

1 Alex Asil Mashiri, Esq. (SBN 283798)
alex@mashirilawfirm.com
2 **MASHIRI LAW FIRM, APC**
11251 Rancho Carmel Drive #500694
3 San Diego, CA 92150
Tel: (858) 348-4938
4 Fax: (858) 348-4939

5 Tamim Jami, Esq. (SBN 311351)
tamim@jamilaw.com
6 **THE JAMI LAW FIRM P.C.**
3525 Del Mar Heights Rd #941
7 San Diego, CA 92130
Tel: (858) 284-0248
8 Fax: (858) 284-0977

9 Attorneys for Plaintiff
10 MICHAEL STARK

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO**

13 MICHAEL STARK, an individual, for the real
14 party in interest, the State of California,

15 Plaintiff,

16 vs.

17 BOB STALL CHEVROLET; and DOES 1
18 through 50,

19 Defendants.
20
21
22
23
24
25
26
27
28

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/19/2023 at 11:42:44 AM

Clerk of the Superior Court
By Marfil Estrada, Deputy Clerk

Case No. 37-2023-00040692-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 *et seq.*)**

1 Plaintiff MICHAEL STARK (“Plaintiff”), in his capacity as the State of California’s
2 designated proxy under the Private Attorneys General Act (“PAGA”), and on behalf of other current
3 and former California non-exempt employees alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the PAGA, incorporated in Labor Code sections 2698, 2699 *et seq.*,
6 Plaintiff brings this representative action against Defendants BOB STALL CHEVROLET (“BSC”)
7 and DOES 1 through 50 (all defendants are hereinafter collectively referred to as “Defendants”) for
8 wage and hour violations of the California Labor Code and the applicable Industrial Welfare
9 Commission Wage Order (the “IWC Wage Order”).

10 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
11 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
12 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
13 for violation of the code may, as an alternative, be recovered through a civil action brought by an
14 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
15 to the procedures specified in Labor Code section 2699.3.

16 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
17 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

18 **JURISDICTION AND VENUE**

19 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
20 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
21 because Plaintiff alleges claims arising under California law.

22 5. This Court has jurisdiction over Defendants because each is believed to be an
23 association, corporation, business entity, or individual that conducts substantial business in the State
24 of California, County of San Diego.

25 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

26 7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the
27 Superior Court of California for the County of San Diego because this is where the wrongful
28 misconduct alleged herein occurred.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

9. Plaintiff worked for Defendants during which time he was paid hourly and was considered non-exempt.

11. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

13. At all material times, Defendants were and/or are employers or persons acting on behalf of employers, under California law, the IWC Wage Order, and the Labor Code, including Labor Code sections 558 and 558.1 and thus are jointly and severally liable for the violations alleged herein and any amounts awarded and/or recoverable as a result of this action.

///

1 22. Upon information and belief, Defendants paid sick leave at the incorrect rate of pay
2 resulting in the underpayment of wages. By way of one example, Defendants failed to appropriately
3 factor in additional payments and compensation for purposes of computing the appropriate rate of pay
4 for sick leave wages as required by Labor Code sections 246 and 246(l).

5 23. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
6 Labor Code sections 246 and 246(l).

7 24. Aggrieved Employees are permitted to use the PAGA to enforce California's Healthy
8 Workplaces Healthy Families Act. (*Wood v. Kaiser Found. Hosps.* (2023) 88 Cal.App.5th 742, 748.)

9 25. Civil penalties under the PAGA are equitable in nature. (*LaFace v. Ralphs Grocery*
10 *Co.* (2022) 75 Cal.App.5th 388, 398-399; *Nationwide Biweekly Admin., Inc. v. Superior Ct. of*
11 *Alameda Cty.* (2020) 9 Cal.5th 279.)

12 26. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
13 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
14 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
15 all Labor Code provisions for which a civil penalty is not specifically provided.

16 27. Plaintiff is seeking civil penalties against Defendants under Labor Code section
17 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an
18 amount to be shown according to proof.

19 28. Pursuant to Labor Code section 248.5, if applicable herein, Plaintiff seeks to recover
20 attorneys' fees, costs, equitable relief in the form of civil penalties, in an amount to be shown
21 according to proof.

22 29. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute,
23 Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an
24 amount to be shown according to proof.

25 ///

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6

4
56
7

8
9
0
1

2.2
3.3

4
5
6
7

8
9
2021
22
23

24

25
2627
28

1 38. Under Labor Code section 512, an employer must provide a meal period of at least
2 thirty minutes if the employee works more than five hours. California Labor Code section 512
3 “requires a first meal period no later than the end of an employee’s fifth hour of work [...]” (*Brinker*
4 *Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

5 39. Labor Code section 226.7(b) prohibits an employer from requiring an employee to
6 work during a meal period.

7 40. Upon information and belief, during all times relevant to this action, Defendants failed
8 to provide their employees with compliant meal periods in violation of Labor Code sections 512,
9 226.7(b), and the IWC Wage Order.

10 41. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
11 Labor Code sections 512 and 226.7(b) and the IWC Wage Order.

12 42. Labor Code section 558 imposes upon Defendants, and each of them, civil penalties of
13 fifty dollars (\$50) per pay period, per aggrieved employee for initial violations, and one hundred
14 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

15 43. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 44. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
20 2699(f), 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of civil
21 penalties under the PAGA as alleged herein in an amount to be shown according to proof.

22 45. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
23 reasonable attorneys’ fees, costs, and filing fees paid to the LWDA in an amount to be shown
24 according to proof.

25 ///

26 ///

27 ///

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226.7(b) against all Defendants)**

4 46. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 47. Rest periods under California labor law are required for non-exempt employees who
7 work three and a half (3 1/2) or more hours in a day. Employees are entitled to ten (10) minutes of
8 rest period for each four (4) hours, or a substantial fraction thereof, that they work in a day.

9 48. Labor Code section 226.7(b) prohibits an employer to require an employee to work
10 during a rest period and provides that an employee must be paid a wage for doing so.

11 49. Upon information and belief, Defendants failed to provide their employees with proper
12 rest periods in violation of Labor Code section 226.7(b) and the IWC Wage Order.

13 50. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
14 the rest break provision in Labor Code section 226.7(b) and the IWC Wage Order.

15 51. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
16 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
17 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
18 all Labor Code provisions for which a civil penalty is not specifically provided.

19 52. Plaintiff is seeking civil penalties against Defendants under Labor Code section
20 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties
21 under the PAGA as alleged herein in an amount to be shown according to proof.

22 53. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
23 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
24 according to proof.

25 ///

26 ///

27 ///

28 ///

1 **FIFTH CAUSE OF ACTION**

2 **Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Section 226.7(c) against all Defendants**

4 54. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 55. Under Labor Code section 226.7(c), if an employer fails to provide an employee with
7 a proper meal or rest period, the employer shall pay the employee one hour of pay at the employee's
8 regular rate of compensation for each workday that the meal/rest period is not provided.

9 56. Upon information and belief, Defendants failed to issue meal and/or rest premiums at
10 the regular rate of pay in violation of Labor Code section 226.7(c).

11 57. PAGA imposes upon Defendants, and each of them, penalties for violating Labor Code
12 section 226.7(c) and the IWC Wage Order.

13 58. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
14 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
15 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
16 all Labor Code provisions for which a civil penalty is not specifically provided.

17 59. Plaintiff is seeking civil penalties against Defendants under Labor Code section
18 2699(f), the IWC Wage Order, and/or any other applicable statute allowing recovery of civil penalties
19 under the PAGA as alleged herein in an amount to be shown according to proof.

20 60. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover
21 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
22 according to proof.

23 **SIXTH CAUSE OF ACTION**

24 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
25 **Sections 510 and 1198 against all Defendants)**

26 61. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
27 forth herein.

28 ///

1 62. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1
2 workday, any work in excess of 40 hours in any one workweek, and for the first 8 hours worked on
3 the 7th consecutive day of work in a workweek, shall be compensated at the rate of no less than one-
4 and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
5 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor
6 Code § 510 and IWC Wage Order.)

7 63. Upon information and belief, Defendants' employees were not paid for all overtime
8 and/or double time hours worked for Defendant. By way of example, Defendants failed to properly
9 provide their employees with overtime pay for hours worked in excess of eight hours in a workday
10 and/or hours worked in excess of 40 hours in one workweek.

11 64. Upon information and belief, Defendants failed to provide its employees with overtime
12 pay at the regular rate of pay. By way of one example, Defendants failed to include all compensation
13 earned (e.g. bonuses and service spiffs) during a given period when determining the regular rate of
14 pay, resulting in the underpayment of overtime wages.

15 65. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
16 Labor Code sections 510, 1198, and the IWC Wage Order.

17 66. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
18 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
19 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
20 all Labor Code provisions for which a civil penalty is not specifically provided.

21 67. Pursuant to Labor Code section 558, any employer or other person acting on behalf of
22 an employer who violates, or causes to be violated, Labor Code sections 500 to 558.1 or any provision
23 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
24 to a civil penalty. Specifically, Labor Code section 558 imposes upon Defendants, and each of them,
25 penalties of fifty hundred dollars (\$50) per pay period, per aggrieved employee for initial violations,
26 and one hundred dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

27 ///

28 ///

68. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION

70. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

72. Defendants failed to accurately state the proper gross on the wage statements in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to their employees failed to include the accurate amount of gross wages because they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal/rest premium wages, vacation wages, and regular and/or overtime wages.

74. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

76. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

77. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(2) against all Defendants)**

78. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

79. Labor Code section 226(a)(2) requires wage statements that an employer issues to its employees accurately state the total hours worked.

80. Defendants' wage statements issues to their employees failed to accurately state the total hours worked in violation of Labor Code section 226(a)(2). By way of one example, Defendants excluded the hours employees worked off the clock.

81. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(2).

82. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

83. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

///

///

84. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

85. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

NINTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

86. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

87. Labor Code section 226(a)(5) requires wage statements that an employer issues to its employees accurately state the net wages earned.

88. Defendants failed to accurately state the proper net on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued to their employees failed to include the accurate amount of net wages because they failed to include the proper amount of wages, including, but not limited to, sick pay wages, meal/rest premium wages, vacation wages, and regular and/or overtime wages.

89. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(5).

90. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

91. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

92. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

93. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

TENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(8) against all Defendants)**

94. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

95. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(8).

96. Labor Code section 226(a)(8) requires wage statements that an employer issues to its employees accurately state the employer's address.

97. Upon information and belief, Defendants violated Labor Code section 226(a)(8) by stating an incorrect and/or confusing address. For example, it states 7601 Alvarado Road PO Box 339 La Mesa, CA 91942. But, upon information and belief, no such address exists. Instead, those are two separate addresses with different zip codes.

98. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

99. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

///

100. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

101. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

ELEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(9) against all Defendants)**

102. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

103. Labor Code section 226(a)(9) requires wage statements that an employer issues to its employees accurately state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

104. Defendants failed to provide the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of one example, the rates/hours for sick pay wages, meal/rest premiums, regular time, and overtime are inaccurately itemized. By way of another example, Defendants inaccurately itemized "HRS OT" on wage statements and failed to identify the corresponding hourly rate in effect and number of hours worked for this line item.

105. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(9).

106. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

///

///

107. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

109. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

110. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

112. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the records kept do not include the accurate gross and net wages, total hours worked, accurate address of the employer, and applicable hourly rates and corresponding hours worked.

114. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

1 115. With respect to violations of Labor Code section 226, Labor Code section 226.3
2 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee
3 for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each
4 employee for each pay period.

5 116. Plaintiff is seeking civil penalties against Defendants under Labor Code section
6 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the
7 PAGA in an amount to be shown according to proof.

8 117. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
9 reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown
10 according to proof.

11 **THIRTEENTH CAUSE OF ACTION**

12 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
13 **Section 227.3 against all Defendants)**

14 118. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
15 set forth herein.

16 119. Under Labor Code section 227.3, "whenever a contract of employment or employer
17 policy provides for paid vacations, and an employee is terminated without having taken off his vested
18 vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with
19 such contract of employment or employer policy respecting eligibility or time served [...]."

20 120. Upon information and belief, Defendants violated Labor Code section 227.3. By way
21 of example, Defendants failed to provide the correct vacation hours and/or appropriate accrual of
22 vacation hours to its employees, which resulted in the underpayment of vacation wages.

23 121. Additionally, Defendants violated Labor Code section 227.3 because they failed to pay
24 out all earned vacation pay upon termination/separation of employment.

25 122. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
26 Labor Code section 227.3.

27 ///

28 ///

131. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

132. Plaintiff is seeking civil penalties against Defendants under Labor Code sections 210, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

133. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 201, 202, and 203 against all Defendants)**

134. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

135. Under Labor Code section 201, if an employee is discharged by his/her employer, the wages earned and unpaid at the time of discharge are due and payable immediately.

136. Under Labor Code section 202, if on the other hand, “an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

137. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ...”

///

138. Upon information and belief, employees did not receive all wages upon termination or separation of employment. By way of one example, employees were owed wages, including, but not limited to, sick pay wages, meal/rest premium wages, vacation wages, and regular/overtime wages. To this date, Defendants have not paid all wages upon termination or separation of employment.

139. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 201, 202, and 203.

140. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

141. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

142. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SIXTEENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code
Sections 226(b), 226(c), 432, and 1198.5 against all Defendants)**

143. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

144. Labor Code section 226(b) requires, in pertinent part, that “An employer [...] shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer.”

145. Labor Code section 226(c) requires, in pertinent part, that “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

1 146. Labor Code section 432 requires employers doing business in the State of California
2 to provide current and former employees copies of all written instruments they sign upon request.

3 147. Labor Code section 1198.5(b)(1) provides, in pertinent part: “The employer shall make
4 the contents of those personnel records available for inspection to the current or former employee, or
5 his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar
6 days from the date the employer receives a written request.”

7 148. On July 13, 2023, Plaintiff, through counsel, sent a letter to Defendants, requesting
8 copies of his payroll and personnel records. While Defendants produced some records through their
9 attorney, it failed to produce other records, such as, for example, time records, applicable policies,
10 and any applicable employee handbooks in violation of Labor Code sections 226, 226(b), 226(c), 432,
11 and 1198.5.

12 149. Upon information and belief, Defendants have a policy and practice whereby they
13 refuse to provide all required payroll and personnel records to employees who request them, including,
14 but not limited to, time records, handbooks, policies, etc.

15 150. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
16 Labor Code sections 226(b), 226(c), 432, and 1198.5.

17 151. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
18 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
19 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
20 all Labor Code provisions for which a civil penalty is not specifically provided.

21 152. Plaintiff is seeking civil penalties against Defendants under the PAGA, including
22 Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties
23 under the PAGA in an amount to be shown according to proof.

24 153. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover
25 attorneys’ fees, costs, filing fees paid to the LWDA and civil penalties in an amount to be shown
26 according to proof.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

- 3
4
5
6
7

8

9

10

11