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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

HERBERT RIVERA, on behalf of himself, the
State of California, and fellow, current, and
former aggrieved employees,

Plaintiff,

v.

BRIDGESTONE RETAIL OPERATIONS,
LLC. and DOES 1-25,

Defendants.

Case No: **23CV035677**

COMPLAINT FOR DAMAGES

Plaintiff HERBERT RIVERA ("PLAINTIFF"), in their representative capacity on behalf of themselves, the State of California, and fellow current and former AGGRIEVED EMPLOYEES, defined below, against Defendants BRIDGESTONE RETAIL OPERATIONS, LLC ("Defendant Bridgestone") and DOES 1-25 ("Defendant DOES") (collectively "DEFENDANTS"), allege on information and belief, except for their own acts and knowledge which are based on personal knowledge, the following:

I. INTRODUCTION

1. PLAINTIFF bring this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA") on behalf of other current

1 and former AGGRIEVED EMPLOYEES of DEFENDANTS for engaging in a pattern and
2 practice of wage and hour violations under the California Labor Code.

3 2. PLAINTIFF is informed and believe, and thereon allege, that DEFENDANTS
4 decreased their employment-related costs by systematically violating California wage and hour
5 laws.

6 3. DEFENDANTS' systematic pattern of wage and hour and IWC Wage Order
7 violations toward PLAINTIFF and other AGGRIEVED EMPLOYEES in California include,
8 *inter alia*:

- 9 a. Failure to provide meal periods;
- 10 b. Failure to provide rest periods;
- 11 c. Failure to pay all regular and overtime wages;
- 12 d. Failure to provide accurate payroll records;
- 13 e. Failure to reimburse for required business expenses;
- 14 f. Failure to provide accurate itemized wage statements;
- 15 g. Failure to timely pay wages due during, and upon termination of employment.

16 4. PLAINTIFF bring this representative action against DEFENDANTS on behalf of
17 themselves and all other AGGRIEVED EMPLOYEES of DEFENDANTS in California, seeking
18 all civil penalties and unpaid wages permitted pursuant to California Labor Code § 2699, *et seq.*

19 5. PLAINTIFF reserve the right to name additional representatives throughout the
20 State of California.

21 **II. PARTIES**

22 6. Plaintiff HERBERT RIVERA ("PLAINTIFF RIVERA"), an individual, has
23 resided, and at all times mentioned in this Complaint, continues to reside in Alameda County.

24 7. Defendant BRIDGESTONE RETAIL OPERATIONS, LLC ("DEFENDANT
25 BRIDGESTONE") is a Delaware Limited Liability Company, registered with the California
26 Secretary of State as Entity No. 200133410030, that at all relevant times mentioned herein
27 conducted and continues to conduct substantial and regular business throughout California.
28

1 8. Defendants DOES 1-25 (“Defendant DOES”) are persons and/or entities that at all
2 relevant times mentioned herein conducted and continue to conduct substantial and regular
3 business throughout California.

4 9. DEFENDANTS own, operate, and/or manage automotive repair stores throughout
5 the state of California.

6 10. DEFENDANTS employed PLAINTIFF RIVERA from approximately April 2019
7 through November 2023 at Defendant Bridgestone’s Firestone Complete Autocare and
8 Wheelworks in Alameda County, California.

9 11. At all times, DEFENDANTS paid PLAINTIFF on an hourly basis.

10 12. PLAINTIFF bring this action in his representative capacity on behalf of the State
11 of California and on behalf of all individuals who are or previously were employed by
12 DEFENDANT BRIDGESTONE in California who suffered one or more Labor Code violations
13 enumerated in Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who
14 worked for DEFENDANTS between June 9, 2022, and the present (“PAGA PERIOD”).

15 13. PLAINTIFF RIVERA is an “AGGRIEVED EMPLOYEE” within the meaning of
16 Labor Code § 2699(c) because he was employed by DEFENDANTS and suffered one or more of
17 the alleged Labor Code violations committed by DEFENDANTS.

18 14. PLAINTIFF and all other AGGRIEVED EMPLOYEES are, and at all relevant
19 times were, employees of DEFENDANTS, within the meanings set forth in the California Labor
20 Code and the applicable Industrial Welfare Commission Wage Order.

21 15. Each of the fictitiously named defendants participated in the acts alleged in this
22 Complaint. The true names and capacities of the defendants named as DOES 1 THROUGH 25,
23 inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this Complaint, setting
24 forth the true names and capacities of these fictitiously named defendants when their true names
25 are ascertained. PLAINTIFF is informed and believe, and on that basis alleges, that each of the
26 fictitious defendants has participated in the acts alleged in this Complaint.

27 16. DEFENDANTS, including DOES 1 THROUGH 25, were PLAINTIFF’
28 employers or persons acting on behalf of PLAINTIFF’ employer, within the meaning of

1 California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter
2 1 of the California Labor Code or any provision regulating hours and days of work in any order
3 of the Industrial Welfare Commission and, as such, are subject to civil penalties for each
4 underpaid employee, as set forth in Labor Code § 558, at all relevant times.

5 17. DEFENDANTS were PLAINTIFF’ employer or persons acting on behalf of
6 PLAINTIFF’ employer either individually or as an officer, agent, or employee of another person,
7 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
8 employee a wage less than the minimum fixed by California state law, and as such, are subject to
9 civil penalties for each underpaid employee.

10 III. JOINT EMPLOYER

11 18. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to
12 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code*
13 § 2699(a).)

14 19. Section 558 of the California Labor Code provides that “any employer *or other*
15 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
16 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
17 Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).)

18 20. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person*
19 acting either individually or as an officer, agent, or employee of another person, who pays or
20 causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
21 local law, or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* §
22 1197.1(a).)

23 21. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have
24 held that a corporate employer’s owners, officers and directors, are subject to civil penalties for
25 the employer’s failure to pay appropriate wages to its employees, and, since liability under either
26 558 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings
27 are necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez*
28

1 v. *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
2 Cal.App.4th 1112, 1145-1146.

3 22. PLAINTIFF is informed and believe, and thereon alleges, that DEFENDANTS,
4 and each of them, are subject to civil penalties for their failure to pay PLAINTIFF and other
5 AGGRIEVED EMPLOYEES the appropriate wages as complained of herein and proximately
6 caused the complaints, injuries, and damages alleged herein.

7 23. At all relevant times, each DEFENDANT, whether named or fictitious, was the
8 agent, employee or other person acting on behalf of each other Defendant, and, in participating in
9 the acts alleged in this Complaint, acted within the scope of such agency or employment and
10 ratified the acts of the other.

11 24. Each DEFENDANT, whether named or fictitious, exercised control over
12 PLAINTIFF' wages, working hours, and/or working conditions.

13 25. Each Defendant, whether named or fictitious, acted in all respects pertinent to this
14 action as the agent of the other DEFENDANTS, carried out a joint scheme, business plan or
15 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

16 IV. JURISDICTION AND VENUE

17 26. This Court has jurisdiction over this Action pursuant to California Code of Civil
18 Procedure, Section 410.10.

19 27. Venue is proper in this Court pursuant to California Code of Civil Procedure,
20 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and
21 DEFENDANTS (i) currently maintain and at all relevant times maintained offices and facilities
22 in this County, and (ii) committed the wrongful conduct herein alleged in this County against
23 PLAINTIFF and the AGGRIEVED EMPLOYEES.

24 V. FACTUAL ALLEGATIONS

25 A. Rest Period Violations

26 28. DEFENDANTS required PLAINITFF to work in excess of four (4) hours without
27 providing PLAINTIFF with a ten (10) minute rest period as a result of DEFENDANTS' policies
28 and practices and understaffing.

1 29. From time-to-time during the PAGA PERIOD, DEFENDANTS required
2 PLAINTIFF and other AGGRIEVED EMPLOYEES to work in excess of four (4) hours without
3 being provided ten (10) minute rest periods as a result of their work requirements, and
4 DEFENDANTS' inadequate staffing.

5 30. PLANITIFF and other AGGRIEVED EMPLOYEES, from time-to-time, were
6 required to work in excess of eight (8) hours or more, without being provided a second ten (10)
7 minute rest period.

8 31. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided with
9 one-hour wages *in lieu* thereof.

10 32. As a result of DEFENDANTS' policies and DEFENDANTS' inadequate staffing,
11 PLAINTIFF and other AGGRIEVED EMPLOYEES were denied their proper rest periods by
12 DEFENDANTS and DEFENDANTS' managers.

13 B. Meal Period Violations

14 33. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
15 work during the meal break during what was supposed to be PLAINTIFF and other AGGRIEVED
16 EMPLOYEES' off-duty meal break due to DEFENDANTS' policies and inadequate staffing
17 practices.

18 34. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
19 required to pay PLAINTIFF and AGGRIEVED EMPLOYEES for all their time worked, meaning
20 the time during which an employee is subject to the control of an employer, including all the time
21 the employee is suffered or permitted to work. During the entirety of PLAINTIFF and other
22 AGGRIEVED EMPLOYEES' employment, and during the PAGA PERIOD, DEFENDANTS
23 required PLAINTIFF and AGGRIEVED EMPLOYEES to work without paying them for all the
24 time they were under DEFENDANT'S control. Specifically, as a result of PLAINTIFF' demanding
25 work requirements and Defendant's understaffing, DEFENDANTS required PLAINTIFF and other
26 AGGRIEVED EMPLOYEES to work during the meal break during what was supposed to be off-
27 duty meal break. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited their
28 regular wage and overtime wage by regularly working without their time being accurately recorded

1 and without compensation at the applicable wage and overtime rates. DEFENDANTS had, and may
2 continue to practice, a uniform policy to not pay PLAINTIFF and other AGGRIEVED
3 EMPLOYEES for all time worked.

4 35. During the PAGA PERIOD, as a result of work requirements and DEFENDANTS'
5 inadequate staffing practices, PLAINTIFF and other AGGRIEVED EMPLOYEES were unable to
6 take thirty (30) minute off-duty meal breaks and were not fully relieved of duty for their meal period.
7 PLAINTIFF and other AGGRIEVED EMPLOYEES were required to perform work as ordered by
8 DEFENDANTS for more than five (5) hours during some shifts without receiving a meal break.
9 The nature of the work performed by PLAINTIFF and other AGGRIEVED EMPLOYEES does not
10 qualify for limited and narrowly construed "on-duty" meal period exception. PLAINTIFF and other
11 AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation and
12 in accordance with DEFENDANTS' policies and practices.

13 C. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations

14 36. During PLAINTIFF'S employment and during the PAGA PERIOD,
15 DEFENDANTS failed to accurately pay PLAINTIFF and the other AGGRIEVED EMPLOYEES
16 for all hours worked.

17 37. Specifically, PLAINTIFF and other AGGRIEVED EMPLOYEES were regularly
18 required to forfeit meal and rest periods to assist another employee and perform off-the-clock work.
19 PLAINTIFF and other AGGRIEVED EMPLOYEES were unable to take off-duty meal and rest
20 breaks and were not fully relieved of duty for rest and meal periods. PLAINTIFF and other
21 AGGRIEVED EMPLOYEES were required to perform work as ordered by DEFENDANTS for
22 more than five (5) hours during a shift without receiving an off-duty meal break.

23 38. Further, from time-to-time and as a result of DEFENDANTS understaffing,
24 PLAINTIFF and other AGGRIEVED EMPLOYEES were left working shifts with no other
25 employee in front and left with no ability to take any rest or meal period. DEFENDANTS failed to
26 pay PLAINTIFF and other AGGRIEVED EMPLOYEES necessary wages for attending and
27 performing work at DEFENDANTS' direction, request and benefit, while off-the clock.

28 39. Additionally, and as detailed below, DEFENDANTS contacted PLAINTIFF and

1 other AGGRIEVED EMPLOYEES on their personal cell phone after hours or on days off and
2 required PLAINTIFF and other AGGRIEVED EMPLOYEES to use personal time to discuss work
3 projects, updates, and other projects. DEFENDANTS failed to compensate PLAINTIFF or other
4 AGGRIEVED EMPLOYEES for this time.

5 40. DEFENDANTS directed and directly benefited from the uncompensated off-the-
6 clock work performed by PLAINTIFF and the other AGGRIEVED EMPLOYEES.

7 41. DEFENDANTS controlled the work schedules, duties, protocols, applications,
8 assignments, and employment conditions of PLAINTIFF and the other AGGRIEVED
9 EMPLOYEES.

10 42. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
11 AGGRIEVED EMPLOYEES spent working; however, DEFENDANTS failed to document, track,
12 or pay PLAINTIFF and the other AGGRIEVED EMPLOYEES all wages earned and owed for all
13 the work they performed, including during off-the-clock work.

14 43. PLAINTIFF and the other AGGRIEVED EMPLOYEES were non-exempt
15 employees, subject to the requirements of the California Labor Code.

16 44. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
17 AGGRIEVED EMPLOYEES of all regular and overtime wages owed for the off-the-clock work
18 activities.

19 45. Because PLAINTIFF RIVERA typically worked between 32-40 hours in a
20 workweek, DEFENDANTS' policies and practices also deprived him of overtime wages.

21 46. DEFENDANTS knew or should have known that PLAINTIFF and the other
22 AGGRIEVED EMPLOYEES' off-the-clock work was compensable under the law.

23 47. As a result, PLAINTIFF and the other AGGRIEVED EMPLOYEES forfeited wages
24 due them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent
25 while off-the-clock. DEFENDANTS have a uniform policy and practice to not pay PLAINTIFF
26 and the AGGRIEVED EMPLOYEES' wages for all hours worked in accordance with applicable
27 law.

28 48. Moreover, DEFENDANTS also provided PLAINTIFF and other AGGRIEVED

1 EMPLOYEES with a paystub that failed to comply with Cal. Lab. Code § 226.

2 49. Further, and as detailed below, DEFENDANTS also failed to reimburse PLAINTIFF
3 and other AGGRIEVED EMPLOYEES for necessary and required business expenses related to the
4 use of personal cell phones, on behalf of and in furtherance of their employment with
5 DEFENDANTS. To date, DEFENDANTS have not fully paid PLAINTIFF the regular or overtime
6 compensation still owed to him, or any penalty wages owed to them under Cal. Lab. Code § 203.

7 D. Unreimbursed Business Expenses

8 50. DEFENDANTS required PLAINTIFF and other AGGRIEVED EMPLOYEES to
9 use their personal cell phone to perform work duties. This included communications with
10 supervisors and other employees about project updates, instructions, job assignments, and other
11 work-related discussions. These communications were constant and even took place after
12 PLAINTIFF and other AGGRIEVED EMPLOYEES clocked out.

13 51. DEFENDANTS did not provide PLAINTIFF and other AGGRIEVED
14 EMPLOYEES with a designated work phone.

15 52. Instead, DEFENDANTS directed PLAINTIFF and other AGGRIEVED
16 EMPLOYEES to use their personal cell phones and personal time to discharge work duties.

17 53. When PLAINTIFF asked about reimbursements for use of his personal phone,
18 DEFENDANTS' managers directed him to roll with the punches or to be a team player.

19 54. DEFENDANTS never reimbursed PLAINTIFF and other AGGRIEVED
20 EMPLOYEES for their personal cell phone use. PLAINTIFF and other AGGRIEVED
21 EMPLOYEES were neither compensated for the cost of their cell phones nor the cost of the
22 employees' cell phone plans.

23 E. Inaccurate Itemized Wage Statements

24 55. California Labor Code Section 226 requires an employer to furnish its employees an
25 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3)
26 the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages
27 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
28 employee and only the last four digits of the employee's social security number or an employee

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

4 56. During the entirety of PLAINTIFF' employment with DEFENDANTS, and during
5 the PAGA PERIOD, when PLAINTIFF and other AGGRIEVED EMPLOYEES missed meal and
6 rest breaks, were not paid missed meal and rest period premiums, or were not paid for all hours
7 worked, DEFENDANTS also failed to provide PLAINTIFF and other AGGRIEVED
8 EMPLOYEES with complete and accurate wage statements which failed to show, among other
9 things, the total hours worked and all applicable hourly rates in effect during the pay period and the
10 corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments
11 or missed meal and rest periods, overtime pay.

12 57. For instance, when PLAINTIFF and OTHER AGGRIEVED EMPLOYEES missed
13 meal or rest periods, performed off-the-clock work, or performed overtime hours, the compensation
14 did not accurately reflect the requirements for pay in the state of California. DEFENDANTS
15 violated California Labor Codes section 226 by failing to list this remuneration, or the applicable
16 hourly rate and the corresponding number of hours worked at the applicable hourly rate for this
17 remuneration.

18 58. DEFENDANTS routinely failed to keep, maintain, and store accurate payroll
19 records and provide wage statements that comply with Cal. Lab. Code § 226.

20 59. PLAINTIFF and other AGGRIEVED EMPLOYEES suffered damages as a result of
21 DEFENDANTS' aforementioned violation because he could not promptly and easily determine
22 from the wage statement alone the applicable hourly rate and the corresponding number of hours
23 worked at the applicable hourly rate for this remuneration.

24 60. As a result, DEFENDANTS issued PLAINTIFF and the other AGGRIEVED
25 EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS'
26 violations are knowing and intentional, and were not isolated or due to an unintentional payroll error
27 due to clerical or inadvertent mistake.

28 ///

1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 For Unfair Competition

4 (Cal. Bus. & Prof. Code §§ 17200 et seq.)

5 (Against All DEFENDANTS)

6 61. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
7 and every allegation set forth above.

8 62. PLAINTIFF seeks to enforce important rights affecting the public interest within the
9 meaning of Code of Civil Procedure section 1021.5.

10 63. California's public policy is to protect employees by mandating that employees
11 receive a meal period of not less than 30 minutes or one-hour wages in lieu thereof.

12 64. Defendants' failure to provide meal and rest periods has been and continues to be,
13 unfair, unlawful, and harmful to PLAINTIFF and the general public.

14 65. A violation of California Business & Professions Code sections 17200 et seq. may
15 be predicated on the violation of any state or federal law. Defendants' violations, as alleged herein,
16 including Cal. Lab. Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 515, 1174, and 2802, are
17 violations of California law, and constitute unlawful business acts and practices in violation of
18 California Business & Professions Code sections 17200 et seq.

19 66. PLAINTIFF is wage worker dependent on DEFENDANTS for his livelihood and
20 does not have the same bargaining advantage as his employer.

21 67. DEFENDANTS controlled the activities of all employee labor, including
22 PLAINTIFF. DEFENDANTS thereby saved on employment costs by paying less than the total
23 reimbursements owed to PLAINTIFF.

24 68. Throughout the time relevant to this action, DEFENDANTS failed and/or refused to
25 abide by these long-standing employee protections, including the guarantees of proper meal or rest
26 periods or an additional hour of pay.

27 69. Under its unlawful scheme, DEFENDANTS evaded its other legal responsibilities
28 as an employer and instead systematically saved on costs at the expense of PLAINTIFF.

70. With this unlawful scheme, DEFENDANTS unjustly appropriated for itself

1 significant amounts of money that it otherwise should have paid to employees as wages.

2 71. DEFENDANTS reduced wages due, in violation of Labor Code section 226.7.

3 72. DEFENDANTS' unfair business practices have reaped undue benefits and illegal
4 profits, and unjustly enriched DEFENDANTS, at the expense of PLAINTIFF.

5 73. PLAINTIFF has been personally injured by DEFENDANTS' unlawful business
6 practices, including the loss of money.

7 74. Pursuant to California Business & Professions Code sections 17200 et seq.,
8 PLAINTIFF is also entitled to disgorgement of illegally acquired profits by DEFENDANTS during
9 the period of employment. PLAINTIFF is also entitled to an award of attorneys' fees and costs
10 under the common fund doctrine, California Code of Civil Procedure section 1021.5, and other
11 applicable laws.

12 **SECOND CAUSE OF ACTION**
13 For Failure to Pay Minimum Wages
(Cal. Lab. Code § 1194, 1197& 1197.1)
14 (Against All DEFENDANTS)

15 75. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
16 and every allegation set forth above.

17 76. PLAINTIFF and other AGGRIEVED EMPLOYEES bring a claim for
18 DEFENDANTS' willful and intentional violations of California Labor Code and the Industrial
19 Welfare Commission requirements for DEFENDANTS' failure to accurately calculate and pay
20 minimum wages to PLAINTIFF and AGGRIEVED EMPLOYEES.

21 77. Pursuant to Cal. Lab. Code §204, other applicable laws and regulations, and public
22 policy, an employer must timely pay its employees for all hours worked.

23 78. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
24 including minimum wage compensation and interest thereon, together with the costs of suit.

25 79. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and
26 the other AGGRIEVED EMPLOYEES without regard to the correct amount of time they worked.
27 As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and
28

1 intentionally deny timely payment of wages due to PLAINTIFF and the other AGGRIEVED
2 EMPLOYEES.

3 80. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to AGGRIEVED EMPLOYEES as a whole, as a result of
5 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
6 and the other AGGRIEVED EMPLOYEES in regard to minimum wages, listing the correct hours
7 worked, and compensation for missed meal and rest periods.

8 81. In committing these violations of the California Labor Code, DEFENDANTS
9 inaccurately calculated the amount of time worked and consequently underpaid the actual time
10 worked by PLAINTIFF and other AGGRIEVED EMPLOYEES. DEFENDANTS acted in an
11 illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
12 California Labor Code, the Industrial Welfare Commission requirements and other applicable
13 laws and regulations.

14 82. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
15 PLAINTIFF and the other AGGRIEVED EMPLOYEES did not receive the correct wage
16 compensation for all time worked for DEFENDANTS.

17 83. During the PAGA PERIOD, PLAINTIFF and the other AGGRIEVED
18 EMPLOYEES were paid less for time worked than they were entitled to, constituting a failure to
19 pay all earned wages.

20 84. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
21 compensation to PLAINTIFF and the other AGGRIEVED EMPLOYEES for the true time they
22 worked, PLAINTIFF and the other AGGRIEVED EMPLOYEES have suffered and will continue
23 to suffer an economic injury in amounts which are presently unknown to them, and which will be
24 ascertained according to proof at trial.

25 85. DEFENDANTS knew or should have known that PLAINTIFF and the other
26 AGGRIEVED EMPLOYEES were under-compensated for their time worked. DEFENDANTS
27 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay
28 employees for their labor as a matter of uniform corporate policy, practice and procedure, and

1 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other
2 AGGRIEVED EMPLOYEES the correct wages for their time worked.

3 86. In performing the acts and practices herein alleged in violation of California labor
4 laws, and refusing to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for all
5 time worked and provide them with the requisite compensation, DEFENDANTS acted and
6 continue to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other
7 AGGRIEVED EMPLOYEES with a conscious and utter disregard for their legal rights, or the
8 consequences to them, and with the despicable intent of depriving them of their property and legal
9 rights, and otherwise causing them injury in order to increase company profits at the expense of
10 these employees.

11 87. PLAINTIFF and the other AGGRIEVED EMPLOYEES, therefore, request
12 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment
13 of any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor
14 Code and/or other applicable statutes. To the extent minimum wage compensation is determined to
15 be owed to PLAINTIFF and other AGGRIEVED EMPLOYEES who have terminated their
16 employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore
17 these individuals are also entitled to waiting time penalties under Cal. Lab. Code § 203, which
18 penalties are sought herein on behalf of the PLAINTIFF and other AGGRIEVED EMPLOYEES.
19 DEFENDANTS' conduct as alleged herein was willful, intentional, and not in good faith. Further,
20 PLAINTIFF and other AGGRIEVED EMPLOYEES are entitled to seek and recover statutory
21 costs.

22 **THIRD CAUSE OF ACTION**
23 For Failure to Reimburse Business Expenses
24 (Cal. Lab. Code § 2802)
(Against All DEFENDANTS)

25 88. PLAINTIFF incorporates by reference and reallege as if fully stated herein each
26 and every allegation set forth above.

27 89. Pursuant to California Labor Code section 2802, DEFENDANTS are required to
28 indemnify PLAINTIFF and other AGGRIEVED EMPLOYEES for the expenses and losses

1 incurred during the performance of their job duties. The purpose of this statute is to prevent
2 employers from passing their operating expenses on to their employees.

3 90. In violation of Labor Code section 2802, DEFENDANTS failed to reimburse
4 PLAINTIFF and other AGGRIEVED EMPLOYEES for necessary business expenditures for
5 personal cell phone plans.

6 91. DEFENDANTS sought to pad their own pockets at the expense of their employees,
7 and instead of compensating their employees for the necessary business costs, the employer passed
8 on its costs to its employees.

9 92. DEFENDANTS intentionally failed to reimburse its employees for the actual
10 expenses incurred for use of their personal cell phones and thereby increased its own profits to the
11 detriment of its employees.

12 93. PLAINTIFF therefore seeks to recover these business expenditures, plus interest
13 thereon, reasonable attorneys' fees, and costs, in an amount to be proven at trial.

14 94. Interest accrues from the date the employee incurred the necessary expenditure or
15 loss.

16 **FOURTH CAUSE OF ACTION**
17 For Failure to Pay Wages When Due
18 Cal. Lab. Code §§ 201, 202, 203, and 204
(Against All DEFENDANTS)

19 95. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
20 and every allegation set forth above.

21 96. If an employer willfully fails to pay, without abatement or reduction, in accordance
22 with Sections 201, . . . 202, any wages of an employee who is discharged or who quits, the wages
23 of the employee shall continue as a penalty from the due date thereof at the same rate until paid or
24 until an action therefor is commenced; but the wages shall not continue for more than 30 days.
25 (Cal. Lab. Code § 203).

26 97. To date, DEFENDANTS, have yet to pay PLAINTIFF and other AGGRIEVED
27 EMPLOYEES all wages and all premiums due to them for off-the-clock work, missed meal
28 breaks, and missed rest breaks and DEFENDANTS have failed to pay any penalty wages owed to

1 them under California Labor Code section 203. As a result of DEFENDANTS' failure to pay
2 PLAINITFFS and other AGGRIEVED EMPLOYEES for all hours worked, pay meal premiums
3 at the correct rate, and separately compensate PLAINTIFF and other AGGRIEVED
4 EMPLOYEES for their breaks, DEFENDANTS have failed to pay all wages to PLAINITFFS and
5 other AGGRIEVED EMPLOYEES at the time of termination, thereby violating California Labor
6 Code section 203.

7 98. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and other
8 AGGRIEVED EMPLOYEES whose employment has terminated, PLAINTIFF demands up to
9 thirty (30) days of pay as a penalty for not paying all wages due at the time of termination for all
10 employees terminated during the PAGA PERIOD and demand an accounting and payment of all
11 wages due, plus interest and statutory costs as allowed by law.

12 99. Further, every person who fails to pay the wages of each employee as provided in
13 Sections 204 is liable for \$100.00 for the initial violations, \$200 for each subsequent failure to pay
14 an employee, plus 25% of the amount unlawfully withheld.

15 100. PLAINTIFF seek to recover the statutory penalties provided by Labor Code
16 sections 203, 204, and 210 for the reimbursement violations committed by DEFENDANTS.

17 **FIFTH CAUSE OF ACTION**

18 For Failure to Provide Accurate, Itemized Wage Statements
19 (Cal. Lab. Code §§ 226; 1174.5)
(Against All DEFENDANTS)

20 101. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
21 and every allegation set forth above.

22 102. Section 226(a) of the California Labor Code requires employers to provide itemized
23 wage statements accurately reporting total hours worked, wages earned, and all deductions made
24 from wages earned by such employees.

25 103. DEFENDANTS did not accurately record PLAINTIFF' and other AGGRIEVED
26 EMPLOYEES' wages, off-the-clock work, and missed meal and rest breaks. DEFENDANTS failed
27 to provide an accurate wage statement in writing that properly and accurately itemizes all wages,
28 missed meal and rest periods, and reporting time wages owed to PLAINTIFF and the other

1 AGGRIEVED EMPLOYEES and thereby also failed to set forth the correct wages earned by the
2 employees.

3 104. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
4 section 226(a) on each and every wage statement that they provided to PLAINTIFF and other
5 AGGRIEVED EMPLOYEES.

6 105. By failing to keep adequate records, as required by Labor Code section 226 and
7 1174, DEFENDANTS injured PLAINTIFF and other AGGRIEVED EMPLOYEES, making it
8 difficult for PLAINTIFF and other AGGRIEVED EMPLOYEES to calculate the minimum wages
9 owed and expenses the employer did not reimburse. Those injuries include unpaid wages, interest,
10 and penalties thereon.

11 106. PLAINTIFF seek to recover the statutory penalties provided by Labor Code section
12 226(e), 226.3, and 1174.5 for the wage statement violations committed by DEFENDANTS.

13
14 **SIXTH CAUSE OF ACTION**

15 For Failure to Pay Overtime Compensation
(Cal. Lab. Code §§ 510, 1194, 1198 et seq.)
(Against All DEFENDANTS)

16 107. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
17 and every allegation set forth above.

18 108. PLAINTIFF and other AGGRIEVED EMPLOYEES bring a claim for
19 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
20 Welfare Commission requirements for DEFENDANTS' failure to pay PLAINTIFF and other
21 AGGRIEVED EMPLOYEES for all overtime worked, including, work performed in excess of eight
22 (8) hours in a workday and/or forty (40) hours in any workweek.

23 109. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
24 policy, an employer must timely pay its employees for all hours worked.

25 110. Cal. Lab. Code § 510 further provides that employees in California shall not be
26 employed more than eight (8) hours per workday and more than forty (40) hours per workweek
27 unless they receive additional compensation beyond their regular wages in amounts specified by
28 law.

111. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including minimum wage and overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

112. PLAINTIFF and other AGGRIEVED EMPLOYEES were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they worked, from time-to-time including overtime.

113. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to AGGRIEVED EMPLOYEES, as a result of implementing a uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and other AGGRIEVED EMPLOYEES.

114. DEFENDANTS denied accurate compensation to PLAINTIFF and the AGGRIEVED EMPLOYEES for overtime worked, including, the overtime work performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

115. In committing these violations of the California Labor Code, DEFENDANTS inaccurately recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFF and other AGGRIEVED EMPLOYEES. DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

116. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein, PLAINTIFF and the other AGGRIEVED EMPLOYEES did not receive full compensation for overtime worked.

117. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other AGGRIEVED EMPLOYEES. Further, PLAINTIFF and the other AGGRIEVED EMPLOYEES were not subject to a valid collective bargaining agreement that would preclude the causes of action contained herein this Complaint. Rather, PLAINTIFF bring this Action on behalf of himself and AGGRIEVED EMPLOYEES based on DEFENDANTS' violations of non-

1 negotiable, non-waivable rights provided by the State of California.

2 118. DEFENDANTS paid PLAINTIFF and the AGGRIEVED EMPLOYEES less
3 overtime than they are entitled to, constituting a failure to pay all earned wages.

4 119. DEFENDANTS failed to accurately pay PLAINTIFF and the other AGGRIEVED
5 EMPLOYEES overtime wages for the time they worked which was in excess of the maximum hours
6 permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF
7 and the other AGGRIEVED EMPLOYEES were required to work, and did in fact work from time-
8 to-time, overtime as to which DEFENDANTS failed to accurately record and pay as witnessed by
9 employees.

10 120. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
11 compensation to PLAINTIFF and the other AGGRIEVED EMPLOYEES for all overtime worked
12 by these employees, PLAINTIFF and the AGGRIEVED EMPLOYEES have suffered and will
13 continue to suffer an economic injury in amounts which are presently unknown to them, and which
14 will be ascertained according to proof at trial.

15 121. DEFENDANTS knew or should have known that PLAINTIFF and the other
16 AGGRIEVED EMPLOYEES were under-compensated for all overtime worked. DEFENDANTS
17 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay
18 employees for their labor as a matter of uniform company policy, practice and procedure, and
19 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other
20 AGGRIEVED EMPLOYEES for overtime worked.

21 122. In performing the acts and practices herein alleged in violation of California labor
22 laws, and refusing to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for all
23 overtime worked and provide them with the requisite overtime compensation, DEFENDANTS
24 acted and continue to act intentionally, oppressively, and maliciously toward PLAINTIFF and the
25 other AGGRIEVED EMPLOYEES with a conscious and utter disregard for their legal rights, or the
26 consequences to them, and with the despicable intent of depriving them of their property and legal
27 rights, and otherwise causing them injury in order to increase company profits at the expense of
28 these employees.

1 123. PLAINTIFF and the other AGGRIEVED EMPLOYEES therefore request recovery
2 of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as well
3 as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
4 California Labor Code and/or other applicable statutes. To the extent minimum and/or overtime
5 compensation is determined to be owed to PLAINTIFF and other AGGRIEVED EMPLOYEES
6 who have terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201
7 and/or 202, and therefore these employees would also be entitled to waiting time penalties under
8 Cal. Lab. Code § 203, which penalties are sought herein on behalf of PLAINTIFF and these
9 AGGRIEVED EMPLOYEES. DEFENDANTS' conduct, as alleged herein, was willful, intentional,
10 and not in good faith. Further, PLAINTIFF and other AGGRIEVED EMPLOYEES are entitled to
11 seek and recover statutory costs.

12 **SEVENTH CAUSE OF ACTION**
13 For Failure to Provide Required Meal Periods
14 (Cal. Lab. Code §§ 226.7& 512)
 (Against All DEFENDANTS)

15 124. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
16 and every allegation set forth above.

17 125. DEFENDANTS failed to provide all the legally required off-duty meal breaks to
18 PLAINTIFF and the other AGGRIEVED EMPLOYEES as required by the applicable Wage Order
19 and Labor Code. The nature of the work performed by PLAINTIFF and AGGRIEVED
20 EMPLOYEES did not prevent these employees from being relieved of all of their duties for the
21 legally required off-duty meal periods. As a result of their work schedules and inadequate staffing
22 practices by DEFENDANTS, PLAINTIFF and other AGGRIEVED EMPLOYEES were often not
23 fully relieved of duty by DEFENDANTS for their meal periods.

24 126. In fact, DEFENDANTS inadequate staffing practices resulted in instances in which
25 PLAINTIFF and OTHER AGGRIEVED EMPLOYEES were left to work alone during part or all
26 of a shift and were unable to take any meal period.

27 127. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable
28 IWC Wage Order by failing to compensate PLAINTIFF and AGGRIEVED EMPLOYEES who

1 were not provided a meal period, in accordance with the applicable Wage Order, one additional
2 hour of compensation at each employee's regular rate of pay for each workday that a meal period
3 was not provided.

4 128. As a proximate result of the aforementioned violations, PLAINTIFF and
5 AGGRIEVED EMPLOYEES have been damaged in an amount according to proof at trial, and seek
6 all wages earned and due, interest, penalties, expenses and costs of suit.

7 **EIGHTH CAUSE OF ACTION**
8 For Failure to Provide Rest Periods
9 (Cal. Lab. Code §§ 226.7 & 512)
(Against All DEFENDANTS)

10 129. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
11 and every allegation set forth above.

12 130. From time to time, PLAINTIFF and other AGGRIEVED EMPLOYEES were
13 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
14 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
15 shifts worked of at least two (2) to four (4) hours, and a first and second rest period of at least ten
16 (10) minutes for some shifts worked of between six (6) and eight (8) hours. PLAINTIFF and other
17 AGGRIEVED EMPLOYEES were also not provided with one-hour wages in lieu thereof. As a
18 result of their work schedules and inadequate staffing practices by DEFENDANTS, PLAINTIFF
19 and other AGGRIEVED EMPLOYEES were denied their proper rest periods by DEFENDANTS
20 and DEFENDANTS' managers.

21 131. In fact, DEFENDANTS inadequate staffing practices resulted in instances in which
22 PLAINTIFF and OTHER AGGRIEVED EMPLOYEES were left to work alone during part or all
23 of a shift and were unable to take any rest period.

24 132. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable
25 IWC Wage Order by failing to compensate PLAINTIFF and other AGGRIEVED EMPLOYEES
26 who were not provided a rest period, in accordance with the applicable Wage Order, one additional
27 hour of compensation at each employee's regular rate of pay for each workday that rest period was
28 not provided.

1 133. As a proximate result of the aforementioned violations, PLAINTIFF and other
2 AGGRIEVED EMPLOYEES have been damaged in an amount according to proof at trial, and seek
3 all wages earned and due, interest, penalties, expenses and costs of suit.

4 **NINTH CAUSE OF ACTION**

5 For Recovery of Civil Penalties Under the Labor Code Private Attorney General Act
6 (Cal. Lab. Code §§ 2698 et seq.)
7 (Against All DEFENDANTS)

8 134. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
9 and every allegation set forth above.

10 135. As a result of the acts alleged herein, PLAINTIFF, as an AGGRIEVED
11 EMPLOYEE within the meaning of Labor Code section 2699, subdivision (c), on behalf of
12 themselves and all other AGGRIEVED EMPLOYEES of DEFENDANTS, seek the recovery of
13 civil penalties against DEFENDANTS pursuant to California Labor Code sections 2698 et seq., for
14 the following knowing and intentional violations of the California Labor Code:

15 a. For failing to indemnify PLAINTIFF, other employees, and the other AGGRIEVED
16 EMPLOYEES for expenditures incurred by such employees in direct consequence of their
17 discharge of duties (i.e., personal cell phone use) in violation of Labor Code section 2802;

18 b. For failing to pay wages promptly or when due and payable, in violation of Labor
19 Code sections 201, 202, 203, and 204;

20 c. For failing to maintain for and provide to PLAINTIFF, and other employees the
21 accurate, itemized wage statements required by Labor Code Section 226.

22 d. For failing to compensate PLAINTIFF and other employees who were not provided
23 a rest period in violation of Labor Code Section 226.7;

24 e. For failing to compensate PLAINTIFF and other employees who were not provided
25 a meal period in violation of Labor Code Section 226.7; and

26 f. For failing to provide employees who worked more than eight (8) hours per workday
27 and more than forty (40) hours per workweek additional compensation beyond their regular wages
28 in violation of Labor Code Section 510.

 136. The above-referenced civil penalties shall include the recovery of amounts specified

1 in the applicable sections of the Labor Code, and if not specifically provided, those under section
2 2699(f), and shall include those amounts sufficient to recover underpaid wages, including all
3 necessary expenditures or losses incurred by PLAINTIFF and other employees, pursuant to Labor
4 Code sections §§ 201, 202, 203, 204, 210, 218.5, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1194,
5 1197, 1197.1, 1198, 2802, and 2699, subdivisions (a) and (f).

6 137. PLAINTIFF filed this complaint after the LWDA was afforded the opportunity to
7 consider PLAINTIFF'S notice of DEFENDANTS' Labor Code violations and of PLAINTIFF'S
8 intent to prosecute a private enforcement action for civil penalties under PAGA. After the LWDA
9 declined to investigate, PLAINTIFF brought this PAGA cause of action against DEFENDANTS,
10 pursuant to California Labor Code section 2699.3, subdivision (a)(2)(A).

11 **DEMAND FOR RELIEF**

12 WHEREFORE, PLAINTIFF prays for a judgment against each DEFENDANT, jointly and
13 severally, as follows:

14 1. On behalf of the PLAINTIFF:

15 A. An order temporarily, preliminarily and permanently enjoining and restraining
16 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

17 B. An order requiring DEFENDANTS to pay all overtime wages and all sums unlawfully
18 withheld from compensation due to PLAINTIFF and the other AGGRIEVED
19 EMPLOYEES; and

20 C. Compensatory damages, according to proof at trial, including compensatory damages
21 for minimum and overtime compensation, due to PLAINTIFF and the other
22 AGGRIEVED EMPLOYEES, during the applicable PAGA PERIOD plus interest
23 thereon at the statutory rate;

24 D. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for
25 restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and
26 to the other AGGRIEVED EMPLOYEES.

27 E. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
28 applicable IWC Wage Order;

1 F. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
2 a violation occurs and one hundred dollars (\$100) per each member of the AGGRIEVED
3 EMPLOYEES for each violation in a subsequent pay period, not exceeding an aggregate
4 penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal.
5 Lab. Code § 226.

6 G. The wages of all terminated employees from the AGGRIEVED EMPLOYEES as a
7 penalty from the due date thereof at the same rate until paid or until an action therefore
8 is commenced, in accordance with Cal. Lab. Code §203.

9 H. Punitive damages in a sum to be proven at trial.

10 I. Liquidates damages pursuant to Cal. Lab. Code § 1194.2.

11 On Behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

12 A. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General
13 Act of 2004;

14 On all claims:

15 A. An award of interest, including prejudgment interest at the legal rate;

16 B. Such other and further relief as the Court deems just and equitable; and

17 C. An award of penalties, attorneys' fees and cost of suit, as allowable under the law.

18
19 DATED: June 9, 2023

Respectfully submitted,

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21 **EMRAN LAW**

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23 _____
24 Harris Emran
25 Attorney for PLAINTIFF
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DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

DATED: June 9, 2023

EMRAN LAW



Harris Emran
Attorney for PLAINTIFF