

BIBIYAN LAW GROUP, P.C.

Sarah H. Cohen (SBN 330700)

sarah@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

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David W. Slayton,
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By A. Munoz, Deputy Clerk

Attorneys for Plaintiff JOEL HERNANDEZ,
as an Aggrieved Employee, and on behalf of all other
Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JOEL HERNANDEZ, as an Aggrieved
Employee, and on behalf of all other
Aggrieved Employees under the Labor Code
Private Attorneys' General Act of 2004,

Plaintiff

v.

EVONIK CORPORATION, an Alabama
corporation; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: **26STCV13156**

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff JOEL HERNANDEZ (“Plaintiff”), as an Aggrieved Employee, and on behalf of all
2 other Aggrieved Employees under the Labor Code Private Attorneys’ General Act of 2004, alleges
3 as follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Evonik Corporation,
7 an Alabama corporation, and any of its respective subsidiaries or affiliated companies within the
8 State of California (“Evonik” hereinafter, collectively, with DOES 1 through 100, as further defined
9 below, “Defendants”) as a proxy of the Labor and Workforce Development Agency of the State of
10 California (“LWDA”), on behalf of Plaintiff and all Aggrieved Employees that worked for
11 Defendants during the PAGA Period. Specifically, in connection with any alleged claims for failure
12 to comply with Labor Code sections 201, 202, 203, 204, 210, 221, 223, 226, 226.3, 232, 232.5, 245,
13 246, 432, 432.5, 1198, 1198.5, and applicable Wage Orders, Plaintiff seeks to represent all current
14 and former employees that worked for Defendants during the PAGA Period. On all other claims
15 mentioned herein, Plaintiff seeks to represent only non-exempt current and former employees that
16 worked for Defendants during the PAGA Period. Collectively, these employees are herein referred
17 to as “Aggrieved Employees.” The “PAGA Period” refers to three years preceding the date notice
18 was submitted to the LWDA, continuing past the date of notice to the LWDA into perpetuity.

19 **PARTIES**

20 2. Plaintiff JOEL HERNANDEZ is a resident of the State of California. At all relevant
21 times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 employed Plaintiff as a non-exempt employee. Plaintiff worked as a warehouse technician with
23 duties that included, but were not limited to, shipping and receiving barrels of chemicals. Plaintiff
24 is informed and believes, and based thereon alleges, that Plaintiff JOEL HERNANDEZ worked for
25 Defendants from approximately May of 2023 through the present.

26 3. Plaintiff is informed and believes and based thereon alleges that defendant Evonik
27 is, and at all times relevant hereto was, a corporation organized and existing under and by virtue of
28 the laws of the State of Alabama and doing business in the County of Los Angeles, State of

1 California. At all relevant times herein, Evonik employed Plaintiff and Aggrieved Employees within
2 the State of California

3 4. The true names and capacities, whether individual, corporate, associate, or otherwise,
4 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
5 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
6 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
7 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
8 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
9 the defendants designated hereinafter as DOES when such identities become known.

10 **JOINT LIABILITY ALLEGATIONS**

11 5. Plaintiff is informed and believes, and based thereon alleges, that each defendant
12 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
13 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
14 legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made
15 to "Defendants," it shall include Evonik, and any of their parent, subsidiary, or affiliated companies
16 within the State of California, as well as DOES 1 through 100 identified herein.

17 6. Plaintiff is informed and believes and based thereon alleges that all the times
18 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
19 representative, joint venture or co-conspirator of each of the other defendants, either actually or
20 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
21 employment, joint venture, and conspiracy.

22 7. All of the acts and conduct described herein of each and every corporate defendant
23 was duly authorized, ordered, and directed by the respective and collective defendant corporate
24 employers, and the officers and management-level employees of said corporate employers. In
25 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
26 their said employees, agents, and representatives, and each of them; and upon completion of the
27 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
28 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,

1 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
2 aforementioned corporate employees, agents and representatives.

3 8. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
4 thereon alleges that Defendants, and each of them, are joint employers.

5 **JURISDICTION**

6 9. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
7 of Civil Procedure section 410.10.

8 10. Venue is proper in Los Angeles County, California pursuant to Code of Civil
9 Procedure sections 392, *et seq.* because, among other things, Los Angeles County is where the
10 causes of action complained of herein arose; the county in which the employment relationship
11 began; the county in which performance of the employment contract, or part of it, between Plaintiff
12 and Defendants was due to be performed; the county in which the employment contract, or part of
13 it, between Plaintiff and Defendants was actually performed; and the county in which Defendants,
14 or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff
15 and Aggrieved Employees in Los Angeles County, and Defendants employ Aggrieved Employees
16 in Los Angeles County.

17 **PAGA REPRESENTATIVE ALLEGATIONS**

18 11. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by
19 Defendants during the PAGA Period and suffered the Labor Code violations set forth herein, even
20 if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to
21 recover civil penalties under PAGA, plus reasonable attorneys’ fees and costs, for Plaintiff and all
22 other Aggrieved Employees of Defendants during the PAGA Period.

23 12. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
24 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
25 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
26 PAGA allegations described herein is not required.

27 13. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
28 such as Plaintiff to bring a civil action to recover civil penalties pursuant to the procedures specified

1 in Labor Code section 2699.3 on behalf of Plaintiff and all other Aggrieved Employees within the
2 PAGA Period.

3 14. Pursuant to Labor Code section 2699.3, on or around January 15, 2026, Plaintiff
4 provided written notice of Defendants' violation of various provisions of the Labor Code to the
5 LWDA online and by certified mail, with return receipt requested, to Defendants ("PAGA Notice").

6 15. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
7 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
8 calendar days of the PAGA Notice.

9 16. To the extent Defendants, or either of them, previously used the notice and cure
10 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
11 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
12 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
13 conference process pursuant to section 2699.3(f).

14 17. In the event that Defendants, or either of them, is/are determined to have satisfied
15 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
16 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
17 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

18 18. In the event that Defendants, or either of them, is/are determined to have, prior to
19 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
20 and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all
21 provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to
22 section 2699(g)(1)-(3).

23 19. In the event that Defendants, or either of them is/are deemed to have adequately taken
24 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
25 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
26 Code section 2699(h)(1)-(3).

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20. In the event, the LWDA and/or a court issued a finding or determination to the Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or any of them, would be subject to heightened penalties pursuant to Labor Code sections 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations as detailed herein was and is malicious, fraudulent, and/or oppressive. Thus, Defendants, or any of them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

FACTUAL ALLEGATIONS

21. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew, or should have known, that Plaintiff and Aggrieved Employees are entitled to receive wages for all time worked, including regular, overtime, and double times wages, and that Plaintiff and Aggrieved Employees were not receiving all wages owed for work that was required to be performed.

22. Plaintiff is informed and believes, and based thereon alleges, that Defendants had and have a policy or practice of requiring Plaintiff and other Aggrieved Employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek (in violation of Labor Code sections 551 and 552) without paying them proper overtime wages.

23. Upon information and belief, Defendants failed to accurately track and/or pay for all minutes actually worked by Plaintiff and Aggrieved Employees at the proper rates of pay. Defendants also engaged, suffered, or permitted Aggrieved Employees to work off the clock, including, without limitation, by requiring Plaintiff and Aggrieved Employees to don required uniforms and/or safety gear such as fire-retardant clothing prior to starting their shift; and respond to text messages off the clock to discuss the status of tasks with supervisors. For example, Plaintiff, and upon information and belief, Aggrieved Employees, were required to don uniforms such as fire

1 retardant shirts and pants prior to clocking in because they were not provided enough time to do so
2 before they were required to be present for the safety meeting.

3 24. In addition, Defendants failed to include all forms of remuneration, including non-
4 discretionary bonuses, and other forms of remuneration into the regular rate of pay during pay
5 periods where overtime was worked. For example, on April 4, 2025, Plaintiff's wage statement
6 showed a bonus paid (pay code "GCP BONUS") but Plaintiff's overtime was paid at the regular
7 rate instead of an adjusted rate.

8 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 violated, without limitation, Labor Code sections 223, 510, 551, 552, 1197, 1182.12, and applicable
10 Wage Orders based on its continued failure to pay minimum and overtime wages for all hours
11 worked. Thus, Plaintiff and other Aggrieved Employees are entitled to actual and liquidated
12 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198. Plaintiff is further
13 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
14 violations and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
15 penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1197.1,
16 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further
17 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

18 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
19 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
20 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per
21 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
22 compensation in lieu thereof. By way of example, Defendants regularly denied Plaintiff and
23 Aggrieved Employees lawful meal periods by, without limitation, interrupting meal periods; not
24 always allowing Plaintiff to leave the premises for breaks; not providing timely meal periods;
25 requiring that employees carry cellular walkie-talkies during meal periods; and requiring on-
26 duty/on-call meal periods. For example, Plaintiff was required to monitor a walkie-talkie during his
27 meal periods which often lead to meal period interruptions when colleagues or supervisors asked
28 him the status of certain tasks or where specific barrels were left. Plaintiff and other Aggrieved

1 Employees personally suffered these violations. Consequently, Plaintiff is informed and believes,
2 and based thereon alleges, that Defendants violated Labor Code sections 512 and 1198 each day for
3 each Aggrieved Employee during the PAGA Period, and thus each Aggrieved Employee was owed
4 one hour of premium pay at their regular rate of pay for each day worked during the PAGA Period
5 under Labor Code section 226.7. However, Plaintiff is informed and believes that those premium
6 payments under Labor Code section 226.7 were not made for these non-compliant meal periods,
7 either at all or at the proper regular rate of pay. Defendants would thus be liable for civil penalties
8 pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1198 and 2699 for
9 both failing to authorize the taking of compliant meal periods and for failing to provide premium
10 pay under Labor Code section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k).
11 Plaintiff is further informed and believes, and based thereon alleges, that Defendants' conduct that
12 gave rise to such violations and was malicious, fraudulent, or oppressive. As such, Defendants are
13 further liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

14 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,
16 including, without limitation, work over four-hour periods (or major fractions thereof) without
17 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
18 and complete ten-minute rest periods in which the employees are completely relieved of all of their
19 duties. By way of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful
20 rest periods by, without limitation, by interrupting rest periods; not always allowing employees to
21 leave the premises during breaks; by failing to provide rest periods all together; requiring employees
22 carry walkie-talkies during rest periods; not providing rest periods in a timely fashion; and otherwise
23 requiring on-duty/on-call rest periods. Plaintiff and other Aggrieved Employees personally suffered
24 these violations. Consequently, Plaintiff is informed and believes, and based thereon alleges, that
25 Defendants violated the applicable Wage Order(s) each day for each Aggrieved Employee during
26 the PAGA Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at
27 their regular rate of pay for each day worked during the PAGA Period under Labor Code section
28 226.7. However, Plaintiff is informed and believes that those premium payments under Labor Code

1 section 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper
2 regular rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants would thus be
3 liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages),
4 558, 1198 and 2699 for both failing to authorize the taking of compliant rest periods and for failing
5 to provide premium pay under Labor Code section 226.7, or injunctive relief under sections
6 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that
7 Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
8 oppressive. As such, Defendants are further liable for civil penalties pursuant to Labor Code section
9 2699(f)(2)(B)(ii).

10 28. As a result of, among other things, Defendants' herein-described policy or practice
11 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
12 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
13 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
14 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
15 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that
16 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the
17 inclusive dates of the period for which the employee is paid; the name of the employee and only the
18 last four digits of their social security number or an employee identification number other than a
19 social security number; all deductions; all applicable hourly rates in effect during the pay period and
20 the corresponding number of hours worked at each hourly rate by the employee; the legal name and
21 address of the employer, and other such information as required by Labor Code section 226,
22 subdivision (a). Specifically, Defendants intentionally failed to furnish employees with itemized
23 wage statements that accurately reflect the hours worked by Plaintiff and other Aggrieved
24 Employees and the rates of pay at which they were or should have been paid including due to failure
25 to pay at the proper regular rate, thus resulting in a failure to reflect gross and net wages earned and
26 paid at each rate, as well. Consequently, Plaintiff is informed and believes, and based thereon
27 alleges, that Defendants violated Labor Code sections 226, and 1198 each day for each Aggrieved
28 Employee during the PAGA Period, and that, thus Plaintiff and each Aggrieved Employee

1 personally suffered these violations and was owed penalties under Labor Code section 226 for each
2 pay period worked during the PAGA Period. Plaintiff is informed and believes that those penalties
3 under Labor Code section 226 were not paid for these violations of Labor Code section 226.
4 Defendants would thus be liable for civil penalties pursuant to Labor Code sections 226.3, 558,
5 1198, and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
6 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
7 violations and was malicious, fraudulent, or oppressive. Thus, Defendants would further be liable
8 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

9 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants also
10 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
11 compensation to Plaintiff and other terminated or resigned employees, including but not limited to,
12 failing to pay all overtime wages owed, including for failure to pay at overtime the proper rate of
13 pay; all minimum wages; all premium pay owed; and all paid sick leave, as set forth above, among
14 other things. Consequently, Plaintiff is informed and believes, and based thereon alleges, that
15 Defendants violated Labor Code sections 201, 202 203, and 1198 each pay period for each
16 Aggrieved Employee during the PAGA Period, and thus Plaintiff and each Aggrieved Employee
17 personally suffered these violations and was owed penalties under Labor Code section 203 for each
18 pay period worked during the PAGA Period. However, Plaintiff is informed and believes that those
19 penalties under Labor Code section 203 were not made for these violations of Labor Code sections
20 201, 202, and 203. Defendants would thus be liable for civil penalties pursuant to Labor Code
21 sections 558, 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(j). Plaintiff is
22 further informed and believes, and based thereon alleges, that Defendants' conduct above gave rise
23 to such violations and was malicious, fraudulent, or oppressive. As such, Defendants would further
24 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

25 30. Plaintiff is informed and believes, and based thereon alleges that Defendants also
26 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
27 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for use of personal
28 cellular phone for work purposes, and purchasing tools necessary to perform work duties such as

1 box cutters, in direct consequence of the discharge of their duties, or of their obedience to the
2 directions of Defendants, as required by Labor Code sections 1198, 2800, 2802, and other statutory
3 and common law offenses. As a result, Plaintiff and other Aggrieved Employees have personally
4 suffered these violations and Defendants are liable to reimburse Plaintiff and other Aggrieved
5 Employees for these costs incurred in furtherance of work duties. Defendants would thus be liable
6 for civil penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under
7 sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
8 alleges, that Defendants' conduct above gave rise to such violations and was malicious, fraudulent,
9 or oppressive. As such, Defendants would further be liable for civil penalties pursuant to Labor
10 Code section 2699(f)(2)(B)(ii).

11 31. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
12 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with
13 Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days,
14 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
15 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
16 any calendar month, shall be paid for between the 1st and 10th day of the following month." Plaintiff
17 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
18 and other Aggrieved Employees all wages owed every day and every workweek in accordance with
19 Labor Code sections 204 and 1198. Plaintiff is informed and believes, and based thereon alleges,
20 that Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees
21 have personally suffered these violations. As such, Defendants would be liable for civil penalties
22 pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections
23 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon alleges, that
24 Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
25 oppressive. Therefore, Defendants would further be liable for civil penalties pursuant to Labor Code
26 section 2699(f)(2)(B)(ii).

27 32. Plaintiff is further informed and believes, and based thereon alleges, that Defendants
28 have or had a policy or practice of failing to provide Plaintiff and other Aggrieved Employees with

1 all rights afforded to them under the Healthy Workplace Healthy Families Act of 2014, codified at
2 Labor Code section 245, *et seq.*, including, without limitation, the amount of paid sick leave required
3 to be provided pursuant to California and local laws. Plaintiff is further informed and believes that
4 the sick pay was not provided at the proper regular of pay as required under California law due to
5 failure to properly calculate the regular rate. Plaintiff is further informed and believes that
6 Defendants also did not permit its use upon request by Defendants and other Aggrieved Employees
7 as contemplated under California and local laws, including, without limitation, under Labor Code
8 section 233, that permits its use to attend to an illness of a child, parent, spouse, or domestic partner
9 without retaliation. Plaintiff is additionally informed and believes that the notice requirement of
10 Labor Code section 221, 223, 233, 234, 245 and 246 involves a mandatory payroll or workplace
11 injury reporting. Plaintiff is thus informed and believes that Defendants violated these Labor Code
12 sections, as well as Labor Code section 1198. As such, Plaintiff and other Aggrieved Employees
13 have personally suffered violations under these sections and Defendants would be liable for civil
14 penalties for violation of the paid sick leave regulations under Labor Code sections 1198 and 2699,
15 as well as equitable, injunctive, or restitutionary relief, and reasonable attorneys' fees and costs.
16 Plaintiff further informed and believes, and based thereon alleges, that Defendants' conduct above
17 gave rise to such violations and was malicious, fraudulent, or oppressive. Defendants would further
18 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

19 33. Plaintiff is informed and believes, and based thereon alleges, as follows: Defendants
20 knew or should have known it imposed systematic quota and production demands on Plaintiff and
21 other Aggrieved Employees which violated the rights of Plaintiff and Aggrieved Employees under
22 Labor Code sections 2100, *et seq.* Specifically, Plaintiff is informed and believes, and based thereon
23 alleges, that Defendants had a duty to ensure its production demands/quotas did not prevent Plaintiff
24 and Aggrieved Employees from complying with laws pertaining to meal periods, rest periods,
25 bathroom breaks (including, without limitation, reasonable travel time to and from bathroom
26 facilities), and/or exposing them to safety or Occupational Safety and Health Administration
27 ("OSHA") hazards. Defendants, or some of them, constitute a "covered employer" and its
28 warehouse employees are "covered employees." Defendants, or some of them, implement quotas

1 as defined in Labor Code section 2100, subdivision (h) and subjects Plaintiff and Aggrieved
2 Employees to adverse employment actions as defined in Labor Code section 2102. Furthermore,
3 Defendants, or some of them, willfully, knowingly and intentionally established quotas that harmed
4 Plaintiff and Aggrieved Employees all to increase Defendants' profits without concern for employee
5 safety. Defendants, in fact, tracked meals, rest, and recovery periods, that were not provided and
6 did nothing to change its policies and practices. Defendants also restricted and monitored the use
7 of bathroom facilities and charged the time Plaintiff and Aggrieved Employees used the bathroom
8 against their quota. In other words, Plaintiff and Aggrieved Employees who did not wait to use the
9 restroom during meal or rest periods or before or after their shift, were penalized for not meeting
10 the quota either through reprimands, warnings, and termination. Defendants maintained a point
11 system designed to prevent Plaintiff and Aggrieved Employees from complying with California law
12 as alleged in this Notice and systematically used to punish Plaintiff and Aggrieved Employees.
13 Furthermore, Defendants prevented compliance with California's meal and rest break laws and
14 failed to consider meal and rest breaks as productive time when Plaintiff and Aggrieved Employees
15 were required to remain on call in violation of Labor Code section 2103, subdivision (b). Plaintiff
16 and Aggrieved Employees were not permitted to take compliant meal breaks, rest breaks, and/or
17 rest and recovery periods when requested, due to Defendants' unlawful policy and practice to favor
18 production goals over the rights of Plaintiff and Aggrieved Employees. Consequently, Plaintiff and
19 other Aggrieved Employees were not provided with meal periods (or second meal periods); and/or
20 authorized or permitted to take rest periods (including second or third rest periods); and/or recovery
21 periods; and Defendants' policies prevented Aggrieved Employees from taking these meal, rest
22 and/or recovery periods as required by California law. Furthermore, Defendants did not provide to
23 Plaintiff and Aggrieved Employees a written description of each quota that was applicable to
24 Plaintiff and Aggrieved Employees; maintained secret (undisclosed) quotas; and failed to provide
25 written disclosures each and every time quotas changed either seasonally, daily, hourly, weekly
26 and/or monthly. This includes the number of tasks to be performed or materials that must be
27 produced or handled within a time period, and any potential adverse employment action that could
28 result from failing to meet the quota. This information has not been given by Defendants to Plaintiff

1 and Aggrieved Employees, including when hired, commencing on January 1, 2022 to the present.
2 Additionally, Defendants changed the “quota” regularly without notice, as often as per pay period.
3 Defendants were also required to provide a new written quota disclosure each and every time the
4 quota changed and failed to do so since the Notice was provided. Defendants failed to produce
5 Plaintiff’s written quota disclosure upon written request pursuant to Labor Code sections 2100
6 through 2112, and failed to provide written disclosures to Plaintiff and Aggrieved Employees,
7 including new hires, since January 1, 2022, as well as to current employees each time the quota
8 changed. Defendants had and has a policy and practice of taking adverse employment action against
9 Plaintiff and Aggrieved Employees for failing to meet a quota that does not allow Plaintiff and
10 Aggrieved Employees to comply with meal and rest periods, or occupational health and safety laws
11 in the Labor Code or Division Standards, or for failure to meet a quota that has not been disclosed
12 to Plaintiff and Aggrieved Employees pursuant to Labor Code section 2101. Plaintiff thus violated
13 Labor Code sections 2100 through 2112. Plaintiff and the Aggrieved Employees personally suffered
14 these violations, which in turn would entitle Plaintiff and other Aggrieved Employees to penalties
15 prescribed by Labor Code sections 226 and 1198.5. Defendants would also be liable for civil
16 penalties pursuant to Labor Code sections 558, 1174.5, 1695.55, 1198 and 2699. Plaintiff further
17 informed and believes, and based thereon alleges, that Defendants’ conduct above gave rise to such
18 violations and was malicious, fraudulent, or oppressive, particularly given, among other reasons,
19 Defendants have been sued for these violations in the past. Thus, Defendants would further be liable
20 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

21 34. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
22 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
23 statements and similar payroll documents under Labor Code section 226, documents signed to
24 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
25 section 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and
26 other Aggrieved Employees to calculate their unpaid wages and/or premium payments. Plaintiff and
27 the Aggrieved Employees personally suffered these violations, which in turn would entitle Plaintiff
28 and other Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5.

1 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5,
2 and 2699. Plaintiff further informed and believes, and based thereon alleges, that Defendants'
3 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. Defendants
4 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

5 35. Plaintiff is further informed and believes, and based thereon alleges that Defendants
6 failed and refused, and continue to fail and refuse, to comply with the notice requirements of Labor
7 Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing
8 to provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
9 applicable to their employment; any allowances claimed as part of the minimum wage; the regular
10 payday designated by Defendants; the name of the employer, including any "doing business as"
11 names used by the employer; the physical address of the employer's main office and the telephone
12 number of the employer; the name, address and telephone number of the workers' compensation
13 insurance carrier; information regarding paid sick leave; and other pertinent information required to
14 be disclosed by Defendants under Labor Code section 2810.5. Plaintiff is informed and believes that
15 Defendants' failure to provide such information, including rates of pay that are in effect, has
16 permitted Defendants to pay employees at rates of pay that were not agreed upon and violate
17 minimum wage and overtime wage laws in California. Plaintiff is informed and believes that
18 Defendants violated Labor Code sections 1198 and 2810.5. Plaintiff and other Aggrieved
19 Employees personally suffered these violations. Plaintiff is further informed and believes, and based
20 thereon alleges, that Defendants' conduct above gave rise to such violations and was malicious,
21 fraudulent, or oppressive. Among other relief, employees may collect from Defendants in
22 connection with these violations' civil penalties pursuant to Labor Code sections 558, 1198 and
23 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable
24 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

25 36. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
26 have a policy or practice of preventing Plaintiff and other Aggrieved Employees from using or
27 disclosing the skills, knowledge and experience they obtained at Defendants for purposes of
28 competing with Defendants, including, without limitation, preventing Plaintiff and Aggrieved

1 Employees from disclosing their wages in negotiating a new job with a prospective employer, and
2 from disclosing who else works at Defendants and under what circumstances that they might be
3 receptive to an offer from a rival employer. As such, Plaintiff is informed and believes that this
4 violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof,
5 various provisions of the Labor Code, including Labor Code sections 232, 232.5, 1197.5,
6 subdivision (k), and 1198, and that Plaintiff and other Aggrieved Employees have personally
7 suffered these violations. Plaintiff is further informed and believes, and based thereon alleges, that
8 Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
9 oppressive. Defendants would be liable for civil penalties pursuant to Labor Code sections 1198 and
10 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable
11 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

12 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 including their agents, managers, superintendents, and/or officers, required Plaintiff and/or
14 Aggrieved Employees to agree, in writing, to terms and conditions known by Defendants (and its
15 agents, managers, superintendents and/or officers) to be prohibited by law, including, without
16 limitation, confidentiality agreements such as the Employee Confidentiality & Proprietary Rights
17 Agreement, and other written documents presented for signature and/or assent to Plaintiff and/or
18 Aggrieved Employees by Defendants. Defendants also required Plaintiff and Aggrieved Employees
19 to inform prospective employers of Defendants' restrictions of Plaintiff's and Aggrieved
20 Employees' freedom to work. As a result, Plaintiff is informed and believes that Defendants violated
21 Labor Code sections 432.5 and 1198. As such, Plaintiff is informed and believes, and based thereon
22 alleges, that Plaintiff and other Aggrieved Employees personally suffered these violations, and that
23 Defendants violated, without limitation, Labor Code section 432.5 and Government Code section
24 12952, entitling Plaintiff and other Aggrieved Employees to damages. Plaintiff is further informed
25 and believes, and based thereon alleges, that Defendants' conduct above gave rise to such violations
26 and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil penalties
27 pursuant to Labor Code sections 432.5, 1198, and 2699, or injunctive relief under sections
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2699(e)(1) and 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

38. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved Employees pursuant to PAGA.

FIRST AND ONLY CAUSE OF ACTION

(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)

39. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the preceding paragraphs as though fully set forth hereat.

Civil Penalties Under Labor Code § 210

40. At all relevant times herein, Labor Code section 204, requires and required that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month."

41. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee" and "(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

42. At all relevant times herein, Defendants have had a consistent policy or practice of failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil

1 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
2 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
3 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
4 violation in connection with each payment that was made in violation of Labor Code section 204.

5 Civil Penalties Under Labor Code § 226.3

6 43. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
7 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
8 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
9 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
10 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

11 44. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
12 this section are in addition to any other penalty provided by law.”

13 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
14 and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by
15 intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements
16 that accurately reflect gross wages earned; total hours worked; net wages earned; the name and
17 address of each employer with whom they have been placed to work; all applicable hourly rates in
18 effect during the pay period and the corresponding number of hours worked at each hourly rate; the
19 legal name of the employer; and other such information as required by Labor Code section 226,
20 subdivision (a).

21 46. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
22 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision
23 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
24 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
25 period for each subsequent violation.

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1 Violation of Labor Code § 558

2 47. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person
3 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
4 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil
5 penalty as follows:

6 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
7 pay period for which the employee was underpaid in addition to an amount sufficient
8 to recover underpaid wages;

9 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
10 employee for each pay period for which the employee was underpaid in addition to
11 an amount sufficient to recover underpaid wages;

12 (3) Wages recovered pursuant to this section shall be paid to the affected employee.”

13 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
14 each of them, violated, or caused to be violated, the Labor Code sections and Wage Orders
15 regulating wages, hours and days of work described herein, including but not limited to Labor Code
16 sections 201-204, 223, 226.7, 510, 511, 512, 551, 552, 1182.12, 1194, 1197, 1198, and 2802.

17 49. As a direct and proximate result of the herein-described Labor Code violations,
18 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
19 civil penalties for Defendants’ herein-described Labor Code violations in the amount fifty dollars
20 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
21 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

22 Violation of Labor Code § 1174.5

23 50. At all times mentioned herein, Labor Code section 1174, subdivision (b) has
24 required every person employing labor in California to “[a]llow any member of the commission or
25 the employees of the Division of Labor Standards Enforcement free access to the place of business
26 or employment of the person to secure any information or make any investigation that they are
27 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
28 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,

1 or papers of the person.”

2 51. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
3 every person employing labor in California to “[k]eep a record showing the names and addresses of
4 all employees employed and the ages of all minors.”

5 52. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required
6 every person employing labor in California to “[k]eep, at a central location in the state or at the
7 plants or establishments at which employees are employed, payroll records showing the hours
8 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable
9 piece rate paid to, employees employed at the respective plants or establishments. These records
10 shall be kept in accordance with rules established for this purpose by the commission, but in any
11 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee
12 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units
13 earned.”

14 53. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully
15 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate
16 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any
17 member of the commission or employees of the division to inspect records pursuant to subdivision
18 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

19 54. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
20 willfully failed to keep adequate or accurate time records including wage statements and similar
21 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
22 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
23 under Labor Code section 1174.

24 55. As a direct and proximate result of the herein-described Labor Code violations,
25 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
26 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
27 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

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1 Violation of Labor Code § 1197.1

2 56. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
3 person acting either individually or as an officer, agent, or employee of another person, who pays
4 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
5 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
6 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
7 Section 203 as follows:

8 (1) For any initial violation that is intentionally committed, one hundred dollars
9 (\$100) for each underpaid employee for each pay period for which the
10 employee is underpaid. This amount shall be in addition to an amount
11 sufficient to recover underpaid wages, liquidated damages pursuant to Section
12 1194.2, and any applicable penalties imposed pursuant to Section 203.

13 (2) For each subsequent violation for the same specific offense, two hundred fifty
14 dollars (\$250) for each underpaid employee for each pay period for which the
15 employee is underpaid regardless of whether the initial violation is
16 intentionally committed. This amount shall be in addition to an amount
17 sufficient to recover underpaid wages, liquidated damages pursuant to Section
18 1194.2, and any applicable penalties imposed pursuant to Section 203.

19 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
20 Section 203, recovered pursuant to this section shall be paid to the affected
21 employee.”

22 57. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused
23 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants
24 routinely failing to accurately track and/or pay for all minutes actually worked by Plaintiff and
25 Aggrieved Employees at the proper rates of pay, as described above.

26 58. As a direct and proximate result of the herein-described Labor Code violations,
27 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
28 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of one

1 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
2 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
3 subsequent violation.

4 Civil Penalties Under Labor Code § 2699

5 59. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
6 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
7 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
8 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
9 action brought by an Aggrieved Employee on behalf of himself or herself and other current or former
10 employees pursuant to the procedures specified in Labor Code section 2699.3.

11 60. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
12 each of them, violated the Labor Code sections described in the preceding paragraphs.

13 61. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one
14 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
15 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
16 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

17 62. Moreover, Plaintiff and other Aggrieved Employees within the State of California
18 whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
19 connection with their herein-described claims for civil penalties.

20 **PRAYER**

21 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
22 judgment against Defendants as follows:

- 23 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
24 1174.5, 1197.1, and 2699;
- 25 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
26 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 27 C. For equitable, including, without limitation, injunctive relief;
- 28 C. Pre-judgment and post-judgment interest;

1 D. For costs of suit incurred herein; and;

2 E. Such other and further relief as the Court deems just and proper.

3 Dated: April 23, 2026

BIBIYAN LAW GROUP, P.C.

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BY: /s/ Sarah H. Cohen

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SARAH H. COHEN

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Attorneys for Plaintiff JOEL HERNANDEZ

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and on behalf of all other Aggrieved

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Employees

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