personnel records when requested pursuant to
7 Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order.

8 63. For example, PLAINTIFF, through counsel, sent a written request for time, pay and
9 personnel records to DEFENDANTS, on or around including but not limited to the following dates:
10 February 16, 2023 and March 24, 2023. Yet, DEFENDANTS failed to timely produce complete
11 records within the time periods delineated by California labor law. Based on information and belief,
12 DEFENDANTS failed and continue to fail to timely produce complete time, pay, and personnel
13 records when requested by other Class Members and Aggrieved Employees.

14 64. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
15 information and belief, DEFENDANTS failed to timely pay Class Members and Aggrieved
16 Employees all wages that were due and owing upon termination or resignation. Based on
17 information and belief, DEFENDANTS untimely provide final wages to Class Members and
18 Aggrieved Employees without regard to the timing requirements of Labor Code sections 201-202.

19 65. Upon separation of employment, Class Members and Aggrieved Employees' final
20 paychecks were not timely provided and/or were not timely provided with all owed vacation pay
21 and/or paid time off. Moreover, PLAINTIFF's and Class Members and Aggrieved Employees' final
22 paychecks, once provided, did not include all wages owed as they were devoid of, including but not
23 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
24 sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all
25 owed vacation pay/paid time off paid at the final rate including non-discretionary compensation,
26 including but not limited to, shift differentials).

27 66. For example, DEFENDANTS terminated PLAINTIFF's employment on or around
28 February 2, 2023, however, DEFENDANTS did not furnish PLAINTIFF with any final paycheck

1 for at least approximately six (6) days following PLAINTIFF's date of termination, and
2 PLAINTIFF's late final paycheck was devoid of all wages owed, including but not limited to, all
3 owed minimum wages, overtime wages, premium wages, vacation pay, all owed prevailing wages
4 at applicable prevailing wage rate(s) (including but not limited to, all prevailing wages owed
5 PLAINTIFF for at least approximately the last four (4) weeks of PLAINTIFF's employment), all
6 owed sick leave and/or paid time off wages at the properly accrued rates, (including but not limited
7 to, all owed vacation pay/paid time off paid at the final rate including non-discretionary
8 compensation, including but not limited to, shift differentials).

9 67. Based on further information and belief, DEFENDANTS failed to timely provide all
10 owed wages immediately upon discharge of employment. Based in information and belief, at times,
11 Class Members and Aggrieved Employees experienced breaks in employment caused by
12 DEFENDANTS whereby Class Members and Aggrieved Employees would not be called in for work
13 for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work
14 or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS
15 failed to timely pay all owed wages at the end of such periods of employment, in violation of
16 including but not limited to Labor Code section 201-202.

17 68. These violations subject DEFENDANTS to civil penalties under Labor Code section
18 203, 210, and/or 256.

19 69. **Unreimbursed Business Expenses.** Based on information and belief,
20 DEFENDANTS required PLAINTIFF and Class Members and Aggrieved Employees to incur
21 business expenses as a direct consequence of the performance of their job duties without providing
22 reimbursement, in violation of Labor Code section 2802. Based on information and belief,
23 PLAINTIFF and Class Members and Aggrieved Employees were improperly required to provide
24 and maintain work tools that are supposed to be the responsibility of the employer.

25 70. Based on information and belief, DEFENDANTS shifted the costs of doing business
26 onto PLAINTIFF and other Class Members and Aggrieved Employees requiring them to pay for
27 business expenses, including but not limited to, uniforms/work clothing/work shoes/personal
28 protective/safety gear and the use of Class Members and Aggrieved Employees' personal cell

1 phones/mobile devices, internet and/or data usage for work related purposes, including but not
2 limited to, to receive and respond to work related messages and/or phone calls. For example, based
3 on information and belief, Class Members and Aggrieved Employees were required to receive and
4 respond to work-related calls and/or messages from supervisors and/or other Class Members and
5 Aggrieved Employees regarding scheduling and/or other work tasks and/or otherwise use their
6 personal phones/mobile devices for work but were not reimbursed by DEFENDANTS at all and/or
7 in full for these business expenses. For example, DEFENDANTS required PLAINTIFF download
8 a timekeeping application on his personal cell phone/mobile device to use to clock in and out for
9 PLAINTIFF's shifts, however, DEFENDANTS failed to provide PLAINTIFF with any
10 reimbursement for DEFENDANTS' business use of PLAINTIFF's personal cell phone / mobile
11 device.

12 71. Based on information and belief, Class Members and Aggrieved Employees were
13 not reimbursed for the cost of purchasing and/or maintaining work uniforms/clothing/shoes and/or
14 protective gear (e.g., gloves and/or face masks).

15 72. Based on information and belief, DEFENDANTS failed to reimburse Class Members
16 and Aggrieved Employees for expenses associated with having to purchase and/or maintain their
17 own hand tools and/or equipment required to perform their assigned job duties.

18 73. Based on information and belief, at times, Class Members and Aggrieved Employees
19 were not reimbursed for the business use of their personal vehicles, including mileage, wear and
20 tear and/or cost of fuel when they were required to drive around and/or between job sites/facilities,
21 and/or otherwise use their personal vehicles in carrying out the duties assigned by DEFENDANTS.
22 As such, DEFENDANTS failed to compensate Class Members and Aggrieved Employees at the
23 legally mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the
24 relevant period.

25 74. Based on information and belief, DEFENDANTS failed to reimburse Class Members
26 and Aggrieved Employees for costs incurred in completing DEFENDANTS' mandated trainings,
27 certifications and/or re-certifications and/or for all work-related travel expenses, including but not
28 limited to, expenses incurred for reasonable accommodations and/or meals while travelling for

1 DEFENDANTS' business purposes.

2 75. As explained above, based on information and belief, Class Members and Aggrieved
3 Employees were not reimbursed for the cost of using their personal phones for work-related
4 purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work
5 shoes, personal protective/safety gear.

6 76. Based on information and belief, DEFENDANTS regularly failed to reimburse and
7 indemnify Class Members and Aggrieved Employees for business expenses by failing to provide
8 any and/or full reimbursement for business expenses including but not limited to failing to pay all
9 per diem wages, premiums and/or allowances owed to Class Members and Aggrieved Employees.

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

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

19 79. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
20 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
21 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

22 **FIRST CAUSE OF ACTION**

23 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
24 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

25 80. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

26 81. It is fundamental that an employer must pay its employees for all time worked.
27 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
28 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
permits deductions from wages when the employer is required or empowered to do so by state or

1 federal law or when the deduction is expressly authorized in writing by the employee for specified
2 purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223
3 prohibits the pay of less than a statutory or contractual wage scale.

4 82. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
5 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
6 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
7 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
8 period is unlawful.

9 83. DEFENDANTS violated California’s minimum wage laws by failing to compensate
10 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
11 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
12 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
13 and/or payment according to scheduled hours worked rather than actual hours worked (described
14 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
15 wages.

16 84. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
17 Class Members for all hours worked.

18 85. Based on information and belief, DEFENDANTS had actual or constructive
19 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
20 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
21 periods, policy and practice of payment according to scheduled work time rather than actual work
22 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
23 owed to PLAINTIFF and other Class Members.

24 86. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
25 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
26 attorney's fees and costs, in an amount to be proved at trial.

27 **SECOND CAUSE OF ACTION**

28 **Recovery of Unpaid Overtime Wages**

(By PLAINTIFF and the Class Members Against all DEFENDANTS)

PLAINTIFF’S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND
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1 87. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

2 88. Employees in California must be paid overtime, equal to one and one-half times the
3 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
4 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
5 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
6 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
7 consecutive day of work in a workweek, unless they are exempt.

8 89. PLAINTIFF and the Class Members worked overtime hours for which they were not
9 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
10 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
11 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
12 scheduled hours worked rather than actual hours worked (described above), and/or other unlawful
13 policies and/or practices described above which resulted in unpaid minimum and overtime wages
14 which resulted in the failure to account for all hours worked and thus the denial of all owed overtime
15 wages.

16 90. Based on information and belief, DEFENDANTS failed to pay twice Class
17 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
18 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
19 violation of California's overtime laws.

20 91. Based on information and belief, DEFENDANTS further violated California's
21 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
22 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
23 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
24 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
25 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
26 other Class Members.

27 92. DEFENDANTS' conduct described above is in violation of California Labor Code
28 sections 510 and 1194 and all applicable Wage Orders.

1 93. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
2 wages, plus attorney's fees and costs, in an amount to be proved.

3 **THIRD CAUSE OF ACTION**

4 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
5 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

6 94. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 95. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
8 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
9 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
10 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
11 waived, but only under the following circumstances: (1) if an employee's total work period in a day
12 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
13 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
14 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
15 waived by mutual consent of the employer and employee, but only if the first meal period was not
16 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
17 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
18 done so.

19 96. Employers must pay employees an additional hour of wages at the employees'
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7.

23 97. As explained above, PLAINTIFF and other Class Members were consistently unable
24 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being
25 forced to take late meal periods, interrupted meal periods, and/or work through part or all of their
26 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary
27 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
28 completely.

 98. Based on information and belief, DEFENDANTS had and continue to have a policy

1 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
2 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
3 Members did not receive compliant meal periods.

4 99. Moreover, based on information and belief, Class Members did not receive a timely,
5 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

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

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

15 102. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
16 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
17 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
18 all in an amount to be proved at trial.

19 **FOURTH CAUSE OF ACTION**

20 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

21 103. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

22 104. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
24 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
25 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
26 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
27 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
28 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).

1 The rest period requirement obligates employers to permit and authorize employees to take off-duty
2 rest periods, meaning employers must relieve employees of all duties and relinquish control over
3 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

4 105. If the employer fails to provide any required rest period, the employer must pay the
5 employee one hour of pay at the employee's regular rate of compensation for each workday the
6 employer did not provide at least one legally required rest period, pursuant to Labor Code section
7 226.7.

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

18 107. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-
19 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,
20 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to
21 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,
22 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to
23 skip rest periods completely or otherwise take non-compliant rest periods.

24 108. Based on information and belief, DEFENDANTS implemented policies and/or
25 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer
26 control during rest periods. Based on further information and belief, Class Members were pressured
27 to complete their work duties according to a designated schedule such that rest periods were only
28 taken once tasks were completed, and/or as time permitted.

1 109. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
2 second, or third rest periods as required by California law.

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

9 111. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
10 hour of additional pay at the regular rate of compensation for each workday that a required rest
11 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
12 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
13 trial.

14 **FIFTH CAUSE OF ACTION**
15 **Violations of Labor Code Section 226**
16 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

17 112. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

18 113. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
19 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
20 wage statement accurately stating the following:

21 (1) gross wages earned, (2) total hours worked by the employee,
22 except for any employee whose compensation is solely based on a
23 salary and who is exempt from payment of overtime under
24 subdivision (a) of Section 515 or any applicable order of the Industrial
25 Welfare Commission, (3) the number of piece-rate units earned and
26 any applicable piece rate if the employee is paid on a piece-rate basis,
27 (4) all deductions, provided that all deductions made on written orders
28 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 his or her social
security number, except that by January 1, 2008, only the last four
digits of his or her social security number or an employee
identification number other than a social security number may be
shown on the itemized statement, (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.

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

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

19 116. As explained above, wage statements issued by DEFENDANTS failed to list the
20 "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries,
21 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
22 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
23 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
24 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
25 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
26 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

27 117. Separately, and independent from the above allegations, DEFENDANTS issued
28 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by

1 failing to list the correct name and/or address of the legal entity that is the employer.

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

4 119. DEFENDANTS' failure to accurately list all hours worked on all wage statements
5 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
6 Members over whether they received all wages owed to them.

7 120. As a result, PLAINTIFF and other Class Members have suffered injury as they could
8 not easily determine whether they received all wages owed to them and whether they were paid for
9 all hours worked.

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

13 122. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
14 Class Members with accurate, itemized wage statements.

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

24 124. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
25 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
26 violation occurred and one hundred dollars per employee per violation for each subsequent pay
27 period, not to exceed an aggregate penalty of four thousand dollars per employee.

28 125. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
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1 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
2 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
3 provide currently employed Class Members with inaccurate wage statements in violation of
4 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
5 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
6 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
7 with California Labor Code § 226(a).

8 126. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
9 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
10 attorneys' fees, and costs of suit.

11 **Failure to Produce Employment Records**

12 127. *Time and Pay Records.* Labor Code section 226(b)-(c) and all applicable IWC Wage
13 Orders, section 7 require that employers keep the following information on file for each employee
14 for a minimum of three years: The employee's dates of employment; the employee's hourly rates
15 and the corresponding number of hours worked by the employee at each hourly rate, when the
16 employee begins and ends each work period (including meal periods) and split intervals; total hours
17 worked by the employee; all deductions; gross wages earned; and net wages earned.

18 128. Section (b) of Labor Code section 226 further requires employers to "afford current
19 and former employees the right to inspect or receive a copy of records pertaining to their
20 employment upon reasonable request to the employer." Section (c) of Labor Code section 226
21 provides that, "an employer who receives a written or oral request to inspect or receive a copy of
22 records pursuant to subdivision (b) pertaining to a current or former employee shall comply with
23 the request as soon as practicable, but no later than 21 calendar days from the date of the request. A
24 violation of this subdivision is an infraction." An employer's failure to comply within this timeframe
25 entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from
26 the employer. Lab. Code section 226(f).

27 129. *Personnel Records.* In addition to their right to time and pay records, employees, and
28 their representatives, have the right to inspect and receive a copy of their personnel files pursuant to

1 Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code
2 section 432 further specifies that employers must furnish copies of all employment records bearing
3 the employee's signature.

4 130. Labor Code section 1198.5 also requires that the file be made available for inspection
5 or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date
6 the employer receives a written request." An employer's failure to comply within this timeframe
7 likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty
8 from the employer. Lab. Code section 1198.5(k).

9 131. Based on information and belief, DEFENDANTS have a uniform policy and practice
10 of failing to produce or make available a current or former employee's personnel records and/or
11 payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the
12 applicable Wage Order.

13 132. DEFENDANTS' conduct explained above is in violation of Labor Code Sections
14 226(b) & (c). Accordingly, PLAINTIFF and Class Members are therefore each entitled to recover
15 a \$750.00 penalty from DEFENDANTS, along with costs and reasonable attorneys' fees, pursuant
16 to Labor Code Section 226(f).

17 133. DEFENDANTS' conduct is also in violation of Labor Code section 1198.5. Pursuant
18 to Labor Code Sections Labor Code section 1198.5(k), PLAINTIFF and the Class Members are
19 entitled to recover an additional \$750.00 penalty from DEFENDANTS, along with injunctive relief,
20 costs and reasonable attorney's fees pursuant to Labor Code section 1198.5(l).

21 **SIXTH CAUSE OF ACTION**

22 **Failure to Timely Pay All Wages Due Upon Separation of Employment** 23 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

24 134. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

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

27 136. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
28 employee not having a written contract for a definite period quits his or her employment, his or her

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

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

10 138. Under Labor Code section 203, PLAINTIFF and the Class Members who are no
11 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days’
12 pay, plus attorney’s fees and costs, in an amount to be proved at trial.

13 **SEVENTH CAUSE OF ACTION**
14 **Failure to Reimburse Business Expenses**
15 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

16 139. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

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

23 141. Among other things, under California law, when employees must use their personal
24 cellphones for work-related purposes, the employer must reimburse them for a reasonable
25 percentage of their cell phone bills. See *Cochran v. Schwan’s Home Services, Inc.* (2014) 228
26 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
27 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
28 Id. 1144-1145. California law also requires employers to reimburse employees for automobile
expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear

1 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

2 142. As described above, PLAINTIFF and the Class Members were improperly required
3 to pay for business expenses that are legally the responsibility of the employer.

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

8 144. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
9 Members have suffered injury in that they were not completely reimbursed as mandated by
10 California law.

11 145. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
12 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
13 attorneys' fees, and costs of suit.

14 **EIGHTH CAUSE OF ACTION**

15 **Unfair Competition**

16 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

17 146. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

18 147. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
19 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
20 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
21 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
22 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
23 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
24 wage statements; DEFENDANTS' failure to, upon written request by current and former
25 employees, produce and/or allow access to complete employment records within the time limits
26 prescribed by California law; DEFENDANTS' failure to reimburse business expenses;
27 DEFENDANTS' failure to timely pay all wages owed upon separation of employment; and
28 DEFENDANTS' failure to provide paid sick leave (or paid time off in lieu thereof) at the properly
accrued rates (due to, including but not limited to, DEFENDANTS' failure to incorporate all non-

1 discretionary compensation into the sick pay calculation and failure to base the accrued sick leave
2 on the correct number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction
3 policies and practices, payment according to scheduled hours worked and/or other off-the-clock
4 work policies and practices).

5 148. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
6 California Labor Code, DEFENDANTS have gained a competitive advantage over other
7 comparable companies doing business in the State of California that comply with their obligations
8 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
9 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
10 itemized wage statements, to timely produce and/or allow access to complete employment records;
11 to reimburse employees for all business expenses, to pay all owed minimum and overtime wages
12 and to pay all wages due upon separation of employment of their employees.

13 149. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
14 and Class Members have suffered injury in fact and lost money or property, as described in more
15 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
16 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
17 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
18 unlawful and unfair business practices.

19 150. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
20 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
21 engaging in each of the unlawful practices and policies set forth herein.

22 **NINTH CAUSE OF ACTION**

23 **Violation of the Private Attorneys General Act of 2004**

24 **(By PLAINTIFF and the Aggrieved Employees Against All DEFENDANTS)**

25 151. PLAINTIFF incorporates all preceding paragraphs as if full alleged herein.

26 152. PLAINTIFF brings this action under the Private Attorneys General Act of 2004,
27 Labor Code sections 2698, *et seq.*, ("PAGA"), as a representative action on behalf of PLAINTIFF,
28 the State of California and Aggrieved Employees, regarding violations of the California Labor Code
as set forth herein as to all Aggrieved Employees. Said "Aggrieved Employees" include:

1 All current and former non-exempt employees that worked either
2 directly or via a staffing agency for any one or more of the
3 DEFENDANTS at any location in California at any time from one
4 year plus 65 days from the filing of the initial Complaint through the
5 present ("PAGA Period").

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

17 **COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS**

18 154. On June 14, 2023, PLAINTIFF, through counsel, gave written notice by online filing
19 with the California Labor and Workforce Development Agency ("LWDA") informing it that
20 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
21 in this Complaint ("PAGA Notice").

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

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

3 157. From one year prior to PLAINTIFF's filing of the required PAGA notice with the
4 LWDA, and continuing through the present, as alleged herein, DEFENDANTS violated California
5 Labor Code sections, 201-203, 204, 216, 221-223, 226, 226.7, 227.3, 245-248.5, 432, 432.5, 432.7,
6 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all
7 applicable Wage Orders.

8 158. As set forth above, DEFENDANTS have committed numerous violations of the
9 California Labor Code due to including but not limited to their failure to pay all owed minimum
10 wages and all owed overtime wages, failure to provide lawful meal and rest periods or compensation
11 in lieu thereof, failure to provide accurate wage statements, failure to reimburse business expenses,
12 and failure to pay all wages owed upon separation of employment as alleged above. PAGA penalties
13 are in addition to any other relief available under the Labor Code.

14 159. Additionally, DEFENDANTS have violated the following Labor Code sections and
15 provisions of the applicable Wage Order as to the PLAINTIFF and other Aggrieved Employees.

16 **Failure to Keep Accurate Records**

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

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

26 162. DEFENDANTS' failure to keep "accurate and complete" payroll records for
27 PLAINTIFF and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
28 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under

1 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
2 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
3 period during which the referenced statutes and Wage Order provisions were violated.¹

4 **Cooldown Recovery Period Violations**

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

15 164. Based on information and belief, Aggrieved Employees were required to spend
16 multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS
17 failed to provide proper heat illness prevention training and/or heat illness
18 policies/practices/programs as required by California’s Heat Illness Prevention statute, Title 8
19 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by
20 California’s Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS
21 maintained a policy and practice of not permitting necessary time for cooldown recovery breaks,
22 and as a result, Aggrieved Employees were required to remain outdoors with little to no access to
23 shade for extended periods of time. In addition, DEFENDANTS, failed to pay Aggrieved
24 Employees with an additional hour of pay at their respective regular rate(s) of pay for each missed

25 ¹ Labor Code § 2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Labor
26 Code § 558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the
27 employee was underpaid”); All applicable wage orders, § 20 (establishing that “in addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid”) (emphasis added).

1 cooldown recovery period.

2 **Failure to Provide Suitable Resting Facilities**

3 165. Per section 13 of all applicable IWC Wage Orders, employees shall be provided with
4 suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
5 shall be provided in an area separate from the toilet rooms and shall be available to employees during
6 work hours.”

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

16 167. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
17 during their hours of work, particularly during meal and/or rest periods.

18 168. DEFENDANTS’ failure to provide suitable resting facilities to PLAINTIFF and
19 Aggrieved Employees violated and continue to violate the applicable Wage Order, section 13(B)
20 and the California Labor Code, including but not limited to section 1198.

21 **Sick Leave Violations**

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

1 170. DEFENDANTS further failed to give PLAINTIFF and other Aggrieved Employees
2 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
3 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
4 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFF and
5 Aggrieved Employees’ intelligent exercise of their paid sick leave.

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

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

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

19 174. These practices violated California’s sick leave laws, Labor Code section 245, *et seq.*

20 175. On information and belief, PLAINTIFF alleges that all of these practices were
21 experienced and continue to be experienced by other Aggrieved Employees.

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

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

26 177. Labor Code § 248.2 provides that all employers with 26 or more employees are
27 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
28 Paid Sick Leave to care for themselves, to care⁴⁰ for a family member or if it is vaccine-related.

1 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFF and other Aggrieved
2 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
3 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
4 Labor Code section 248.6.

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

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

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

19 **Statutory Wage Violations**

20 180. California Labor Code section 223 makes it unlawful for an employer to secretly pay
21 wages lower than required by statute while purporting to pay legal wages. As described above,
22 DEFENDANTS willfully and systematically denied PLAINTIFF and Aggrieved Employees of all
23 earned minimum and overtime compensation for all hours worked which resulted in the payment of
24 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
25 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
26 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
27 Employees lower wages than those they were entitled to while purporting that PLAINTIFF and
28 other Aggrieved Employees were properly paid. As a result, PLAINTIFF and other Aggrieved

1 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
2 Labor Code § 2699(f)-(g).

3 **Refusal to Make Payment**

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

12 **Standard Conditions of Labor Violations**

13 182. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
14 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
15 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
16 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
17 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
18 seating, suitable resting facilities, reporting time pay, minimum/overtime wages and other violations
19 described herein result in separate violations of sections 1198 and 1199, which subject
20 DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

21 **Unlawful Deductions**

22 183. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
23 an employee any part of wages theretofore paid by said employer to said employee." Based on
24 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
25 paychecks during the relevant period, including but not limited to deducting costs of uniforms and/or

26 _____
27 ² Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 other business costs and/or deducting wages for purported overpayments from previous pay periods
2 and/or unlawfully deducting wages for negligently damaged property. Such a practice is in violation
3 of including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to
4 civil penalties under Labor Code Section 2699.

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

11 **Reporting Time Pay Violations**

12 185. Section 5 of all applicable IWC Wage Orders, provides as follows:

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

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

26 188. Based on information and belief, DEFENDANTS have a policy and practice of
27 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
28 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to

1 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
2 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

3 **Violation of California Day of Rest Law**

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

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

14 **Seating Violations**

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

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

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

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

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

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

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

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

16 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

17 197. *Unlawful Agreements.* Labor Code section 432.5 provides that "no employer...shall
18 require any employee or applicant for employment to agree, in writing, to any term or condition
19 which is known by such employer...to be prohibited by law." DEFENDANTS required and
20 continue to require Aggrieved Employees to agree in writing to unlawful conditions of employment
21 including but not limited to unlawful non-solicitation/non-compete agreements, unlawful
22 confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, unlawful forum
23 selection clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or
24 financial checks as a condition of obtaining and/or continuing employment in violation of Labor
25 Code section 432.5.

26 198. The California Labor Code places certain procedural and substantive limits on an
27 employers' ability to conduct employee background checks and on how employers can use the
28 information they obtain through those background checks. Labor Code section 1024.5 states that

1 employers, except for financial institutions, may order a credit check only if the individual works
2 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
3 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
4 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
5 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
6 background check, including but not limited to identifying an appropriate reason for the background
7 check, a separate consent form with required disclosures and certain formatting requirements,
8 additional forms such as a summary of rights, a way by which to request a copy of the report, as
9 well as proper notice of adverse actions taken, among other statutory requirements.

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

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

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

22 202. Based on further information and belief, DEFENDANTS knew that requiring
23 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
24 condition of obtaining and/or holding employment was unlawful.

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

27 Unlawful Inquires into Criminal History

28 204. Labor Code section 432.7 prohibits⁴⁶ an employer from asking applicants about past
PLAINTIFF'S FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT AND DEMAND
FOR JURY TRIAL

1 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
2 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
3 convictions on its employment application, in violation of California law.

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

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

14 207. Under the provisions of PAGA and the above mentioned Labor Code sections,
15 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
16 227.3, 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1,
17 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
18 interpretations of these laws by California Courts and administrative bodies, as well as any other
19 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

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

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

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and Class Members and Aggrieved Employees as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;
3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred;
12. For civil penalties according to proof, including PAGA penalties (75% payable to the LWDA and 25% payable to Aggrieved Employees); and
13. For such other and further relief that the Court deems just and proper.

Dated: October 19, 2023

CROSNER LEGAL, PC

By: _____

Jamie K. Serb, Esq.

Nikki Trenner, Esq.

Zachary M. Crosner, Esq.

Attorneys for Plaintiff,
SANDON PATTERSON

DEMAND FOR JURY TRIAL

PLAINTIFF demands a trial by jury on all claims so triable.

Dated: October 19, 2023

CROSNER LEGAL, PC

By: 
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