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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

MARIO GUILLEN, on behalf of the State of
California as the Real Party in Interest;

Plaintiff,

vs.

NUMARK TRANSPORTATION, INC., a
California Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: **CVRI 2602005**

**REPRESENTATIVE ENFORCEMENT
ACTION COMPLAINT [Private
Attorneys General Act of 2004 (“PAGA”),
Lab. Code § 2698, *et seq.*]**

- (1) Willful Misclassification;
- (2) Failure to Pay Wages;
- (3) Failure to Pay for Nonproductive Time under Labor Code § 226.2;
- (4) Failure to Reimburse Bus. Expenses;
- (5) Failure to Timely Pay Final Wages; and
- (6) Failure to Provide Accurate Itemized Wage Statements

Plaintiff Mario Guillen (“Plaintiff”) brings this Private Attorneys General Act (“PAGA”) Representative Action Complaint (“Complaint”), on behalf of the State of California as the real party in interest,¹ against Defendants as follows.

¹ Because a PAGA action is aimed at deterring and punishing violations of the Labor Code, the State of California “is always the real party in interest in the suit.” *Iskanian v. CLS Transp. of Los Angeles, LLC* (2014) 59 Cal.4th 348, 360; *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175, 185 (all PAGA claims “are brought on the state’s behalf”).

1 **I. INTRODUCTION AND GENERAL ALLEGATIONS**

2 1. Plaintiff brings this action against his former employer(s), Numark
3 Transportation, Inc., and DOES 1 through 20, inclusive, (collectively, “Defendants”) on behalf
4 of all current and former California resident truck drivers who performed services for Defendants
5 in the State of California within within the last one year and 65 days prior to the filing of this
6 action (the “Aggrieved Employees”) for Labor Code violations stemming from Defendants’
7 willful misclassification, failure to pay all wages owed, failure to pay for nonproductive time
8 under Labor Code § 226.2, failure to reimburse business expenses, failure to timely pay wages
9 upon separation of employment, and failure to provide accurate itemized wage statements.

10 2. Plaintiff was employed by Defendants during the applicable periods herein and
11 alleges on information and belief that the Aggrieved Employees were subjected to the same
12 policies, working conditions, and corresponding wage and hour violations to which Plaintiff was
13 subjected during employment.

14 3. Notably, at all relevant times, Plaintiff alleges that he and certain other Aggrieved
15 Employees were improperly classified as independent contractors when, under applicable
16 California law, they were employees and entitled to the protections and benefits of employee
17 status. In this regard, Defendants maintained policies and practices based on or including the
18 willful misclassification of Plaintiff and the Aggrieved Employees as independent contractors
19 despite that, under applicable standards of law, Plaintiff and all Aggrieved Employees are, or
20 were during their employment with Defendants, employees, and not independent contractors.

21 4. Under Labor Code § 2775, the Aggrieved Employees are/were employees of
22 Defendants, not independent contractors, and Defendants cannot meet their burden of proving
23 otherwise because:

24 A. The Aggrieved Employees are/were subject to the control and direction of
25 Defendants in connection with the performance of their work, under contract and in fact.

26 B. The Aggrieved Employees performed work that was the core business of
27 Defendant (e.g., cargo pickup and delivery), and therefore the tasks were not outside the usual
28 course of Defendants’ business, and

1 C. The Aggrieved Employees were not customarily engaged in an
2 independently established trade, occupation, or business of the same nature as the work
3 performed by Defendants.

4 5. Also, Plaintiff and the Aggrieved Employees were subject to the direction and
5 control of Defendants in regard to work assignments, scheduling requirements, and days of work.
6 Furthermore, Defendants directly and indirectly exercised control over the wages, hours, and
7 working conditions of Plaintiff and the Aggrieved Employees. At all relevant times, the daily
8 schedule for Plaintiff and the Aggrieved Employees was controlled solely by Defendants, and
9 Defendants told them the exact time and location for all daily pickups and deliveries. Further,
10 through the performance of their job duties, Plaintiff and the Aggrieved Employees performed an
11 integral and entirely essential aspect of Defendants' business. In fact, Plaintiff and the
12 Aggrieved Employees were tasked to perform the primary service that Defendants provided:
13 cargo pickup and delivery. Additionally, the patients/customers are and/or were Defendants'
14 customers, not those of Plaintiff or the Aggrieved Employees. Plaintiff and the Aggrieved
15 Employees were also not engaged in an independently established trade, occupation or business
16 of the same nature as the work performed by Defendants. Perhaps most importantly, Defendants
17 retained the right to terminate Plaintiff and the Aggrieved Employees' working relationship
18 without cause and at its discretion.

19 6. Despite the facts discussed herein, Defendants misclassified Plaintiff and certain
20 Aggrieved Employees as independent contractors rather than as employees, leading to violations
21 of the California Labor Code and IWC Wage Orders discussed below.

22 7. In addition to the misclassification claims, Plaintiff and the Aggrieved Employees
23 were subjected to a multitude of other Labor Code violations.

24 8. At all relevant times, Plaintiff and the Aggrieved Employees were not provided
25 proper minimum and regular wages due to Defendants' failure to accurately record and
26 compensate for all hours worked. For example, Plaintiff and the Aggrieved Employees were
27 often required to clock out for meal periods and/or breaks yet were under Defendants' control
28 and required to perform duties for Defendants while off the clock. As a result of this policy and

1 practice, Plaintiff and the Aggrieved Employees were required to perform off-the-clock work
2 that Defendants either knew or should have known they were performing.

3 9. Additionally, Defendants failed to pay all required minimum and regular wages to
4 the Aggrieved Employees due to an illegal piece-rate pay policy. Under this pay plan, the
5 Aggrieved Employees did not receive separate hourly compensation at no less than the minimum
6 wage for unpaid, on-duty, time including tasks such as pre-trip and post-trip inspections,
7 detention time, loading and unloading time, completing paperwork, refueling or repair, and
8 downtime between runs. Also, the piece-rate compensation paid to the Aggrieved Employees
9 often resulted in a payment of wages at less than the required California minimum wages for all
10 hours worked.

11 10. Also, Defendants required Plaintiff and the Aggrieved Employees to incur
12 substantial business-related expenses and costs without reimbursement. For example,
13 Defendants required Plaintiff and the Aggrieved Employees to incur substantial cost for truck
14 expenses, maintenance expenses, and costs to use personal cell phones to carry out their duties
15 for Defendants, all without reimbursement.

16 11. Defendants further failed to comply with the mandates of Labor Code §§ 201–203
17 regarding timing of payment of final wages and failed to pay all wages due and owing upon
18 separation of employment including minimum and regular wages, and Defendants further failed
19 to pay the Aggrieved Employees for all mandated sick time.

20 12. Plaintiff further alleges that Defendants provided Plaintiff and the Aggrieved
21 Employees with inaccurate and incomplete wage statements that failed to accurately state all
22 necessary items required under Labor Code § 226(a).

23 13. Plaintiff alleges that Defendants' violations of the wage and hour components of
24 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their
25 level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over
26 their competitors.

27 14. At all material times, Defendants and DOES 1 through 20 were and/or are the
28 Aggrieved Employees' employers or persons acting on behalf of the Aggrieved Employees'

1 employer, within the meaning of California Labor Code § 558, who violated or caused to be
2 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
3 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each
4 underpaid employee as set forth in Labor Code § 558 and under California law.

5 15. Plaintiff brings this lawsuit on behalf of the State of California, as the real party in
6 interest, to recover all applicable and available PAGA remedies for violations of the California
7 Labor Code committed against the Aggrieved Employees as alleged herein, as well as attorneys'
8 fees, costs, and/or other damages as permitted by PAGA. Plaintiff reserves the right to name
9 additional representatives throughout the State of California.

10 **II. JURISDICTION**

11 16. This Court has jurisdiction over the claims for relief of Plaintiff and the
12 Aggrieved Employees pursuant to the Labor Code and the IWC Wage Orders.

13 **III. VENUE**

14 17. Venue as to each Defendant is proper in this Court pursuant to Code of Civil
15 Procedure § 395(a) because: Defendants transact business in Riverside County, the unlawful acts
16 alleged herein have a direct effect on the Aggrieved Employees in Riverside County, and
17 Defendants employ/employed Aggrieved Employees in Riverside County.

18 **IV. PARTIES**

19 **Plaintiff**

20 18. Plaintiff and PAGA Representative Mario Guillen was employed by Defendants
21 and performed work for Defendants during the relevant periods herein.

22 **Defendants**

23 19. Plaintiff is informed and believes and thereon alleges that Defendant Numark
24 Transportation, Inc., is a California corporation authorized to and doing business in Riverside
25 County and is or was the legal employer of Plaintiff and the Aggrieved Employees during the
26 applicable periods.

27 20. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
28 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,

1 inclusive, but on information and belief alleges that those Defendants are legally responsible for
2 the payment of penalties and damages to Plaintiff and all Aggrieved Employees by virtue of
3 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
4 names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE
5 Defendants when ascertained.

6 21. Plaintiff is informed and believes and thereon alleges that he and the Aggrieved
7 Employees worked under the joint direction and control of Defendants and that Defendants, and
8 each of them, acted in all respects pertinent to this action as the agent of the other Defendants,
9 carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of
10 each Defendant are legally attributable to the other Defendants. On information and belief, a
11 unity of interest and ownership between each Defendant exists such that all Defendants acted as
12 a single employer of Plaintiff and other Aggrieved Employees.

13 22. Furthermore, Plaintiff is informed and believes and thereon alleges that
14 Defendants, and each of them, are an integrated enterprise and should be treated as a single
15 employer because these entities share an interrelation of operations, with common human
16 resources and personnel policies and shared common offices and facilities. Additionally,
17 Plaintiff alleges that Defendants also have a shared website, common management, a centralized
18 control of labor operations, and common ownership or financial control.

19 23. Plaintiff is informed and believes and thereon alleges that, in conducting
20 themselves in the manner described herein, Defendants, and each of them, were acting in active
21 concert with one another such that the acts of each were and are fully attributable to the others in
22 all material respects. Plaintiff is further informed and believes that at all relevant times
23 Defendants and each of them are now, and at all material times herein mentioned were, the
24 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
25 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
26 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
27 their remaining co-Defendants.
28

1 24. Plaintiff is further informed and believes that at all relevant times, Defendants
2 have been inadequately capitalized to conduct business, have failed to follow appropriate
3 corporate formalities, and have simply been a shell and instrumentality through which
4 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
5 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
6 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
7 separate existence of these corporate entities would permit abuse of the corporate privilege,
8 thereby sanctioning fraud and promoting injustice.

9 **V. PAGA CAUSES OF ACTION (Labor Code §§ 2698 – 2699.5)**

10 25. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
11 alleged herein.

12 26. Plaintiff is an “aggrieved employee” under the PAGA as he was employed by
13 Defendants during the applicable statutory period and suffered one or more of the Labor Code
14 violations alleged herein. As such, Plaintiff may recover the remedies described herein in a civil
15 action filed on behalf of the State of California and for violations committed against the
16 Aggrieved Employees.

17 27. Plaintiff seeks to recover all applicable and available PAGA remedies pursuant to
18 Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by
19 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
20 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiff is not required to, nor
21 does he, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

22 28. Pursuant to Labor Code § 2699.3(a), Plaintiff gave written notice by online filing
23 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to
24 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
25 the facts and theories to support the alleged violations. Sixty-five (65) days have elapsed since
26 Plaintiff provided notice of the claims alleged herein without the LWDA assuming jurisdiction,
27 so Plaintiff has fully satisfied the administrative prerequisites for bringing suit under the PAGA.

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1 **FIRST CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR WILLFUL MISCLASSIFICATION**

3 (Labor Code § 226.8)

4 29. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 30. At all relevant times, Plaintiff and the Aggrieved Employees performed various
7 duties for Defendants as employees. However, as alleged in detail above, Defendants maintained
8 policies and practices based on or including the willful misclassification of Plaintiff and certain
9 Aggrieved Employees as independent contractors despite that, under applicable standards of law,
10 Plaintiff and all Aggrieved Employees are, or were during their employment with Defendants,
11 employees and not independent contractors.

12 31. Labor Code § 226.8(a) states “It is unlawful for any person or employer to engage
13 in any of the following activities: (1) Willful misclassification of an individual as an independent
14 contractor.”

15 32. Labor Code § 226.8(b) states that if “a person or employer has engaged in any of
16 the enumerated violations of subdivision (a), the person or employer shall be subject to a civil
17 penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars
18 (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.”

19 33. Labor Code § 226.8(c) further states that if “a person or employer has engaged in
20 any of the enumerated violations of subdivision (a) and the person or employer has engaged in or
21 is engaging in a pattern or practice of these violations, the person or employer shall be subject to
22 a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five
23 thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines
24 permitted by law.

25 34. At all relevant times herein, Defendants engaged in a pattern and practice of
26 willfully and knowingly misclassifying Plaintiff and certain Aggrieved Employees as
27 independent contractors. Therefore, Plaintiff and those Aggrieved Employees are entitled to the
28 stepped-up penalties as set forth in Labor Code § 226.8(c).

35. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code §§ 226.8 and 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

SECOND CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY WAGES

(Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

36. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

37. Plaintiff and the Aggrieved Employees were not exempt from the requirement to be paid at least the applicable California minimum wage throughout the statutory period for each hour worked.

38. As noted herein, Plaintiff and the Aggrieved Employees were not provided proper minimum and regular wages due to the allegations herein. As a result of these policies and practices, Plaintiff and the Aggrieved Employees were required to perform off-the-clock work that Defendants either knew or should have known they were performing.

39. Consequently, Defendants violated California Labor Code laws and minimum wage laws, *inter alia*, Labor Code §§ 200, 1197, IWC Wage Order § 4, and Cal. Code Regs., tit. 8, section 11090, subds. 1 and 4(B).

40. Plaintiff is informed and believes and thereon alleges that Defendants intentionally, willfully, and improperly failed to pay wages to Plaintiff and the Aggrieved Employees for each hour worked in violation of Labor Code §§ 1194 and 1197.

41. Defendants' conduct was willful, as Defendants knew that Plaintiff and the Aggrieved Employees were entitled to be paid wages throughout the statutory period for each hour worked, including proper minimum and regular wages, yet Defendants chose not to pay them in accordance thereto.

42. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA

remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

THIRD CAUSE OF ACTION

PAGA ASSESSMENT FOR FAILURE TO PAY FOR REST AND RECOVERY

PERIODS AND OTHER NONPRODUCTIVE TIME

(Labor Code § 226.2)

43. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

44. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants who were paid on a piece-rate basis.

45. Labor Code § 226.2 requires employers that pay their employees on a piece-rate basis to provide separate payment for nonproductive time at an hourly rate that is no less than the applicable minimum wage. However, at all relevant times herein, Defendants failed to compensate the Aggrieved Employees for all nonproductive time separate from any piece-rate compensation a. Therefore, Defendants violates Labor Code § 226.2 every pay period with respect to each and every one of the Aggrieved Employees.

46. Plaintiff is informed and believes and thereon alleges that Defendants intentionally, willfully, and improperly failed to pay proper wages to Plaintiff and the Aggrieved Employees in violation of Labor Code §§ 226.2, 510, 1194 and 1197.

47. Defendants' conduct was willful, as Defendants knew that Plaintiff and the Aggrieved Employees were entitled to be paid proper wages throughout the statutory period, yet Defendants chose not to pay them in accordance thereto.

48. As a result of the unlawful employment practices alleged herein, Plaintiff, on behalf of the State of California, seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

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1 **FOURTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 (Labor Code § 2802)

4 49. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
5 alleged herein.

6 50. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
7 who did not receive proper protections and benefits of the laws governing reimbursement of
8 business expenses.

9 51. Labor Code § 2802(a) requires that the employer indemnify its employees for
10 expenses and losses incurred while discharging their duties or in obedience to the directions of
11 their employer.

12 52. At all relevant times herein mentioned, Defendants violated Labor Code § 2802(a)
13 when they failed to reimburse Plaintiff and the Aggrieved Employees for expenses incurred as a
14 direct consequence of employment with Defendants and/or under the direction of Defendants.

15 53. As a result of the unlawful employment practices alleged herein, Plaintiff, on
16 behalf of the State of California, seeks the assessment of all applicable and available PAGA
17 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
18 any other damages permitted under PAGA.

19 **FIFTH CAUSE OF ACTION**

20 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

21 (Labor Code §§ 201 – 203)

22 54. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
23 alleged herein.

24 55. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
25 who did not receive proper protections and benefits of the laws governing the timing and
26 payment of wages.

27 56. Labor Code § 201 requires that the employer immediately pay any wages, without
28 abatement or reduction, to any employee who is discharged.

1 57. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
2 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
3 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

4 58. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
5 penalty from the due date thereof at the same rate until paid or until an action therefore is
6 commenced, but the wages shall not continue for more than thirty (30) days.

7 59. At all relevant times, Defendants employed a policy and practice whereby
8 Plaintiff and the Aggrieved Employees were not paid all wages due and owing upon separation
9 of employment within the time required by Labor Code §§ 201 and 202.

10 60. Also, at all relevant times, Defendants engaged in the practice of failing to pay all
11 wages due and owing to Plaintiff and the Aggrieved Employees upon separation of employment,
12 including, but not limited to, all minimum and regular wages, vested vacation wages, and sick
13 wages.

14 61. Plaintiff alleges that, at all times material to this action, Defendants had a planned
15 pattern and practice of failing to timely pay Plaintiff and the Aggrieved Employees all wages due
16 and owing upon separation of employment as required by Labor Code §§ 201 and 202.

17 62. As a result of the unlawful employment practices alleged herein, Plaintiff, on
18 behalf of the State of California, seeks the assessment of all applicable and available PAGA
19 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys' fees, costs, and/or
20 any other damages permitted under PAGA.

21 **SIXTH CAUSE OF ACTION**

22 **PAGA ASSESSMENT FOR**

23 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

24 (Labor Code § 226)

25 63. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully
26 alleged herein.

27 64. Plaintiff and the Aggrieved Employees are and/or were employees of Defendants
28 who did not receive proper protections and benefits of the laws governing the provision of

1 accurate itemized wage statements.

2 65. Labor Code § 226(a) requires an employer to provide its employees with itemized
3 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
4 inclusive dates of the pay period, the employee's name and the last four digits of his or her
5 Social Security number (or employee identification number), the name and address of the legal
6 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
7 corresponding number of hours worked at each hourly rate by the employee.

8 66. Defendants violate Labor Code § 226(a) every pay period with respect to Plaintiff
9 and the Aggrieved Employees due to violations including: failure to accurately state total hours
10 worked; failure to accurately state gross wages earned; failure to accurately state all deductions;
11 failure to accurately state the name and address of the legal entity that is the employer; failure to
12 accurately state net wages earned; failure to state the applicable hourly rates; and failure to
13 accurately state the corresponding number of hours worked at each hourly rate.

14 67. Labor Code § 226.2(a) also states “[f]or employees compensated on a piece-rate
15 basis during a pay period, the following shall apply for that pay period: [...] (2) the itemized
16 statement required by subdivision (a) of Section 226 shall, in addition to the other items specified
17 in that subdivision, separately state the following, to which the provisions of Section 226 shall
18 also be applicable: (A) the total hours of compensable rest and recovery periods, the rate of
19 compensation, and the gross wages paid for those periods during the pay period [and] (B) [...] the
20 total hours of other nonproductive time, [...] the rate of compensation, and the gross wages
21 paid for that time during the pay period.”

22 68. At all relevant times, Defendants failed to provide a wage statement to Plaintiff
23 and the Aggrieved Employees that complied with the requirements of Labor Code § 226.2(a)(2)
24 because the wage statements did not include any information regarding compensable
25 nonproductive time, or the rates of pay and compensation for the same. Thus, Defendants violate
26 Labor Code § 226 and § 226.2 every pay period with respect to the Aggrieved Employees.

27 69. Finally, Defendants failed to provide Plaintiff and the Aggrieved Employees
28 misclassified as independent contractors with any form of documentation that could qualify as a

1 “wage statement” or satisfy the requirements of Labor Code § 226.

2 70. Therefore, Defendants violate Labor Code §§ 226(a) and 226.3 every pay period
3 with respect to Plaintiff and the Aggrieved Employees because Defendants failed to provide a
4 wage statement to the Aggrieved Employees that complied with the requirements of Labor Code
5 §§ 226(a) and 226.2(a).

6 71. Unlike class action claims, a PAGA Plaintiff need not meet the “injury” and
7 “knowing and intentional” violation requirements of Labor Code § 226(e). See *Lopez v. Friant*
8 & Associates, LLC (2017) 15 Cal.App.5th 773, 788 (“a plaintiff seeking civil penalties under
9 PAGA for a violation of section 226(a) does not have to satisfy the “injury” and “knowing and
10 intentional” requirements of section 226(e)(1)"); see also, *Lawson v. ZB, N.A.* (2017) 18
11 Cal.App.5th 705, 722 (“the scienter requirement [of § 226(e)] has no application in a PAGA
12 claim for violation of [§ 226(a)]”).

13 72. As a result of the unlawful employment practices alleged herein, Plaintiff, on
14 behalf of the State of California, seeks the assessment of all applicable and available PAGA
15 remedies pursuant to Labor Code § 2699, and seeks to recover all attorneys’ fees, costs, and/or
16 any other damages permitted under PAGA.

17 **VI. PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, on behalf of the State of California, as the real party in interest,
19 prays for judgment and relief against Defendants, jointly and severally, as follows:

- 20 1. For the assessment of all remedies and/or penalties available under the PAGA;
21 2. For reasonable attorneys’ fees and costs of suit to the extent permitted by law; and
22 3. For such other and further relief as the Court deems just and proper.

23 Dated: April 1, 2026

LAUBY, MANKIN & LAUBY LLP

24
25 BY:



26 Brian J. Mankin, Esq.
27 Peter J. Carlson, Esq.
28 Attorneys for Plaintiff