SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO
San Bernardino District
247 West 3rd St
San Bernardino CA 92415
www.sb-court.org
909-708-8678

complex**paga** Hurtado Et Al -v- Fxi, Inc Et Al	
NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES **NOTICE OF CASE MANAGEMENT CONFERENCE**	Case Number CIVSB2322142

Law Office Of Scott Ernest Wheeler
250 West First Street
Suite 216
Claremont Ca 91711

Please take notice that the above-entitled case has been set for a Case Management Conference. You must appear at this hearing or your case may be dismissed and monetary penalties may be imposed.

Appearance Date: : 3/13/2024 at 8:30 a.m. in Department Department S25 - SBJC

This case has been assigned to Judge Khymberli S Apaloo in Department Department S25 - SBJC for all purposes.

Your Joint Statement must be filed, directly in the Complex Litigation Department, 5 calendar days prior to the hearing.

To the party served: The setting of this date **does not** increase the time you have to respond to the petition. The time for response is clearly stated on the Summons.

Please see the Guidelines for the Complex Litigation Program for further information. The guidelines may be found at the Court website: http://www.sb-court.org

A copy of this notice must be served on the respondent.

Date: 9/13/2023

Anabel Z. Romero
By: Matthew Stutte
Deputy Clerk

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice by:

☐ Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.

☐ Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.

☒ A copy of this notice was given to the filing party at the counter.

☐ A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 9/13/2023

I declare under penalty of perjury that the forgoing is true and correct. Executed on 9/13/2023 at San Bernardino.

By: Matthew Stutte
Deputy Clerk

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
FXI, INC, a Delaware corporation; EMPLOYER'S OUTSOURCING, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
MARCO HURTADO, individually, and on behalf of all other aggrieved employees,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

SEP 13 2023

BY Matthew Stutte, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center *(www.courtinfo.ca.gov/selfhelp)*, your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site *(www.lawhelpcalifornia.org)*, the California Courts Online Self-Help Center *(www.courtinfo.ca.gov/selfhelp)*, or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ***¡AVISO!*** *Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), *en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), *en el Centro de Ayuda de las Cortes de California,* (www.sucorte.ca.gov) *o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

CASE NUMBER (Número del Caso): CIVSB 2322142

The name and address of the court is:
(El nombre y dirección de la corte es):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
247 WEST 3RD STREET
SAN BERNARDINO, CALIFORNIA 92415

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
SCOTT ERNEST WHEELER (SBN 187998)
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711
LAW OFFICE OF SCOTT ERNEST WHEELER
TELEPHONE: (909) 621-4988
FACSIMILE: (909) 621-4622

DATE: *(Fecha)* SEP 13 2023
Clerk, by *(Secretario)* _____, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, *(POS-010)).*

MATTHEW STUTTE

[SEAL]

COPY

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☐ on behalf of *(specify):*
   under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
   ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
   ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
   ☐ other *(specify):*
4. ☐ by personal delivery on *(date):*

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]
CEB ceb.com Essential Forms

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov

Marco Hurtado

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
SCOTT ERNEST WHEELER (SBN 187998)
LAW OFFICE OF SCOTT ERNEST WHEELER
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711
TELEPHONE NO.: (909) 621-4988 FAX NO. (Optional): (909) 621-4622
E-MAIL ADDRESS: SEW@SCOTTWHEELERLAWOFFICE.COM
ATTORNEY FOR (Name): PLAINTIFF, MARCO HURTADO

FOR COURT USE ONLY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

SEP 13 2023

BY: Matthew Stutte, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
STREET ADDRESS: 247 WEST 3RD STREET
MAILING ADDRESS:
CITY AND ZIP CODE: SAN BERNARDINO, CALIFORNIA 92415
BRANCH NAME: SAN BERNARDINO - CIVIL DIVISION

CASE NAME: MARCO HURTADO V. FXI, INC. ET AL.,

CIVIL CASE COVER SHEET
☒ **Unlimited** (Amount demanded exceeds $25,000)
☐ **Limited** (Amount demanded is $25,000 or less)

Complex Case Designation
☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: CIVSB 2322152
JUDGE:
DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment
☐ Wrongful termination (36)
☒ Other employment (15)

Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition *(not specified above)* (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☒ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply)*: a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action *(specify)*: ONE PAGA CAUSE OF ACTION
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: Septembere 12, 2023

Scott Ernest Wheeler ▶
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. September 1, 2021]
CEB Essential Forms
ceb.com

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courts.ca.gov

Marco Hurtado

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief from Late Claim
  - Other Civil Petition

Marco Hurtado

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

MARCO HURTADO, individually, and on behalf of all other aggrieved employees,

vs.

FXI, INC, a Delaware corporation; EMPLOYER'S OUTSOURCING, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

CASE NO: CIV SB 2322152

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the SAN BERNARDINO District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

RECEIVED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SEP 13 2023
MATTHEW STUTTE

☒ General ☐ Collection

	Nature of Action	Ground
☐	1. Adoption	Petitioner resides within the district.
☐	2. Conservator	Petitioner or conservatee resides within the district.
☐	3. Contract	Performance in the district is expressly provided for.
☐	4. Equity	The cause of action arose within the district.
☐	5. Eminent Domain	The property is located within the district.
☐	6. Family Law	Plaintiff, defendant, petitioner or respondent resides within the district.
☐	7. Guardianship	Petitioner or ward resides within the district or has property within the district.
☐	8. Harassment	Plaintiff, defendant, petitioner or respondent resides within the district.
☐	9. Mandate	The defendant functions wholly within the district.
☐	10. Name Change	The petitioner resides within the district.
☐	11. Personal Injury	The injury occurred within the district.
☐	12. Personal Property	The property is located within the district.
☐	13. Probate	Decedent resided or resides within or had property within the district.
☐	14. Prohibition	The defendant functions wholly within the district.
☐	15. Review	The defendant functions wholly within the district.
☐	16. Title to Real Property	The property is located within the district.
☐	17. Transferred Action	The lower court is located within the district.
☐	18. Unlawful Detainer	The property is located within the district.
☐	19. Domestic Violence	The petitioner, defendant, plaintiff or respondent resides within the district.
☒	20. Other Employment	The cause of action arouse within the district
☐	21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT.	

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

FXI, INC.	310 S Tippecanoe Ave
NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR	ADDRESS
Ontario	California	92408
CITY	STATE	ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed

on September 12, 2023 at Claremont, California.

Signature of Attorney/Party

Marco Hurtado

LAW OFFICE OF SCOTT ERNEST WHEELER
Scott Ernest Wheeler (SBN 187998)
Justin A. Wheeler (SBN 342226)
250 West First Street, Suite 216
Claremont, California 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622
Email: sew@scottwheelerlawoffice.com
jaw@scottwheelerlawoffice.com

Attorneys for Plaintiff and the Aggrieved Employees

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

SEP 13 2023

BY Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

MARCO HURTADO, individually, and on behalf of all other aggrieved employees,

PLAINTIFFS,

v.

FXI, INC, a Delaware corporation; EMPLOYER'S OUTSOURCING, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

DEFENDANTS.

CASE NO. CIVSB 2322142

COMPLAINT FOR VIOLATION OF THE CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")

[California Labor Code § 2698 *et seq.*]

This is a representative action brought by Marco Hurtado, individually and on behalf of all other aggrieved employees ("Plaintiff"), relating to systemic violations of California wage and hour laws by his employers, FXI, Inc. ("FXI"), and Employer's Outsourcing, LLC ("Employer's Outsourcing") (collectively, "Defendants"). Plaintiff makes the following allegations on information and belief, except as to allegations pertaining to Plaintiff individually, which are based on his personal knowledge.

INTRODUCTION

1. The Employer's Outsourcing is a private staffing company which provides temporary employees to work for other businesses.

2. FXI operates warehouses, distribution and logistics services throughout the State of California.

3. As private, for-profit businesses, Defendants have jointly implemented common policies and practices that have resulted in systemic violations of California's wage and hour laws.

4. Defendants have implemented unlawful written policies with respect to meal and rest breaks. Defendants also require their non-exempt employees, who are informed that the needs of the businesses take top priority, to work through meal and rest breaks, to take untimely meal periods and to remain on call during such breaks. As a result, Plaintiff and other aggrieved employees have been denied the ability to take the meal and rest breaks that they were and are legally entitled to take.

JURISDICTION AND VENUE

5. The Superior Court of the State of California has jurisdiction in this matter because Plaintiff is a resident of the State of California.

6. Venue is proper in this judicial district and the County of San Bernardino because FXI maintained or maintains its facilities in the City of San Bernardino, California, a city located in the County of San Bernardino, where one or more of the wrongful acts alleged herein occurred in the County of San Bernardino.

7. Defendants employed Plaintiff and other aggrieved employees within the State of California and the unlawful acts alleged herein have a direct effect on Plaintiff and other aggrieved employees.

8. The State of California, San Bernardino County, has jurisdiction in this matter because

the individual claims are under the seventy-five thousand dollar ($75,000.00) individual jurisdictional threshold and the five million dollar ($5,000,000.00) aggregate jurisdictional threshold for federal court diversity jurisdiction. Further, there is no federal question at issue as the issues herein are based solely on the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure and Rules of Court. Thus, the State of California, San Bernardino County Superior Court maintains the appropriate jurisdiction to hear this matter.

THE PARTIES

9. Plaintiff is a citizen of the State of California. During the relevant time period, Plaintiff was employed by Defendants as a Packer responsible for labeling, pulling pallets and organizing products for distribution.

10. Plaintiff is informed and believes, and thereon alleges, that the Employer's Outsourcing, is, and at all times relevant hereto was, and is a limited liability company organized and existing under the laws of the State of California. Employer's Outsourcing is authorized to conduct business and does conduct business in the State of California.

11. Plaintiff is informed and believes, and thereon alleges, that FXI, is, and at all times relevant hereto was, and is a corporation organized and existing under the laws of the State of Delaware. FXI is authorized to conduct business and does conduct business in the State of California.

12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer of Plaintiff and the other aggrieved employees.

13. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the acts mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges that the acts of each Defendant are legally attributable to the other

Defendants.

14. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants sued herein was, at all relevant times, the employer, owner, shareholder, principal, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with the express and implied permission, consent and knowledge, approval and/or ratification of the other Defendants. The above co-Defendant, managing agents, and supervisors, aided, abetted, condoned, permitted, approved, authorized, and/or ratified the unlawful acts described herein.

15. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees' injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE defendants when ascertained.

NOTICE PURSUANT TO LABOR CODE §2810.3

16. On July 5, 2023, Plaintiff provided Defendants with notice pursuant to Labor Code §2810.3 with regard to potential joint liability based upon violations of the Labor Code as provided herein. The Employer's Outsourcing, for all purposes of this action, is a "labor contractor" pursuant to Labor Code §2810.3 and FXI is a "client employer" and shall share any and all civil liability for all of the aggrieved employees supplied by Employer's Outsourcing for any and all penalties imposed as a result of this action.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

17. On July 5, 2023, Plaintiff gave written notice by certified mail pursuant to California Labor Code § 2699.3, to the California Labor and Workforce Development Agency ("LWDA") and Defendants, of the specific provisions of the California Labor Code and IWC Wage Order alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has not received any response from the LWDA. As Plaintiff has waited more than sixty-five (65) days from

July 5, 2023, postmark date of his written notice before filing this action, Plaintiff has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a representative action under the California Private Attorneys General Act of 2004 ("PAGA").

18. Pursuant to the PAGA, California Labor Code §§ 2698-2699.5, Plaintiff brings this action on behalf of the State of California, and all other aggrieved employees (e.g., current and former non-exempt employees of Defendants and performed work for Defendants in the State of California at any time within the period beginning one (1) year prior and sixty-five (65) days prior to the July 5, 2023 notice Plaintiff provided to the LWDA and Defendants, and ending at the time this action proceeds to final judgment ("statute of limitations period")).

FACTUAL ALLEGATIONS

Failure to Provide Required Meal Periods

[Cal. Lab. Code §§ 226.7, 512, 558; § 11 of the Applicable IWC Wage Order]

19. During the statute of limitations period, as part of Defendants' illegal policies and practices to minimize labor costs and maximize corporate profits, Defendants have required, permitted or otherwise suffered Plaintiff and aggrieved employees to perform work during their meal periods, to completely skip their meal periods, to take late and short meal periods, and Defendants have otherwise failed to provide the required meal periods to Plaintiff and aggrieved employees as required under California Labor Code §§ 226.7, 512, 558 and § 11 of the applicable IWC Order.

20. Defendants have implemented several practices that have caused Plaintiff and aggrieved employees to systematically miss and otherwise take non-compliant meal periods. Defendants systematically understaff their job sites such that non-exempt employees are given so much work to complete that they regularly miss or otherwise take non-compliant meal periods. As a direct consequence of this understaffing, Plaintiff and aggrieved employees have so much work to complete within their scheduled shifts that they are forced to skip their meal periods altogether, to take them after working longer than five (5) hours, to perform work during their meal periods, or return to work after taking less than a thirty (30) minute meal period. Further, Defendants systemically deprived Plaintiff and the other aggrieved employees of the opportunity to take second meal periods even though they regularly work shifts in excess of ten (10) hours.

21. There are also frequently occasions when Plaintiff and aggrieved employees need to perform other duties immediately before the time during which they are legally entitled to take a meal period. Pursuant to Defendants' policies, Plaintiff and aggrieved employees cannot simply drop their urgent job duties to take a meal period. Consequently, Plaintiff and aggrieved employees regularly miss meal periods, take late meal periods, return early from meal periods, and even clock out for meal periods but continue working.

22. Plaintiff and aggrieved employees need to first secure permission before taking a meal period. Plaintiff and aggrieved employees often cannot simply stop working and take their meal period, and their inability to secure coverage causes them to regularly miss and otherwise take non-compliant meal periods.

23. Despite the foregoing, Defendants have implemented a policy and practice of actively discouraging the issuance of meal period premium payments, and in the process, Defendants have also violated California Labor Code §§ 226.7, § 11 of the applicable IWC Wage Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to compensate Plaintiff and aggrieved employees who were not authorized and permitted to take a complete, timely, uninterrupted meal period, one additional hour of compensation at the proper regular rate of pay for each workday that such a meal period was not authorized or permitted. Defendants also implemented an unlawful meal period policy by compensating Plaintiff and aggrieved employees for interrupted meal periods only for their actual work time, as opposed to paying them legally required premiums.

24. Defendants also violated California Labor Code § 226.7, § 11 of the applicable IWC Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and other aggrieved employees who were not provided with a meal period, in accordance with the applicable wage order, one additional hour of compensation at the proper regular rate of pay, including but not limited to, shift differentials, nondiscretionary bonuses, etc., for each workday that a rest break was not provided.

Failure to Provide Required Rest Breaks

[Cal. Lab. Code §§ 226.7, 512; § 12 of the Applicable IWC Wage Order]

25. During the statute of limitations period, as part of Defendants' illegal policies and

practices to minimize labor costs and maximize corporate profits, Defendants have failed to authorize and permit Plaintiff and other aggrieved employees to take rest breaks as required under California Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Order.

26. The same common policies and practices that deprive Plaintiff and other aggrieved employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to take their first and second and third rest breaks. As alleged herein, Defendants understaff their facilities, which creates so much work for Plaintiff and other aggrieved employees that they are frequently unable to take rest breaks. Moreover, Plaintiff and other aggrieved employees need to secure permission before taking a rest break, which is often denied by supervisors.

27. Defendants also do not provide adequate training regarding their legal obligations with respect to the provision of rest breaks, do not implement a schedule regarding rest breaks for non-exempt employees, Defendants do not post the required wage and hour posters, including but not limited to, the appropriate IWC Wage Order poster, at the workplace, nor do Defendants provide adequate training regarding the legal obligations to provide rest breaks to Plaintiff and aggrieved employees, and neither Defendants have implemented an adequate schedule regarding rest breaks for non-exempt employees. In short, Defendants essentially have a non-existent rest break policy, as there is no guidance or specification as to when Plaintiff and other aggrieved employees are authorized and permitted to take rest breaks during their shifts. This common policy (or lack thereof) has caused widespread missed rest breaks and systematic violations of California Labor Code §§ 226.7 and 512, and IWC Order No. 1-2001, § 12 and all other applicable IWC Wage Orders.

28. Defendants also violated California Labor Code § 226.7, § 12 of the applicable IWC Order, and the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et. seq.*, by failing to pay Plaintiff and other aggrieved employees who were not provided with a rest break, in accordance with the applicable wage order, one additional hour of compensation at the proper regular rate of pay, including but not limited to, shift differentials, nondiscretionary bonuses, etc., for each workday that a rest break was not provided.

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Failure to Pay Overtime Wages

[Cal. Lab. Code §§ 510, 1194, 1198; § 3 of the Applicable IWC Wage Order]

29. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order, Defendants are required to compensate Plaintiff and other aggrieved employees for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in any workweek.

30. During the statute of limitations period, Defendants have failed to compensate Plaintiff and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the California Labor Code and IWC Wage Order by, among other methods: failing to pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by California Labor Code §§ 510, 1194 and § 3 of the applicable IWC Wage Order, requiring, permitting or suffering Plaintiff and other aggrieved employees to work off-the-clock, and to work through meal and rest breaks, but not compensating them for this time, improperly calculating the regular rate of pay based on shift differential and other remuneration, and other methods to be discovered.

31. In a short-sighted attempt to maximize profits, Defendants have understaffed their facilities. Not only has this practice resulted in widespread missed meal and rest breaks, but it has also caused Plaintiff and other aggrieved employees to perform work while off-the-clock. Defendants have actual or constructive knowledge of this off-the-clock work and subtly condone it. Plaintiff and other aggrieved employees routinely arrive to work early to check so that they are prepared and ready to begin performing their duties promptly at the start of their shifts, as they must be pursuant to Defendants' requirements. Defendants know that Plaintiff and other aggrieved employees perform this work off-the-clock.

32. Plaintiff and other aggrieved employees must get to work by no later than the start of their shifts – and usually earlier. Thus, they are not afforded the benefit of clocking in for work a few minutes late. Likewise, Plaintiff and other aggrieved employees are in a rush to complete their

mandatory job duties, so they are rarely afforded the benefit of clocking out early at the end of their shifts. This results in the widespread underpayment of time worked.

33. Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in violation of California Labor Code §§ 510, 1194 and 1198 and § 3 of the applicable IWC Wage Order.

Failure to Pay Minimum Wages

[Cal. Lab. Code §§ 1194, 1197; § 4 of the IWC Wage Orders]

34. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

35. During the statute of limitations period, the hourly rates for Plaintiff and other aggrieved employees were precisely at California minimum wage. Based on this common practice, Defendants failed to pay Plaintiff and other aggrieved employees minimum wages for all hours worked by requiring, permitting or suffering Plaintiff and other aggrieved employees to work off the clock, such as requiring them to work through meal and rest breaks but not compensating them for this time, and failing to include this time in all hours worked, and other methods to be discovered.

36. Defendants' conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order. As a proximate result of the aforementioned violations, Plaintiff and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore, pursuant to California Labor Code §§ 200, 203, 226, 1194, 1197.1, and any other applicable law, Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to them by Defendants, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

Failure to Timely Pay Wages During Employment

[Cal. Lab. Code §204]

37. Pursuant to California Labor Code § 204, for all labor performed between the 1st and 15th days of any calendar month, Defendants are required to pay their nonexempt employees between the 16th and 26th day of the month during which the labor was performed. California Labor Code § 204 also provides that for all labor performed between the 16th and 26th days of any calendar month,

Defendants are required to pay their non-exempt employees between the 1st and 10th day of the following calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday of the next regular payroll period.

38. During the statute of limitations period, Defendants have knowingly and willfully failed to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next regular payroll period as required by California Labor Code § 204, including but not limited to, compensation for missed meal and rest breaks, proper overtime wages due to an unlawful calculation of the regular rate of pay, and for work performed off-the-clock.

Failure to Pay All Wages Due to Discharged and Quitting Employees

[Cal. Lab. Code §§ 201 - 203]

39. Pursuant to California Labor Code § 201, 202 and 203, Defendants are required to pay all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately.

40. Furthermore, pursuant to California Labor Code § 202, Defendants are required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or wages at the time of quitting.

41. California Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 workdays.

42. During the statute of limitations period, Defendants have willfully failed to pay accrued wages and other compensation to Plaintiff and other aggrieved employees in accordance with California Labor Code §§ 201 and 202. Defendants do not have a sufficient policy to provide Plaintiff and other aggrieved employees with their final paychecks within the timeframes required under California law. In addition, because Defendants have failed and continue to fail to properly compensate

Plaintiff and other aggrieved employees for all hours worked when due, overtime wages, and compensation for non-compliant meal and rest breaks, Defendants have also willfully failed and continue to fail to pay accrued wages and other compensation to Plaintiff and other aggrieved employees in accordance with California Labor Code §§ 201 and 202.

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Lab. Code § 226(a); § 7 of the Applicable IWC Wage Order]

43. During the statute of limitations period, Defendants have routinely failed to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements. Defendants' pay stubs violate Labor Code § 226 on their face by, failing to list the applicable rates of pay for regular and overtime hours worked by Plaintiff and aggrieved employees. Further, Defendants were and are not providing Plaintiff and other aggrieved employees with proper meal periods and rest breaks but intentionally fail to include in their wage statements one (1) additional hour of compensation at their regular rates of pay for each non-compliant meal period or rest break which include but are not limited to, shift differentials, nondiscretionary bonuses, etc. Defendants' wage statements fail to list Defendants' full and complete legal address for the legal entity that is the employer of Plaintiff and the other aggrieved employees, and also failed to provide the amount of supplemental COVID-19 paid sick leave taken and available on the wage statements, all in violation of Labor Code §§226 and 248.1 and 248.6.

44. In order to conceal their wage theft, Defendants knowingly and intentionally failed to provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

45. Plaintiff and other aggrieved employees suffered injury as a result of Defendants' failure to provide timely and accurate itemized wage statements because they listed the incorrect employers, and prevented them from discovering the scope and extent of Defendants' violations of California wage and hour laws, prevented them from being able to determine the gross wages earned, the total hours worked, all deductions made, the net wages earned, all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, or even the name and address of the legal entity that employed them at all times alleged herein.

Failure to Maintain Required Records

[Cal. Lab. Code §§ 226(a), 1174(d); § 7 of the Applicable IWC Wage Order]

46. During the statute of limitations period, as part of Defendants' illegal payroll policies and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due, Defendants knowingly and intentionally failed to maintain records as required under California Labor Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Order, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements. Defendants had knowledge that they were not providing their non-exempt employees with proper meal and rest periods, but knowingly failed to include in the wage statements one (1) extra hour of compensation for each missed meal and rest period. Defendants also illegally and inaccurately recorded the time in which Plaintiff and other aggrieved employees worked. Defendants have also failed to maintain accurate, itemized wage statements, as alleged above. Finally, Defendants failed to provide supplemental COVID-19 paid sick leave to aggrieved employees and failed to maintain records relating to the amount of supplemental COVID-19 sick leave hours available and the number of hours taken.

Failure to Pay COVID-19 Supplemental Sick Leave

[Cal. Lab. Code §§ 248.1, 248.2 and 248.6]

47. During the Statute of Limitations Period, Plaintiff is informed and believes from January 1, 2021, through the present, Defendants employed 26 or more aggrieved employees.

48. Defendants failed to provide 80 hours of COVID-19 Supplemental Paid Sick leave and compensate Aggrieved Employees at their regular rate of pay for supplemental sick leave, i.e., their highest regular rate of pay, taking into consideration non-discretionary bonuses, etc., in violation of California Labor Code § 248.1(b)(3)(A) and §248.6. Defendants also failed to provide COVID-19 Supplemental Sick Leave to Aggrieved Employees in addition to regular sick leave, in violation of California Labor Code § 248.1(b)(2)(D). Defendants also failed to accurately reflect any offset and/or the current amount of COVID-19 Supplemental Sick Leave available to aggrieved employees on their

wage statements, in violation of California Labor Code §§ 248.1(b)(2)(D), 248.2 and for the reasons provided herein.

Failure to Indemnify Employees for Necessary Expenditures

[Cal. Lab. Code §2802]

49. California Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

50. During the Statute of Limitations Period, Defendants have failed to reimburse aggrieved employees for the usage of their personal cellular phones which were necessary for work purposes as Defendants would send text messages to Plaintiff and the other aggrieved employees.

Failure to Provide Aggrieved Employees With Written Description of Quotas

[Cal. Lab. Code §2101 and 2102]

51. Beginning on January 1, 2022, California Labor Code §2101 requires California employers to provide to each employee, upon hire, or within 30 days of the effective date of California Labor Code §2101, "a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota." California Labor Code §2101. Moreover, California Labor Code §2102 states, "An employee shall not be required to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the Labor Code or division standards. An employer shall not take adverse employment action against an employee for failure to meet a quota that does not allow a worker to comply with meal and rest periods, or occupational health and safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been disclosed to the employee pursuant to Section 2101." California Labor Code §2102.

52. Defendants failed to provide written quotas to Plaintiff and the other aggrieved employees. Moreover, Defendants apply quotas to the aggrieved employees which prevent them from taking legally compliant meal and rest periods. Defendants were required, on or after January 1,

2022 to provide a written description of each quota applied to the aggrieved employees, including the number of tasks performed or materials to be produced or handled, within the defined time period, and Defendants failed to do so in violation of Labor Code §2100 et seq.

Failure to Maintain Required Records Regarding Wage Theft

[Cal. Lab. Code § 2810.5]

53. During the statute of limitations period, as part of Defendant's illegal payroll policies and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due, Defendant knowingly and intentionally failed to maintain records as required under California Labor Code §2801.5, which requires a California employer to provide written notice at the time of hiring of certain employment related information, including but not limited to, the name of the employer, including any "doing business as" names used by the employer, and the physical address of the employer's main office or principal place of business, and a mailing address, if different.

54. Defendant failed to comply with California Labor Code § 2810.5 by not listing the correct business entity for whom work will be performed by Plaintiff and the other aggrieved employees.

FIRST CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT

[Cal. Lab. Code § 2698 *et seq.*]

(On Behalf of Plaintiff and the Aggrieved Employees Against Defendant)

55. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 54, above.

56. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code § 2699(c), and a proper representative to bring a civil action on behalf of himself and other aggrieved employees pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff was employed by Defendants and one or more of the alleged California Labor Code violations was committed against Plaintiff during the statute of limitations period.

57. A plaintiff has standing to represent all aggrieved employees for all of his asserted violations of the California Labor Code under PAGA. See *Huff v. Securitas Security Services USA, Inc.*

(2018) 23 Cal.App.5th 745, 757 ("For PAGA standing a plaintiff need only have been employed by the violator and affected by 'one or more' of the alleged violations. (Sec. 2699, subds. (a), (c).)).

58. Plaintiff seeks to recover civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class certification is not required.

59. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil penalties from Defendants in a representative action for the violations set forth above, including but not limited to, violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 2100, et seq., 2802 and for the violations of the applicable IWC Wage Order alleged above.

60. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties against Defendants for violations of California Labor Code provisions for which a civil penalty is specifically provided, including but not limited to, the following:

a. Pursuant to California Labor Code § 1174.5, for violations of California Labor Code § 1174(d), Defendants are subject to a civil penalty of five hundred dollars ($500).

61. California Labor Code § 2699(f) provides that for all California Labor Code violations for which a civil penalty is not specifically provided, the following civil penalties are established: one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

62. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f) for Defendants' violations of California Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to, California Labor Code §§ 201, 202, 203, 226, 226.7, 248.1, 248.2, et seq., 558, 1197, 1024.5, 2101, et seq., 2802 and for the violations of the applicable IWC Wage Order alleged above.

63. All civil penalties sought and recovered under this action will be allocated as follows: seventy-five (75) percent to the State of California and twenty-five (25) percent to Plaintiff and aggrieved employees.

64. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California

Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays for relief against Defendants, as follows:

1. For civil penalties according to proof;

2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g), California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs; and

3. For such further relief that the Court may deem just and proper.

DATED: September 12, 2023

LAW OFFICE OF SCOTT ERNEST WHEELER



By: _____
Scott Ernest Wheeler
Justin A. Wheeler

Attorneys for Plaintiff and the other Aggrieved Employees