

1 Keith A. Custis (SBN 218818)
2 kcustis@custislawpc.com
3 CUSTIS LAW, P.C.
4 2121 Avenue of the Stars, Suite 800
5 Los Angeles, California 90067
6 Telephone: (213) 863-4276
7 Facsimile: (213) 863-4277

8 Attorneys for Plaintiff
9 KENIA CASTRO

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

12 KENIA CASTRO, as a private
13 attorney general and proxy for the
14 State of California, and

15 Plaintiffs,
16 vs.

17 FRED LEEDS PROPERTY
18 MANAGEMENT, INC., a California
19 corporation; MAXIMILIAN LEEDS,
20 an individual; and DOES 1 through 10,
21 inclusive,

22 Defendants.

Case No. 23STCV21642

REPRESENTATIVE ACTION COMPLAINT

- (1) Claim for Civil Penalties for Violation of
California's Private Attorneys General Act of
2004 (Labor Code § 2698, *et seq.*)

1 Plaintiff Kenia Castro, as a private attorney general and proxy for the State of California,
2 alleges on information and belief as follows:

3 **INTRODUCTION**

4 1. This is a representative action under the Labor Code Private Attorneys General Act
5 of 2004, Labor Code Section 2698, *et seq.* (“PAGA”) that challenges systemic employment practices
6 resulting in violations of the California Labor Code against the non-exempt, hourly-paid employees
7 who worked for Defendants Fred Leeds Property Management, Inc. and Maximillian Leeds in
8 California in the position of onsite property manager.

9 2. The Labor Code is broadly remedial in nature. Its laws serve an important public
10 interest in establishing minimum working conditions and requirements in California. These labor
11 standards protect employees from onerous terms and conditions of employment or exploitation by
12 employers who have superior economic and bargaining power. PAGA was enacted to improve the
13 enforcement of California’s Labor Code by empowering an aggrieved employee to bring an
14 enforcement action as a private attorney general and proxy for the State of California for an
15 employer’s violations of California labor law.

16 3. By this action, Plaintiff seeks civil penalties and any other available relief under the
17 PAGA on behalf of the State of California, Plaintiff and other current and former non-exempt,
18 hourly-paid employees who worked for Defendant Fred Leeds Property Management, Inc. in the
19 State of California in the position of onsite property manager.

20 4. This Complaint seeks civil penalties and other relief pursuant to the PAGA for
21 Defendants’ violations of Labor Code Sections 201, 202, 203, 204, 226, 432, 510, 558, 1174(d),
22 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2802.

23 **THE PARTIES**

24 5. Plaintiff Kenia Castro (“Plaintiff”) is and at all times relevant to this Complaint was
25 an individual residing in Los Angeles County, California.

26 6. Defendant Fred Leeds Property Management, Inc. (“Fred Leeds”) is and at all times
27 relevant to this Complaint was a California corporation that does business in Los Angeles County,
28 California.

1 7. Upon information and belief, defendant Maximillian Leeds (“Mr. Leeds”) is and at
2 all times relevant to this Complaint was an individual residing in Los Angeles County, California.
3 Upon information and belief, Mr. Leeds is and at all times relevant to this Complaint was an owner,
4 director, officer and/or managing agent of Defendant Fred Leeds Property Management, Inc., and,
5 therefore, is liable in his individual capacity as an employer pursuant to Labor Code Section 558.1.¹
6 On information and belief, Defendant Maximillian Leeds was also personally involved in the alleged
7 violations of the Labor Code Sections detailed below, and is thus subject to liability under Labor
8 Code Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

9 8. Plaintiff is unaware of the true names and capacities, whether individual, corporate,
10 associate, or otherwise of the defendants sued herein as Doe 1 through 10. Plaintiff therefore sues
11 those defendants by fictitious names. Plaintiff will amend this Complaint to show the true names and
12 capacities of each Doe defendant when such information has been ascertained.

13 9. Except as otherwise noted, a reference to “Defendants” in this Complaint shall include
14 the named Defendants and the Doe defendants.

15 10. Upon information and belief, Defendants acted as the employers and/or joint
16 employers of Plaintiff, and directly or indirectly, or through actual agents, ostensible agents and/or
17 other persons, employed Plaintiff, and exercised control over her wages, hours, and working
18 conditions. Defendants’ control included, but was not limited to, the authority to hire and fire, assign
19 work tasks and engage in day-to-day supervision.

20 11. Upon information and belief, at all relevant times, each of the Defendants is and was
21 the agent, partner, joint venturer, principal, alter ego, employee, co-conspirator, and/or aider or
22 abettor of each of the other Defendants, and in doing the things alleged was acting within the course
23 and scope of their agency or employment and with the knowledge and consent of each of the other
24 Defendants. Upon information and belief, the acts and conduct of each of the Defendants was known

25 ¹ Mr. Leeds is also liable in their individual capacities for the civil penalties, attorneys’ fees and
26 litigation costs available pursuant to the Labor Code Private Attorneys General Act of 2004, Labor
27 Code Section 2698, *et seq.* *See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809, 824 (holding
28 that “the language in both section 558(a) and section 1197.1(a) is broad enough to *unambiguously*
include [the owner and CEO of the defendant employer] as a person *other than the corporate*
employer subject to the civil penalties awarded by the trial court under those two statutes”) (emphasis
in original).

1 to, and authorized and ratified by, the remaining Defendants, and each of the Defendants is jointly
2 and severally responsible and liable for the damages alleged herein.

3 **JURISDICTION AND VENUE**

4 12. This Court has subject matter jurisdiction over all causes of action alleged in this
5 Complaint pursuant to the California Constitution, Article VI, Section 10, which grants the Superior
6 Court “original jurisdiction in all causes except those given by statute to other courts.” Plaintiff’s
7 claims arise under the laws of the State of California and are not statutorily assigned to any other trial
8 court.

9 13. The amount in controversy under this Complaint exceeds the minimal jurisdictional
10 limit of the Superior Court and will be established according to proof at trial.

11 14. The Court has personal jurisdiction over the Defendants because they are residents of
12 and/or are doing business in the State of California.

13 15. Venue is proper in this Court pursuant to Code of Civil Procedure Sections 395 and
14 395.5 because, Plaintiff resides in Los Angeles County, Defendant Fred Leeds conducts business in
15 Los Angeles County, and the liability for the alleged wrongs described herein arose in Los Angeles
16 County. Venue is also proper in this Court because “venue is proper in any county in which an
17 aggrieved employee worked and Labor Code violations allegedly occurred.” *Crestwood Behavioral*
18 *Health, Inc. v. Superior Court of Alameda County* (Cal. Ct. App., Feb. 17, 2021) No. A160523, 2021
19 WL 613700, at *2.

20 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

21 16. On June 7, 2023, Plaintiff provided written notice by online filing to the Labor and
22 Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific
23 provisions of the Labor Code alleged to have been violated, including facts and theories to support
24 the alleged violations, in accordance with Labor Code Section 2699.3. A true and correct copy of
25 Plaintiff’s PAGA Notice is attached hereto as Exhibit 1.

26 17. As of the filing date of this Complaint, over 65 days have passed since Plaintiff sent
27 the June 7, 2023 LWDA Notice, and the LWDA has not responded that it intends to investigate
28 Plaintiff’s claims, and Defendants have not cured the violations.

18. Plaintiff has thus satisfied the administrative prerequisites under Labor Code Sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants, in addition to other remedies, for violations of Labor Code Sections 201, 202, 203, 204, 226, 432, 510, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2802.

GENERAL ALLEGATIONS

19. Defendants employed Plaintiff from April 1, 2021 until June 10, 2022 as an hourly paid, non-exempt onsite property manager.

20. This is a representative action brought on behalf of the State of California and the following individuals:

All non-exempt, hourly-paid current and former employees of Fred Leeds Property Management, Inc. who worked in the State of California at any time during the PAGA Period in the position of onsite property manager ("Aggrieved Employees").

21. The PAGA Period is defined as the period of time beginning on June 7, 2022, the date that is one year prior to the date of Plaintiff's notice letter to the LWDA, and continuing to the present.

22. Plaintiff and all other current and former employees of Fred Leeds Property Management, Inc. who worked one or more pay periods in the State of California in the position of onsite property manager at any time during the PAGA Period are "aggrieved employees" within the meaning of Labor Code Section 2699, et seq. *See* Labor Code § 2699(c).

23. On information and belief, Defendants subjected Plaintiff and the other Aggrieved Employees to the same policies, practices and procedures governing the control and payment of wages and hours worked, and the reimbursement of business expenses, and uniformly denied Plaintiff and other Aggrieved Employees the rights afforded to them under the Labor Code, IWC Wage Order No. 4-2001 and the California Business and Professions Code.

24. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees' locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire.

1 25. Upon information and belief, Defendants maintain a centralized payroll department
2 at their company headquarters in Los Angeles, California, which processes payroll for all Aggrieved
3 Employees working for Defendants in California.

4 26. Based upon information and belief, Defendants issue the same formatted wage
5 statements to all Aggrieved Employees in California, irrespective of their work locations. Upon
6 information and belief, Defendants process payroll for departing employees in the same manner
7 throughout the State of California, regardless of the manner in which each employee's employment
8 ends.

9 27. Plaintiff was scheduled to work five (5) workdays a week for eight (8) hours a day,
10 but often worked, because of the off-the-clock work described below, in excess of five workdays a
11 week and in excess of eight (8) hours each workday and in excess of forty (40) hours each work
12 week.

13 28. On information and belief, other Aggrieved Employees also worked, and continue to
14 work, at least five (5) days a week in excess of eight (8) hours each workday and in excess of forty
15 (40) hours each work week.

16 29. Defendants continue to employ Aggrieved Employees in California.

17 30. Plaintiff is informed and believes, and thereon alleges, that the Aggrieved Employees
18 were not paid for all hours worked because the Aggrieved Employees routinely worked off-the-clock
19 in excess of eight (8) hours each workday and in excess of forty (40) hours each workweek, and all
20 hours worked were not recorded.

21 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that the Aggrieved Employees were entitled to receive at least minimum wages
23 for compensation for all hours worked, and that they were not receiving at least minimum wages for
24 all hours worked.

25 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that the Aggrieved Employees were entitled to receive certain wages for overtime
27 compensation and that they were not receiving certain wages for overtime compensation.

28 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that the Aggrieved Employees were entitled to receive complete and accurate
2 wage statements in accordance with California law; and that, in violation of the Labor Code, the
3 Aggrieved Employees were not provided complete and accurate wage statements.

4 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that the Aggrieved Employees were entitled to receive full reimbursement for all
6 business-related expenses and costs they incurred during the course and scope of their employment
7 and that they did not receive full reimbursement of applicable business-related expenses and costs
8 incurred.

9 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that they had a duty to maintain accurate and complete payroll records in
11 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and
12 intentionally failed to do so.

13 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that the Aggrieved Employees were entitled to timely payment of all wages
15 earned upon termination of employment. In violation of the Labor Code, the Aggrieved Employees
16 did not receive payment of all wages due, including, but not limited to, minimum wages and overtime
17 wages, within permissible time periods.

18 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other Aggrieved Employees were entitled to receive copies of
20 their personnel file and payroll records upon request in accordance with the Labor Code. In violation
21 of the Labor Code, Defendants failed to provide Plaintiff and on information and belief other
22 Aggrieved Employees copies of their personnel files and payroll records upon request in accordance
23 with the Labor Code.

24 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that the Aggrieved Employees were entitled to timely payment of wages during
26 their employment. In violation of the Labor Code, the Aggrieved Employees did not receive payment
27 of all wages, including, but not limited to, overtime wages and minimum wages, within permissible
28 time periods.

39. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants knew or should have known that they had a duty to compensate the Aggrieved Employees for all hours worked, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, all in order to increase Defendants' profits.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to Labor Code § 2698, *et seq.*

(By Plaintiff on Behalf of the State of California and Aggrieved Employees

Against all Defendants)

40. Plaintiff incorporates all preceding allegations as if fully set forth herein.

41. Plaintiff alleges that she personally suffered violations of Labor Code Sections 226(b) & (c), 432 and 1198.5 during the PAGA Period and thus has standing under the PAGA as an "aggrieved employee." Labor Code § 2699.3(c) ("aggrieved employee" means any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed")(emphasis added).

42. Plaintiff's "individual PAGA claims" with respect to Labor Code Sections 226(b) & (c), 432 and 1198.5 are currently being litigated in the Los Angeles County Superior Court in the related case entitled *Kenia Castro, et al. v Fred Leeds Property Management, Inc., et al.*, Case No. 22STCV29694 (L.A. Super. Ct.). In *Viking River Cruises, Inc. v. Moriana* (2022) 142 S.Ct. 1906, 1924-1925, the United States Supreme Court used the term "individual PAGA claim" to refer to individual Labor Code claims personally suffered by a plaintiff. 142 S.Ct. 1906, 1916. Under California law, however, [t]here is no individual component to a PAGA action because "every PAGA action . . . is a representative action on behalf of the state." *Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 87. An "individual PAGA claim" is thus merely an individual Labor Code claim.

43. In this case, Plaintiff does not allege that she personally suffered violations of Labor Code Sections 201, 202, 203, 204, 226(a), 510, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802. To the contrary, Plaintiff alleges that Defendants violated Labor Code Sections 201, 202,

203, 204, 226(a), 510, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802 exclusively as non-individual, representative PAGA claims. Non-individual PAGA claims are “representative claims pursued by the plaintiff and based on Labor Code violations suffered by employees other than the plaintiff.” *Galarsa v. Dolgen California, LLC* (2023) 88 Cal.App.5th 639, 647, as modified on denial of reh’g (Feb. 24, 2023)(citing *Viking River*, 142 S.Ct. 1906, 1924-1925); *see also Huff v Securitas Sec. Servs. USA, Inc.* (2018) 23 Cal.App.5th 745, 751 (“[W]e conclude that PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.”).

44. Labor Code Section 2698, *et seq.* permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code Section 2699.5. Section 2699.5 enumerates Labor Code Sections 201, 202, 203, 204, 226, 432, 510, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2802. Labor Code Section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code Sections not found in Section 2699.5, including Section 1182.12.

45. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff may recover civil penalties on behalf of herself, the State of California and other aggrieved current and former employees in the following amounts:

- a. For violations of Labor Code Sections 201, 202, 203, 221, 432, 226(b) & (c), 1182.82, 1194, 1198.5, 1198, and 2802, one hundred dollars (\$100.00) for each aggrieved employee per pay period for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation (penalty amounts established by Labor Code Sections 2699(f)(2));
- b. For violations of Labor Code Section 1197, one hundred dollars (\$100.00) for each aggrieved employee for each initial and intentional violation and two hundred fifty dollars (\$250.00) for each aggrieved employee for each subsequent violation, per pay period (regardless of whether the initial violations were intentionally committed) (penalty amounts established by Labor Code § 1197.1);
- c. For violations of Labor Code Section 204, one hundred dollars (\$100.00) for each

aggrieved employee for each initial violation, and two hundred dollars (\$200.00) for each aggrieved employee plus twenty-five percent (25%) of the amount unlawfully withheld from each aggrieved employee for each subsequent, willful or intentional violation (penalty amounts established by Labor Code § 210);

d. For violations of Labor Code Sections 226(a), two hundred fifty dollars (\$250.00) for each aggrieved employee for each initial violation and one thousand dollars (\$1,000.00) for each aggrieved employee for each subsequent violation (penalty amounts established by Labor Code § 226.3);

e. For violations of Labor Code Sections 510 and 512, fifty dollars (\$50.00) for each aggrieved employee for initial violation and one hundred dollars (\$100.00) for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalty amounts established by Labor Code § 558); and

f. For violations of Labor Code Section 1174, a civil penalty of \$500 per employee (penalties set by Labor Code § 1174.5).

46. As detailed below, Defendants violated Labor Code Sections 201, 202, 203, 204, 221, 223, 226, 226.7, 510, 512, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2751 and 2802.

47. These violations were willful, knowing, and intentional.

FAILURE TO PAY MINIMUM WAGE

(Labor Code §§ 1182.12, 1194, 1197 and 1198)

48. Plaintiff alleges that Defendants violated Labor Code Sections 1182.12, 1194, 1197 and 1198 exclusively as a non-individual, representative PAGA claim. As such, there is no “individual PAGA claim” with respect to Labor Code Sections 1182.12, 1194, 1197 and 1198.

49. Labor Code Sections 1182.12, 1194, 1197 and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.

50. Compensable work time is defined by the applicable wage order as “the time during which an employee is subject to the control of an employer, and includes all the time the employee

1 is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, §
2 11040(2)(K) (defining “Hours Worked”).

3 51. Labor Code Section 1194(a) provides that “Notwithstanding any agreement to work
4 for a lesser wage, any employee receiving less than the legal minimum wage . . . is entitled to recover
5 in a civil action the unpaid balance of the full amount of this minimum wage . . . , including interest
6 thereon, reasonable attorney’s fees, and costs of suit.”

7 52. Defendants employed the Aggrieved Employees as non-exempt, hourly paid
8 employees who were entitled to the protections of Labor Code Sections 1182.12, 1194, 1197 and
9 1198 and IWC Wage Order 4-2001.

10 53. During the relevant time period, Defendants maintained a policy and practice of
11 failing to pay the Aggrieved Employees the correct minimum wage for all hours worked because
12 Defendants required the Aggrieved Employees to work off-the-clock without compensation.

13 54. Defendants employed the Aggrieved Employees as onsite property managers. As a
14 property management company, Fred Leeds was well aware that tenants of the buildings managed
15 by the Aggrieved Employees would request assistance from the Aggrieved Employees after hours
16 on a routine basis. By requiring the Aggrieved Employees to work as onsite property managers,
17 Defendants required the Aggrieved Employees to work off the clock to respond to the numerous
18 inquiries for assistance and/or emergencies that were made and/or occurred after hours.

19 55. In addition, the Aggrieved Employees also had to travel from the building where they
20 resided to another property after hours, when they were off the clock, to respond to alarms that had
21 been triggered at another property. Defendants certainly expected and required the Aggrieved
22 Employees working as onsite property managers to respond to alarms whether or not they were on
23 the clock.

24 56. In addition, Defendants required the Aggrieved Employees to respond to business-
25 related calls, emails and text messages when they were off-the-clock, and the Aggrieved Employees
26 worked off-the-clock to respond to such business-related communications.

27 57. Because Defendants required the Aggrieved Employees to work off-the-clock,
28 Defendants failed to compensate the Aggrieved Employees for all hours worked, including minimum

1 wage and overtime hours.

2 58. The Aggrieved Employees routinely worked more than eight (8) hours in a single
3 workday and more than (40) hours in a single work week, and were thus entitled to be paid the
4 applicable minimum wage and overtime wage for all hours worked beyond eight (8) hours in a single
5 workday and more than (40) hours in a single work week.

6 59. On information and belief, Defendant Maximillian Leeds was personally involved in
7 the alleged violations of Labor Code Sections 1182.12, 1194, 1197 and 1198 and IWC Wage Order
8 4-2001, and is thus subject to liability under Labor Code Section 558.1. *See Espinoza v. Hepta Run,*
9 *Inc.*, 74 Cal. App. 5th 44, 59.

10 60. Defendants' failure to pay the Aggrieved Employees the applicable minimum wages
11 for all hours worked violates Labor Code Sections 1182.12, 1194, 1197 and 1198. Plaintiff is thus
12 entitled to recover civil penalties pursuant to Labor Code Sections 1197.1 and/or 2699(a), (f), and
13 (g), on behalf of the State of California and all Aggrieved Employees.

14 **FAILURE TO PAY OVERTIME WAGES**

15 **(Labor Code §§ 510 and 1998)**

16 61. Plaintiff alleges that Defendants violated Labor Code Section 510 and 1998
17 exclusively as a non-individual, representative PAGA claim. As such, there is no "individual PAGA
18 claim" with respect to Labor Code Sections 510 and 1198.

19 62. Labor Code Section 510 provides that "Any work in excess of eight hours in one
20 workday and any work in excess of 40 hours in any one workweek . . . shall be compensated at the
21 rate of no less than one and one-half times the regular rate of pay for an employee."

22 63. An employee's regular rate of pay includes all remuneration for employment paid to,
23 or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

24 64. Labor Code Section 1198 provides that it is unlawful to employ persons for longer
25 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
26 applicable IWC Wage Order.

27 65. Section 3 of IWC Wage Order No. 5-2001 provides in pertinent part that:
28

[E]mployees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

66. Labor Code Section 1194(a) provides that "Notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

67. Defendants employed the Aggrieved Employees as non-exempt, hourly paid employees who were entitled to the protections of Labor Code Sections 510 and 1198 and IWC Wage Order 4-2001.

68. During the relevant time period, Defendants failed to pay the requisite overtime wages to the Aggrieved Employees. When the Aggrieved Employees worked eight or more hours on-the-clock, the off-the-clock work detailed above constituted work in excess of eight hours in a workday and should have been paid at the applicable overtime rate. When the Aggrieved Employees' time records indicate that they worked close to eight hours in a workday on the clock—e.g., when their time cards reflect that they worked 7.7 or more total hours—the off-the-clock work detailed above also caused the Aggrieved Employees' total hours worked to exceed eight (8) hours on such a workday and, likewise, should have been paid at the applicable overtime rate.

69. Because Defendants required the Aggrieved Employees to work off-the-clock,

Defendants failed to pay all required overtime wages in violation of Labor Code Sections 510 and 1198 and the applicable IWC Wage Order.

70. On information and belief, Defendant Maximillian Leeds was personally involved in the alleged violations of Labor Code Sections 510 and 1198 and the applicable IWC Wage Order, and is thus subject to liability under Labor Code Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

71. Defendants' failure to pay the Aggrieved Employees all earned overtime compensation, as required by California law, violates the provisions of Labor Code Sections 510 and 1198. Plaintiff is therefore entitled to recover civil penalties pursuant to Labor Code Sections 558 and/or 2699(a), (f)-(g), on behalf of the State of California and all Aggrieved Employees.

FAILURE TO REIMBURSE BUSINESS EXPENDITURES

(Labor Code § 2802)

72. Plaintiff alleges that Defendants violated Labor Code Section 2802 exclusively as a non-individual, representative PAGA claim. As such, there is no "individual PAGA claim" with respect to Labor Code Section 2802.

73. Labor Code Section 2802(a) provides that an employer "shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

74. Section 9(B) of IWC Wage Order No. 4 provides in pertinent part that, "When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer."

75. Defendants had and, on information and belief, continue to have, a company-wide policy and/or practice of not reimbursing Aggrieved Employees for expenses necessarily incurred.

76. During the relevant time period, Defendants, on a company-wide basis, systematically failed to reimburse the Aggrieved Employees for necessary business expenses incurred at the direction of Defendants.

77. Specifically, during the relevant time period, Defendants had a consistent policy and/or practice that required the Aggrieved Employees to use their personal vehicle, gas and auto

1 insurance to carry out her job duties, but Defendants failed to reimburse the Aggrieved Employees
2 for the reasonable costs of the use of their respective personal vehicle, fuel, auto insurance, vehicle
3 maintenance costs and other vehicle-related expenses.

4 78. Defendants could have provided the Aggrieved Employees with the actual tools
5 required for use on the job, including a company car. Likewise, Defendants could have reimbursed
6 the Aggrieved Employees for the reasonable costs of the use of their personal vehicle, fuel, auto
7 insurance, vehicle maintenance costs and other vehicle-related expenses they incurred for the
8 business, but Defendants failed to do so.

9 79. Thus, Defendants violated Section 2802 by uniformly failing to reimburse the
10 reasonable costs of the Aggrieved Employees' personal vehicle expenses.

11 80. On information and belief, Defendant Maximillian Leeds was personally involved in
12 the alleged violations of Labor Code Section 2802, and is thus subject to liability under Labor Code
13 Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

14 81. Plaintiff is therefore entitled to recover civil penalties pursuant to Labor Code Section
15 2699(a), (f)-(g), on behalf of the State of California and all Aggrieved Employees.

16 **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

17 **(Labor Code § 226(a))**

18 82. Plaintiff alleges that Defendants violated Labor Code Section 226(a) exclusively as a
19 non-individual, representative PAGA claim. As such, there is no "individual PAGA claim" with
20 respect to Labor Code Section 226(a).

21 83. Labor Code Section 226(a) provides in pertinent part:

22 An employer, semimonthly or at the time of each payment of wages,
23 shall furnish to his or her employee, either as a detachable part of the
24 check, draft, or voucher paying the employee's wages, or separately if
25 wages are paid by personal check or cash, an accurate itemized
26 statement in writing showing (1) gross wages earned, (2) total hours
27 worked by the employee . . . , (3) the number of piece-rate units earned
28 and any applicable piece rate if the employee is paid on a piece-rate
basis, (4) all deductions, provided that all deductions made on written
orders of the employee may be aggregated and shown as one item, (5)
net wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and only the last four

digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . , and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee

84. During the relevant time period, Defendants knowingly and intentionally violated Labor Code Section 226(a) by providing the Aggrieved Employees with uniform incomplete and inaccurate wage statements as follows:

a. Defendants violated Labor Code Sections 226(a)(1) and 226(a)(5) by failing to include the accurate amount of “gross wages,” and “net wages” because Defendants failed to record all hours worked by the Aggrieved Employees, as detailed above, and failed to compensate them for all hours worked off the clock.

b. Defendants violated Labor Code Sections 226(a)(2) and 226(a)(9) by failing to include the accurate number of “total hours worked by the employee” and “the corresponding number of hours worked at each hourly rate by the employee” because the Aggrieved Employees were required to work off the clock and all hours worked were not recorded.

85. On information and belief, Defendant Maximillian Leeds was personally involved in the alleged violations of Labor Code Section 226, and is thus subject to liability under Labor Code Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

86. Plaintiff is therefore entitled to recover civil penalties pursuant to Labor Code Sections 226.3, and/or 2699(a), (f), and (g), on behalf of the State of California and all Aggrieved Employees.

**FAILURE TO PRODUCE EMPLOYMENT RECORDS, PAYROLL RECORDS AND
PERSONNEL FILES**

(Labor Code §§ 226(b) & (c), 432 and 1198.5)

87. Plaintiff’s “individual PAGA claim” with respect to Labor Code Sections 226(b) & (c), 432 and 1198.5 is currently being litigated in the Los Angeles County Superior Court in the related case entitled *Kenia Castro, et al. v Fred Leeds Property Management, Inc., et al.*, Case No. 22STCV29694 (L.A. Super. Ct.), where Plaintiff asserts an individual claim for failure to produce

1 employment records, payroll records and personnel files in violation of Labor Code Sections 226(b)
2 & (c), 432 and 1198.5.

3 88. Labor Code Section 226(b) provides in relevant part that “An employer that is
4 required by this code or any regulation adopted pursuant to this code to keep the information required
5 by subdivision (a) shall afford current and former employees the right to inspect or receive a copy of
6 records pertaining to their employment, upon reasonable request to the employer.” Labor Code
7 Section 226(c) provides in relevant part that “An employer who receives a written or oral request to
8 inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former
9 employee shall comply with the request as soon as practicable, but no later than 21 calendar days
10 from the date of the request. A violation of this subdivision is an infraction.”

11 89. Labor Code Section 432 provides that “If an employee or applicant signs any
12 instrument relating to the obtaining or holding of employment, he shall be given a copy of the
13 instrument upon request.”

14 90. Labor Code Section 1198.5(a) provides in relevant part that “Every current and former
15 employee, or his or her representative, has the right to inspect and receive a copy of the personnel
16 records that the employer maintains relating to the employee's performance or to any grievance
17 concerning the employee.” Labor Code Section 1198.5(b)(1) provides in relevant part that “The
18 employer shall make the contents of those personnel records available for inspection to the current
19 or former employee, or his or her representative, at reasonable intervals and at reasonable times, but
20 not later than 30 calendar days from the date the employer receives a written request, unless the
21 current or former employee, or his or her representative, and the employer agree in writing to a date
22 beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar
23 days from the employer's receipt of the written request.”

24 91. During the relevant time period, and in violation of Labor Code Sections 226, 432 and
25 1198.5, Defendants failed to produce the required employment records in response to a written
26 request by the Plaintiff. On information and belief, Defendants likewise fail to produce the required
27 employment records in response to the requests of other Aggrieved Employees for copies of their
28 employment records made pursuant to Labor Code Sections 226, 432 and 1198.5.

1 92. On information and belief, Defendant Maximillian Leeds was personally involved in
2 the alleged violations of Labor Code Section 226, 432 and 1198.5, and is thus subject to liability
3 under Labor Code Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

4 93. As a result, the Plaintiff is entitled to recover civil penalties, attorneys' fees, costs, and
5 interest thereon, pursuant to Labor Code Sections 2699(a), (f)-(g), on behalf of the State of California
6 and all Aggrieved Employees.

7 **FAILURE TO MAINTAIN ACCURATE PAYROLL RECORDS**

8 **(Labor Code § 1174(d))**

9 94. Plaintiff alleges that Defendants violated Labor Code Section 1174(d) exclusively as
10 a non-individual, representative PAGA claim. As such, there is no “individual PAGA claim” with
11 respect to Labor Code Section 1174(d).

12 95. Labor Code Section 1174(d) provides that “[e]very person employing labor in this
13 state shall . . . [k]eep a record showing the names and addresses of all employees employed and the
14 ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at
15 which employees are employed, payroll records showing the hours worked daily by and the wages
16 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
17 employed at the respective plants or establishments . . .”

18 96. During the relevant time period, and in violation of Labor Code Section 1174(d),
19 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other Aggrieved
20 Employees showing the daily hours they worked, and the wages paid thereto as a result of failing to
21 record the off-the-clock hours that they worked.

22 97. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil
23 penalties pursuant to Labor Code Sections 1174.5 and/or 2699(a), (f), and (g).

24 **FAILURE TO PAY WAGES TIMELY**

25 **(Violation of Labor Code § 204)**

26 98. Plaintiff alleges that Defendants violated Labor Code Section 204 exclusively as a
27 non-individual, representative PAGA claim. As such, there is no “individual PAGA claim” with
28 respect to Labor Code Section 204.

1 99. Labor Code Section 204 requires that all wages earned by any person in any
2 employment between the 1st and the 15th days inclusive of any calendar month other than those
3 wages due upon termination of an employee are due and payable between the 16th and the 26th day
4 of the month during which the labor was performed Labor Code section 204 further provides that all
5 wages earned by any person in any employment between the 16th and the last day inclusive of any
6 calendar month other than those wages due upon termination of an employee are due and payable
7 between the 1st and the 10th day of the following month.

8 100. Labor Code section 204 also requires that all wages earned for labor in excess of the
9 normal work period shall be paid no later than the payday for the next regular payroll period
10 Alternatively at all relevant times herein.

11 101. Labor Code Section 204 further provides that the requirements of this section are
12 deemed satisfied by the payment of wages for weekly biweekly or semimonthly payroll if the wages
13 are paid not more than seven 7 calendar days following the close of the payroll period.

14 102. During the relevant time period Defendants willfully failed to pay the Aggrieved
15 Employees all wages due to them within any time period specified by Labor Code section 204
16 including but not limited to overtime wages, minimum wages, commissions, and meal and rest period
17 premium wages.

18 103. On information and belief, Defendant Maximillian Leeds was personally involved in
19 the alleged violations of Labor Code Section 204, and is thus subject to liability under Labor Code
20 Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

21 104. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil
22 penalties pursuant to Labor Code Sections 210 and/or 2699(a), (f), and (g), on behalf of the State of
23 California and all Aggrieved Employees.

24 **FAILURE TO PAY WAGES TIMELY AT SEPARATION**

25 **(Labor Code §§ 201, 202, 203)**

26 105. Plaintiff alleges that Defendants violated Labor Code Sections 201, 202, 203
27 exclusively as a non-individual, representative PAGA claim. As such, there is no “individual PAGA
28 claim” with respect to Labor Code Sections 201, 202, 203.

106. Labor Code Section 201 provides that, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

107. Labor Code Section 202 provides that if an employee voluntarily leaves his or her employment, the employee's wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to resign, in which case the employee is entitled to his or her wages at the time of resignation.

108. Labor Code Section 203 provides that if an employer willfully fails to pay compensation as required by Sections 201 and 202, then the employer is liable for waiting time penalties in the form of continued compensation of up to thirty workdays.

109. During the relevant time period, Defendants willfully failed to pay Plaintiff and other Aggrieved Employees who separated from their employment with Defendants all their earned wages, including but not limited to minimum wages and overtime wages, either at the time of their discharge, or within seventy-two (72) hours after their resignation.

110. Defendants' failure to pay Aggrieved Employees who separated from their employment their earned and unpaid wages at the time of discharge, or within seventy-two (72) hours after their resignation, violates Labor Code Sections 201 and 202.

111. On information and belief, Defendant Maximillian Leeds was personally involved in the alleged violations of Labor Code Sections 201, 202, 203, and is thus subject to liability under Labor Code Section 558.1. *See Espinoza v. Hepta Run, Inc.*, 74 Cal. App. 5th 44, 59.

112. Plaintiff is therefore entitled to recover civil penalties pursuant to Labor Code Sections 2699(a), (f)-(g), on behalf of the State of California and all Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For civil penalties pursuant to Labor Code Sections 210, 226.3, 558, 1174.5, 1197.1, 2699(a), (f) and (g), for the State of California and all Aggrieved Employees for Defendants' violations of Labor Code Sections 201, 202, 203, 204, 226, 432, 510, 558, 1174(d), 1182.12, 1194,

1 1197, 1197.1, 1198, 1198.5, and 2802;

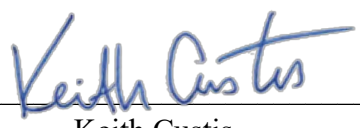
2 2. For attorneys' fees and costs pursuant to Labor Code Section 2699(g)(1), and all other
3 relevant statutes, for Defendants' violations of Labor Code Sections 201, 202, 203, 204, 226, 432,
4 510, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2802;

5 3. For pre-judgment and post-judgment interest as provided by law; and

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

7 Dated: September 8, 2023

CUSTIS LAW, P.C.

8
9
10 By:  _____
Keith Custis

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12 Attorneys for Plaintiff
13 KENIA CASTRO
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Exhibit 1



June 7, 2023

Keith A. Custis
kcustis@custislawpc.com

SUBMITTED VIA ONLINE CLAIM NOTICE

California Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste 801
Oakland, CA 94612
(<https://dir.tfaforms.net/198>)

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Maximilian Leeds
Vice President of Legal Affairs
Fred Leeds Property Management, Inc.
3860 Crenshaw Blvd., Suite 201
Los Angeles, CA 90008
Attn: Human Resources

Re: *Kenia Castro v. Fred Leeds Property Management Inc. and Maximilian Leeds*: Written
Notice of Intent to File Civil Action Pursuant to California Labor Code § 2699.3

Dear PAGA Administrator and Employer,

This office represents Kenia Castro (“Ms. Castro”) with respect to claims arising under California’s Labor Code during her employment at and termination from Fred Leeds Property Management, Inc. (“Fred Leeds”). Fred Leeds is a California corporation that operates a property management company. According to its LinkedIn profile, Fred Leeds employs between 200 and 500 employees. Fred Leeds employed Ms. Castro from approximately May 2021 until June 10, 2022 as a non-exempt, hourly-paid property manager. Ms. Castro is referred to in this correspondence as the “Lead Aggrieved Employee.”

The Lead Aggrieved Employee intends to file a civil action against Fred Leeds and its owner and officer Maximilian Leeds in his individual capacity, (collectively, “Fred Leeds” or “Employer”), seeking, *inter alia*, civil penalties, attorneys’ fees, costs and other available relief that is recoverable under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code Section 2698, *et al.*, for violations of the California Labor Code. The Lead Aggrieved Employee shall seek relief on behalf of the State of California, and all aggrieved employees, who are defined as “all non-exempt, hourly-paid current and former employees of Fred Leeds Property

Management, Inc. who worked in the State of California at any time between June 7, 2022 and the present” (hereafter, “Aggrieved Employees”).

Mr. Leeds is an officer and, on information and belief, owner of Fred Leeds and is, thus, liable in his individual capacity for the civil penalties, attorneys’ fees and litigation costs available to the Lead Aggrieved Employee and other Aggrieved Employees pursuant to California Labor Code Sections 558, 1197.1 and 2699(g)(1). *See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th 809 (holding that “the language in both section 558(a) and section 1197.1(a) is broad enough to *unambiguously* include [the owner and CEO of the defendant employer] as a person *other than the corporate employer* subject to the civil penalties awarded by the trial court under those two statutes.”) (emphasis in original). Importantly, the *Atempa* court held that the alter ego doctrine did not apply in PAGA actions to immunize owners and officers from liability because the Labor Code imposed liability directly on owners and officers for the corporate employer’s violations of the Labor Code.

Additionally, as an owner and officer of Fred Leeds, Mr. Leeds is also liable in his individual capacity as an employer pursuant to California Labor Code Section 558.1 for Fred Leeds’s (a) failure to pay minimum wages; (b) failure to pay overtime wages; (c) failure to provide accurate wage statements; (d) failure to reimburse for necessary business expenses incurred; and (e) failure to pay wages timely during employment and at the time of termination or resignation. Labor Code § 558.1.

Pursuant to California Labor Code Section 2699.3, this letter serves as the Lead Aggrieved Employee’s written notice to the Labor and Workforce Development Agency (“LWDA”) and Fred Leeds regarding the following alleged violations of the California Labor Code, and the facts and legal theories that support those violations.¹ This letter is being submitted to the LWDA online pursuant to the process described on the California Department of Industrial Relations’ website.² The \$75.00 filing fee required by Labor Code Section 2699.3 was paid during the online submission of this letter.

As detailed below, Fred Leeds has violated the California Labor Code within the last year and beyond as to the Lead Aggrieved Employee and other Aggrieved Employees in the following respects:

¹ The Labor Code violations, facts and legal theories detailed herein are based on the Lead Aggrieved Employee’s experience and his counsel’s review of the records currently available relating to the Lead Aggrieved Employee’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional Labor Code violations as well as additional facts and legal theories supporting the alleged Labor Code violations. Thus, the Lead Aggrieved Employee reserves the right to supplement this letter with additional Labor Code violations, facts, and legal theories if she becomes aware of them subsequent to the submission of this letter.

² *See* <http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.

A. Failure to Pay Minimum Wages in Violation of Labor Code Sections 1182.12, 1194, 1197, 1197.1 and 1198

California Labor Code Sections 1182.12, 1194, 1197, 1197.1 and 1198 require an employer to pay employees no less than the established minimum wage. These Labor Code Sections provide that payment of a wage less than the established minimum wage is unlawful. The applicable Industrial Welfare Commission (“IWC”) Wage Order defines compensable work time, or “hours worked,” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11100(2)(K) (defining “Hours Worked”). An employee is entitled to be paid no less than the established minimum wage for all hours worked.

Within the previous twelve months and beyond, Fred Leeds maintained a policy and practice of failing to pay the Lead Aggrieved Employee and other Aggrieved Employees the correct minimum wage for all hours worked because Fred Leeds required the Lead Aggrieved Employee and other Aggrieved Employees to work off-the-clock without compensation. Fred Leeds required the Lead Aggrieved Employee and other Aggrieved Employees to work, inter alia, as “on site” property managers and supervisors. As a property management company, Fred Leeds was well aware that tenants of the buildings managed by the Lead Aggrieved Employee and other Aggrieved Employees would request assistance from the “on site” property managers including the Lead Aggrieved Employee and other Aggrieved Employees after hours on a routine basis. By requiring the Lead Aggrieved Employee and other Aggrieved Employees to work, inter alia, as on-site property managers, Fred Leeds required the Lead Aggrieved Employee and other Aggrieved Employees to work off the clock to respond to the numerous inquiries for assistance and/or emergencies that were made and/or occurred after hours. In addition, the Lead Aggrieved Employee and other Aggrieved Employees also had to travel from the building where they resided to another property after hours, when they were off the clock, to respond to alarm that had been triggered at another property. Fred Leeds certainly expected and required on-site property managers to respond to alarms whether or not they were on the clock. In addition, Fred Leeds required the Lead Aggrieved Employee and other Aggrieved Employees to respond to business-related calls, emails and text messages when they were off-the-clock, and the Lead Aggrieved Employee and other Aggrieved Employees worked off-the-clock to respond to such business-related communications.

Because Fred Leeds required the Lead Aggrieved Employee and other Aggrieved Employees to work off-the-clock, Fred Leeds failed to compensate the Lead Aggrieved Employee and other Aggrieved Employees for all hours worked, including minimum wage and overtime hours.

Fred Leeds has thus violated Labor Code Sections 1182.12, 1194, 1197, 1197.1 and 1198. As a result, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover

civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code Sections 1197.1 and/or 2699(a), (f) and (g).

B. Failure to Pay Overtime in Violation of Labor Code Sections 510 & 1198

California Labor Code Sections 510 and 1198 and the applicable IWC Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1.5) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay.

Within the previous twelve months and beyond, Fred Leeds failed to pay the requisite overtime wages to the Lead Aggrieved Employee and other Aggrieved Employees. When the Lead Aggrieved Employee and other Aggrieved Employees worked eight or more hours on-the-clock, the off-the-clock work detailed above constituted work in excess of eight hours in workday and should have been paid at the applicable overtime rate. When the Lead Aggrieved Employee's and other Aggrieved Employees' time records indicate that they worked close to eight hours in a workday on the clock—e.g., when their time cards reflect that they worked 7.7 or more total hours—the off-the-clock work detailed above also caused the Lead Aggrieved Employee's and other Aggrieved Employees' total hours worked to exceed eight (8) hours on such a workday and, likewise, should have been paid at the applicable overtime rate. Thus, because Fred Leeds required the Lead Aggrieved Employee and other Aggrieved Employees to work off-the-clock, Fred Leeds failed to pay all required overtime wages in violation of Labor Code Sections 510 and 1198 and the applicable IWC Wage Order.

Fred Leeds has thus violated Labor Code Sections 510 and 1198. As a result, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code Sections 558, 1194, and/or 2699(a), (f)-(g).

C. Failure to Reimburse Necessary Business Expenses in Violation of Labor Code Section 2802

Labor Code Section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code Section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

Within the previous twelve months and beyond, Fred Leeds, on a company-wide basis, systematically failed to reimburse the Lead Aggrieved Employee and other Aggrieved Employees for necessary business expenses incurred at the direction of Fred Leeds. Specifically, during the

relevant time period, Fred Leeds had a consistent policy and/or practice that required the Lead Aggrieved Employee and other Aggrieved Employees to use their personal vehicle, gas and auto insurance to carry out her job duties, but Fred Leeds failed to reimburse the Lead Aggrieved Employee and other Aggrieved Employees for the reasonable costs of the use of their respective personal vehicle, fuel, auto insurance, vehicle maintenance costs and other vehicle-related expenses.

Fred Leeds could have provided the Lead Aggrieved Employee and other Aggrieved Employees with the actual tools required for use on the job, including a company car. Likewise, Fred Leeds could have reimbursed the Lead Aggrieved Employee and other Aggrieved Employees for the reasonable costs of the use of their personal vehicle, fuel, auto insurance, vehicle maintenance costs and other vehicle-related expenses they incurred for the business, but Fred Leeds failed to do so. Thus, Fred Leeds violated Section 2802 by uniformly failing to reimburse the reasonable costs of the Lead Aggrieved Employee's and other Aggrieved Employees' personal vehicle expenses. *See, e.g., Cochran*, 228 Cal. App. 4th at 1144 ("We hold that when employees must use their personal cell phones for work-related calls, Labor Code section 2802 requires the employer to reimburse them. Whether the employees have cell phone plans with unlimited minutes or limited minutes, the reimbursement owed is a reasonable percentage of their cell phone bills."); *Ritchie v. Blue Shield of California*, 2014 WL 6982943, at *21 (N.D. Cal. Dec. 9, 2014) (certifying class of cell phone reimbursement claim and adopting the logic of *Cochran*).

Fred Leeds's policy and/or practice of passing its operating costs on to the Lead Aggrieved Employee and other Aggrieved Employees violates Labor Code Section 2802. As a result, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code Section 2699(f)-(g).

D. Failure to Provide Accurate Wage Statements in Violation of Labor Code Sections 226(a), 1174(d) and 1198

Labor Code Section 226(a) requires an employer to provide its employees with "an accurate itemized statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee . . . , (4) all deductions . . . , (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number . . . , (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." The itemized wage statement must be provided semimonthly or otherwise when wages are paid.

Fred Leeds has not provided the Lead Aggrieved Employee and other Aggrieved Employees with properly itemized wage statements. Labor Code Section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in Section 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee

for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code Section 226.3 provides that any employer who violates Section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

Within the last twelve months and beyond, Fred Leeds knowingly and intentionally failed to provide accurate and complete itemized wage statements to the Lead Aggrieved Employee and other Aggrieved Employees in violation of Labor Code Section 226(a) in several ways:

- Fred Leeds violated Labor Code Sections 226(a)(1) and 226(a)(5) by failing to include the accurate amount of “gross wages,” and “net wages” because Fred Leeds failed to record all hours worked by the Lead Aggrieved Employee and other Aggrieved Employees, as detailed above, and failed to compensate them for all hours worked off the clock.
- Fred Leeds violated Labor Code Sections 226(a)(2) and 226(a)(9) by failing to include the accurate number of “total hours worked by the employee” and “the corresponding number of hours worked at each hourly rate by the employee” because the Lead Aggrieved Employee and other Aggrieved Employees were required to work off the clock and all hours worked were not recorded.

Because Fred Leeds violated Labor Code Section 226 in numerous ways, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover penalties, attorneys’ fees, costs, and interest thereon pursuant to Labor Code Sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g).

E. Failure to Pay Wages Timely Upon Termination in Violation of Labor Code Sections 201, 202 & 203

California Labor Code Section 201 provides that if an employer discharges an employee, the employee’s earned and unpaid wages at the time of discharge are due and payable immediately. California Labor Code Section 202 provides that, if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Failure to pay all wages in compliance with Labor Code Sections 201 and 202 subjects the employer to the penalties outlined in Labor Code Section 203. Section 203, in turn, requires the employer to pay the employee a full day of wages (8 hours) at the employee’s last hourly rate for each day that all earned but unpaid wages remain unpaid up to a total of 30 days.

Within the previous twelve months and beyond, and in violation of California Labor Code Sections 201 and 202, Fred Leeds willfully failed to pay the Lead Aggrieved Employee and other

Aggrieved Employees all their earned and unpaid wages either at the time of discharge, or within seventy-two (72) hours of their separation from employment with Fred Leeds for several reasons:

- Fred Leeds failed to pay Aggrieved Employees for all off-the-clock hours worked, as detailed above.
- Fred Leeds also misrepresented the last date that the Lead Aggrieved Employee worked for Fred Leeds as June 8, 2022, rather than June 10, 2022, and failed to compensate her for the last two days of work that she performed for Fred Leeds.

The Lead Aggrieved Employee and other Aggrieved Employees are thus entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code Sections 203 and/or 2699(f)-(g).

F. Failure to Timely Pay Wages During Employment in Violation of Labor Code Section 204

Labor Code Section 204 provides that all wages earned by any person in any employment between the 1st and the 15th days of any calendar month (other than those wages due upon termination of an employee) are due and payable between the 16th and the 26th day of the month during which the labor was performed. Labor Code Section 204 further provides that all wages earned by any person in any employment between the 16th and the last day of any calendar month (other than those wages due upon termination of an employee) are due and payable between the 1st and the 10th day of the following month. Labor Code Section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, Labor Code Section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

Within the previous twelve months and beyond, for all the reasons detailed above, Fred Leeds failed to pay the Lead Aggrieved Employee and other Aggrieved Employees all wages due to them, including, but not limited to, overtime wages and minimum wages within the time period specified by Labor Code Section 204.

As a result, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code Sections 210 and/or 2699(a), (f)-(g).

G. Failure To Maintain Accurate Records In Violation Of Labor Code § 1174(d)

Labor Code Section 1174(d) requires employers to keep payroll records showing the hours worked daily by and the wages paid to employees. Likewise, the relevant Wage Orders require employers to keep accurate records for each employee with respect to total wages paid each payroll

period, total hours worked in the payroll period and applicable rates of pay, as well as time records showing when employees begin and end each work period, including meal periods, split shift intervals, and total daily hours.

Within the previous twelve months and beyond, for all the reasons detailed above, Fred Leeds violated Labor Code Section 1174(d) by knowingly, intentionally, and willfully failing to keep required accurate payroll records for the Lead Aggrieved Employee and other Aggrieved Employees. Fred Leeds did not accurately record all hours worked by the Lead Aggrieved Employee and other Aggrieved Employees including the off-the-clock work detailed above, which caused the payroll records of Aggrieved Employees to be inaccurate. Fred Leeds also did not accurately record all hours worked by certain Aggrieved Employees who were paid a daily rate and did not maintain any records showing when they began and ended each work period, including meal periods, split shift intervals, and total daily hours.

As a result, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code Sections 2699(a), (f)-(g).

H. Failure To Produce Employment Records, Payroll Records and Personnel Files In Violation Of Labor Code Sections 226(b) & (c), 432 and 1198.5

Labor Code Section 226(b) provides in relevant part that "An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer." Labor Code Section 226(c) provides in relevant part that "An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction."

Labor Code Section 432 provides that "If an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request."

Labor Code Section 1198.5(a) provides in relevant part that "Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee." Labor Code Section 1198.5(b)(1) provides in relevant part that "The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed

35 calendar days from the employer's receipt of the written request.”

Within the previous twelve months and beyond, and in violation of California Labor Code Sections 226, 432 and 1198.5, Fred Leeds failed to produce the required employment records in response to a written request by the Lead Aggrieved Employee. On information and belief, Fred Leeds likewise fails to respond to the requests of other Aggrieved Employees for copies of their employment records made pursuant to Labor Code Sections 226, 432 and 1198.5

As a result, the Lead Aggrieved Employee and other Aggrieved Employees are entitled to recover penalties, attorneys’ fees, costs, and interest thereon, pursuant to Labor Code Sections 2699(a), (f)-(g).

I. Penalties Pursuant to California Labor Code Section 558(a)

Labor Code Section 558(a) provides that “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Labor Code Section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.”

Within the previous twelve months and beyond, Fred Leeds was an employer who violated the Lead Aggrieved Employee’s and other Aggrieved Employees’ rights by violating the various sections of the Labor Code detailed herein. Accordingly, the Lead Aggrieved Employee shall seek all applicable remedies available under Labor Code Section 558 for herself, the State of California, and all other Aggrieved Employees.

* * *

If the LWDA does not provide notice that it will investigate these violations within 65 days of the date of this notice, The Lead Aggrieved Employee, acting in the public interest as a private attorney general, shall file a civil action—and seek assessment and collection of civil penalties and all other available relief for himself, all other Aggrieved Employees, and the State of California—against Fred Leeds and its owners and officers for violations of California Labor Code Sections 201, 202, 203, 204, 226, 432, 510, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, and 2802, as detailed herein. The Lead Aggrieved Employee shall seek all applicable and available penalties and remedies related to these violations of the California Labor Code pursuant to PAGA, including an award of reasonable attorneys’ fees and costs pursuant to Labor Code § 2699(g).

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Fred Leeds Property Management, Inc.
June 7, 2023
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If the LWDA has any questions for the Lead Aggrieved Employee or any aspect of this Notice, please feel free to contact Keith Custis as kcustis@custislawpc.com or 213-863-4276.

Sincerely,

CUSTIS LAW, P.C.



Keith A. Custis

cc: Daniel Spencer, Esq. (via email only)