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ELECTRONICALLY FILED
Superior Court of California
County of Sacramento

08/01/2024

By: I. Romo Deputy

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

CARLOS JIMENEZ, JUAN PINZON,
JUAN MUNOZ, ALBERT GUAZON,
ERNESTO LAINEZ, and MICHAEL
MAGDALENO, individually, and on behalf
of other members of the general public
similarly situated, and as aggrieved
employees pursuant to the Private Attorneys
General Act ("PAGA"),

Plaintiffs,

vs.

ROOFLINE, INC. dba ROOFLINE SUPPLY
& DELIVERY, an Oregon corporation; SRS
DISTRIBUTION INC., a Delaware
corporation; J. B. WHOLESALE ROOFING
AND BUILDING SUPPLIES, INC., a
California corporation; BUILDERS SUPPLY
LOGISTICS, INC., a Delaware corporation;
HERITAGE LANDSCAPE SUPPLY
GROUP, INC., a Delaware corporation,
IMPERIAL SPRINKLER SUPPLY, LLC, a
California corporation; SHEAR
BUILDERS, INC., a California corporation;
HERITAGE POOL SUPPLY GROUP,
INC., a Delaware corporation; FWEF
ACQUISITION, INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Case No.: 34-2023-00333516

**SECOND AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of Labor Code §§ 226.7, 516, and 1198 (Failure to Provide Recovery Periods);
- (6) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (7) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (8) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During

Defendants.

- Employment);
(9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
(10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
(11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
(12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiffs Carlos Jimenez, Juan Pinzon, Juan Munoz, Albert Guazon, Ernesto Lainez,
2 and Michael Magdaleno individually and on behalf of all other members of the public
3 similarly situated, and as aggrieved employees and on behalf of all other aggrieved
4 employees, allege as follows:

5 JURISDICTION AND VENUE

6 1. This class action is brought pursuant to California Code of Civil Procedure
7 section 382. The monetary damages, penalties, and restitution sought by Plaintiffs exceed the
8 minimal jurisdiction limits of the Superior Court and will be established according to proof at
9 trial. This Court has jurisdiction over this action pursuant to the California Constitution,
10 Article VI, section 10. The statutes under which this action is brought do not specify any
11 other basis for jurisdiction. Plaintiffs' share of damages, penalties, and other relief sought in
12 this action does not exceed \$75,000.

13 2. This Court has jurisdiction over Defendants because Defendants are either
14 citizens of California, have sufficient minimum contacts in California, or otherwise
15 intentionally avail themselves of the California market so as to render the exercise of
16 jurisdiction over them by the California courts consistent with traditional notions of fair play
17 and substantial justice.

18 3. Venue is proper in this Court, because Defendants employ persons within the
19 County of Sacramento, and have violated the requirements of the California Labor Code and
20 applicable Industrial Welfare Commission ("IWC") Wage Order in this county which give rise
21 to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have
22 violated the requirements of the California Labor Code and applicable IWC Wage Order in at
23 least one location within the County of Sacramento, including Defendants' facility in
24 Sacramento (4350 Pell Drive, Suite 100, Sacramento, California 95838). Pursuant to
25 California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty
26 or forfeiture imposed by statute in the county in which the cause, or some part of the cause,
27 arose. Because Defendants have employees in Sacramento County and Plaintiffs could bring
28 this action to recover penalties in Sacramento County, venue is proper.

4. The PAGA statute authorizes aggrieved employees to sue directly as the proxy of the State of California for civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

5. Plaintiff Carlos Jimenez (“Plaintiff Jimenez”) is a resident of San Bernardino, in San Bernardino County, California. Defendants employed Plaintiff Jimenez as an hourly paid, non-exempt employee from approximately February 2019 to June 2022. Plaintiff Jimenez worked as a Driver at Defendants’ location in Riverside, California. During his employment, Plaintiff Jimenez typically worked nine (9) to ten (10) hours per day and five (5) days per week. Plaintiff Jimenez’s primary job duties included, without limitation, loading trucks with roofing materials, driving and delivering materials to residential and commercial sites, and unloading materials at customers’ premises.

6. Plaintiff Juan Pinzon (“Plaintiff Pinzon”) is a resident of Bloomington, in San Bernardino County, California. Defendants employed Plaintiff Pinzon as an hourly paid, non-exempt employee from approximately February 2022 to September 2022. Plaintiff Pinzon worked as a Loader at Defendants’ location in Riverside, California. During his employment, Plaintiff Pinzon typically worked eight (8) to twelve (12) hours per day and five (5) days per week. Plaintiff Pinzon’s primary job duties included, without limitation, loading trucks with roofing materials, accompanying drivers to the customers’ premises, and unloading roofing materials at customers’ premises.

7. Plaintiff Juan Munoz (“Plaintiff Munoz”) is a resident of Sun Valley, in Los Angeles County, California. Defendants employed Plaintiff Munoz as an hourly paid, non-exempt employee from approximately November 3, 1986 to the present. Plaintiff Munoz worked in shipping and receiving at Defendants’ location in Chatsworth, California. During his employment, Plaintiff Munoz typically worked eight (8) to twelve (12) hours per day and six (6) days per week. Plaintiff Munoz’s primary job duties included, without limitation, administrative work, preparing the forklift, waiting for shipping material, and attending to clients.

1 8. Plaintiff Albert Guazon (“Plaintiff Guazon”) is a resident of Stockton, in San
2 Joaquin County, California. Defendants employed Plaintiff Guazon as an hourly paid, non-
3 exempt employee from approximately March 2021 to April 2022. Plaintiff Guazon worked as
4 a driver at Defendants’ location in Stockton, California. During his employment, Plaintiff
5 Guazon typically worked eight (8) to twelve (12) hours per day and five (5) days per week.
6 Plaintiff Guazon’s primary job duties included, without limitation, delivering and transporting
7 landscaping tools and supplies to and from construction sites in San Joaquin County.

8 9. Plaintiff Ernesto Lainez (“Plaintiff Lainez”) is a resident of Stockton, in San
9 Joaquin County, California. Defendants employed Plaintiff Lainez as an hourly paid, non-
10 exempt employee from approximately October 2021 to the present. Plaintiff Lainez worked as
11 a driver at Defendants’ location in Stockton, California. During his employment, Plaintiff
12 Lainez typically worked eight (8) to twelve (12) hours per day and five (5) days per week.
13 Plaintiff Lainez’s primary job duties included, without limitation, delivering and transporting
14 landscaping tools and supplies to and from construction sites in San Joaquin County.

15 10. Plaintiff Michael Magdaleno (“Plaintiff Magdaleno”) is a resident of Sylmar, in
16 Los Angeles County, California. Defendants employed Plaintiff Magdaleno as an hourly paid,
17 non-exempt employee from approximately January 2022 to September 2022. Plaintiff
18 Magdaleno worked as a Loader at Defendants’ locations in Riverside and Sun Valley,
19 California. During his employment, Plaintiff Magdaleno typically worked ten (10) or more
20 hours per day and five (5) days per week. Plaintiff Magdaleno’s primary job duties included,
21 without limitation, loading trucks, assisting customers with purchases of roof materials,
22 completing deliveries, and unloading materials.

23 11. ROOFLINE, INC. dba ROOFLINE SUPPLY & DELIVERY was and is, upon
24 information and belief, an Oregon corporation, and at all times hereinafter mentioned, an
25 employer whose employees are engaged throughout this county and the State of California.

26 12. SRS DISTRIBUTION INC. was and is, upon information and belief, a
27 Delaware corporation, and at all times hereinafter mentioned, an employer whose employees
28 are engaged throughout this county and the State of California.

1 13. J. B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC. was and
2 is, upon information and belief, a California corporation, and at all times hereinafter
3 mentioned, an employer whose employees are engaged throughout this county and the State of
4 California.

5 14. BUILDERS SUPPLY LOGISTICS, INC. was and is, upon information and
6 belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose
7 employees are engaged throughout this county and the State of California.

8 15. HERITAGE LANDSCAPE SUPPLY GROUP, INC. was and is, upon
9 information and belief, a Delaware corporation, and at all times hereinafter mentioned, an
10 employer whose employees are engaged throughout this county and the State of California.

11 16. IMPERIAL SPRINKLER SUPPLY, LLC was and is, upon information and
12 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
13 employees are engaged throughout this county and the State of California.

14 17. SHEAR BUILDERS, INC. was and is, upon information and belief, a
15 California corporation, and at all times hereinafter mentioned, an employer whose employees
16 are engaged throughout this county and the State of California.

17 18. HERITAGE POOL SUPPLY GROUP, INC. was and is, upon information and
18 belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose
19 employees are engaged throughout this county and the State of California.

20 19. FWEP ACQUISITION, INC. was and is, upon information and belief, a
21 Delaware corporation, and at all times hereinafter mentioned, an employer whose employees
22 are engaged throughout this county and the State of California.

23 20. Plaintiffs are unaware of the true names or capacities of the Defendants sued
24 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
25 amend the complaint and serve such fictitiously named Defendants once their names and
26 capacities become known.

27 21. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10
28 were the partners, agents, owners, or managers of ROOFLINE, INC. dba ROOFLINE

1 SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J. B. WHOLESALE ROOFING AND
2 BUILDING SUPPLIES, INC.; and BUILDERS SUPPLY LOGISTICS, INC. at all relevant
3 times.

4 22. Plaintiffs are informed and believe, and thereon allege, that each and all of the
5 acts and omissions alleged herein was performed by, or is attributable to, ROOFLINE, INC.
6 dba ROOFLINE SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J. B. WHOLESALE
7 ROOFING AND BUILDING SUPPLIES, INC.; BUILDERS SUPPLY LOGISTICS, INC.;
8 HERITAGE LANDSCAPE SUPPLY GROUP, INC.; IMPERIAL SPRINKLER SUPPLY,
9 LLC; SHEAR BUILDERS, INC; HERITAGE POOL SUPPLY GROUP, INC.; FWEP
10 ACQUISITION, INC.; and/or DOES 1 through 10 (collectively, “Defendants” or “SRS”),
11 each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert
12 with, each of the other co-Defendants and was acting within the course and scope of such
13 agency, employment, joint venture, or concerted activity with legal authority to act on the
14 others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the
15 official policy of Defendants.

16 23. At all relevant times, Defendants, and each of them, ratified each and every act
17 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
18 and abetted the acts and omissions of each and all the other Defendants in proximately causing
19 the damages herein alleged.

20 24. Plaintiffs are informed and believe, and thereon allege, that each of said
21 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
22 omissions, occurrences, and transactions alleged herein.

23 25. Under California law, Defendants are jointly and severally liable as employers
24 for the violations alleged herein because they have each exercised sufficient control over the
25 wages, hours, working conditions, and employment status of Plaintiffs and class members.
26 Each Defendant had the power to hire and fire Plaintiffs and class members, supervised and
27 controlled their work schedule and/or conditions of employment, determined their rate of pay,
28 and maintained their employment records. Defendants suffered or permitted Plaintiffs and

1 class members to work and/or “engaged” Plaintiffs and class members so as to create a
2 common-law employment relationship. As joint employers of Plaintiffs and class members,
3 Defendants are jointly and severally liable for the civil penalties and all other relief available
4 to Plaintiffs and class members under the law.

5 26. Plaintiffs are informed and believe, and thereon allege, that at all relevant
6 times, Defendants, and each of them, have acted as joint employers with respect to Plaintiffs
7 and class members because Defendants have:

- 8 (a) jointly exercised meaningful control over the work performed by
9 Plaintiffs and class members;
- 10 (b) jointly exercised meaningful control over Plaintiffs’ and class members’
11 wages, hours, and working conditions, including the quantity, quality
12 standards, speed, scheduling, and operative details of the tasks
13 performed by Plaintiffs and class members;
- 14 (c) jointly required that Plaintiffs and class members perform work which is
15 an integral part of Defendants’ businesses; and
- 16 (d) jointly exercised control over Plaintiffs and class members as a matter
17 of economic reality in that Plaintiffs and class members were dependent
18 on Defendants, who shared the power to set the wages of Plaintiffs and
19 class members and determined their working conditions, and who
20 jointly reaped the benefits from the underpayment of their wages and
21 noncompliance with other statutory provisions governing their
22 employment.

23 27. Plaintiffs are informed and believe, and thereon allege, that at all relevant times
24 there has existed a unity of interest and ownership between Defendants such that any
25 individuality and separateness between the entities has ceased.

26 28. ROOFLINE, INC. dba ROOFLINE SUPPLY & DELIVERY; SRS
27 DISTRIBUTION INC.; J. B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC.;
28 BUILDERS SUPPLY LOGISTICS, INC.; HERITAGE LANDSCAPE SUPPLY GROUP,

1 INC.; IMPERIAL SPRINKLER SUPPLY, LLC; SHEAR BUILDERS, INC; HERITAGE
2 POOL SUPPLY GROUP, INC.; FWEP ACQUISITION, INC.; and DOES 1 through 10 are
3 therefore alter egos of each other.

4 29. Adherence to the fiction of the separate existence of Defendants would permit
5 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
6 from liability for the wrongful acts committed by them under the name SRS.

7 30. Plaintiffs further allege, upon information and belief, that Defendants
8 ROOFLINE, INC. dba ROOFLINE SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J.
9 B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC.; BUILDERS SUPPLY
10 LOGISTICS, INC., HERITAGE LANDSCAPE SUPPLY GROUP, INC.; IMPERIAL
11 SPRINKLER SUPPLY, LLC; SHEAR BUILDERS, INC; HERITAGE POOL SUPPLY
12 GROUP, INC.; FWEP ACQUISITION, INC.; are alter egos of each other for the following
13 reasons:

- 14 (a) On the California Secretary of State’s website
15 (<https://bizfileonline.sos.ca.gov>), ROOFLINE, INC. dba ROOFLINE
16 SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J. B.
17 WHOLESALE ROOFING AND BUILDING SUPPLIES,
18 INC.; BUILDERS SUPPLY LOGISTICS, INC.; and HERITAGE
19 LANDSCAPE SUPPLY GROUP, INC. share the same principal and/or
20 mailing address, “7440 S STATE HWY 121, MCKINNEY, TX 75070”;
- 21 (b) According to the most recent “Statement of Information” forms filed
22 with the California Secretary of State, ROOFLINE, INC. dba
23 ROOFLINE SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J.
24 B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC.; and
25 BUILDERS SUPPLY LOGISTICS, INC. share the same officers and/or
26 directors, including, but not limited to, Daniel R. Tinker and Dustin
27 Gunderson, who serve as Chief Executive Officer and Secretary,
28 respectively;

- 1 (c) According to the most recent “Statement of Information” forms filed
2 with the California Secretary of State, ROOFLINE, INC. dba
3 ROOFLINE SUPPLY & DELIVERY; SRS DISTRIBUTION INC.;
4 BUILDERS SUPPLY LOGISTICS, INC.; and HERITAGE
5 LANDSCAPE SUPPLY GROUP, INC. share the same Chief Financial
6 Officer, R Scott Vansant;
- 7 (d) On the California Secretary of State’s website, ROOFLINE, INC. DBA
8 ROOFLINE SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J.
9 B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC.;
10 BUILDERS SUPPLY LOGISTICS, INC.; and HERITAGE
11 LANDSCAPE SUPPLY GROUP, INC. share the same agent for service
12 of process, “CORPORATION SERVICE COMPANY WHICH WILL
13 DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS
14 INCORPORATING SERVICE”; and
- 15 (e) On information and belief, ROOFLINE, INC. dba ROOFLINE
16 SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J. B.
17 WHOLESALE ROOFING AND BUILDING SUPPLIES, INC.;
18 BUILDERS SUPPLY LOGISTICS, INC.; HERITAGE LANDSCAPE
19 SUPPLY GROUP, INC.; IMPERIAL SPRINKLER SUPPLY, LLC;
20 SHEAR BUILDERS, INC; HERITAGE POOL SUPPLY GROUP,
21 INC.; and FWEP ACQUISITION, INC. utilize the same standardized
22 employment forms and issue the same employment policies.

23 24 **GENERAL ALLEGATIONS**

25 31. Defendants are a distributor of roofing materials, building products, and pool
26 supplies in the United States. Upon information and belief, Defendants maintain a single,
27 centralized Human Resources (“HR”) department at their company headquarters in
28 McKinney, Texas, which is responsible for the recruiting and hiring of new employees, and

1 communicating and implementing Defendants' company-wide policies, including timekeeping
2 policies and meal and rest period policies, to employees throughout California.

3 32. In particular, Plaintiffs and class members, on information and belief, received
4 the same standardized documents and/or written policies. Upon information and belief, the
5 usage of standardized documents and/or written policies, including new-hire documents,
6 indicate that Defendants dictated policies at the corporate level and implemented them
7 company-wide, regardless of their employees' assigned locations or positions. Upon
8 information and belief, Defendants set forth uniform policies and procedures in several
9 documents provided at an employee's time of hire.

10 33. Upon information and belief, Defendants maintain a centralized Payroll
11 department at their company headquarters in McKinney, Texas, which processes payroll for
12 all non-exempt, hourly paid employees working for Defendants at their various locations and
13 jobsites in California, including Plaintiffs and class members. Based upon information and
14 belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid
15 employees in California, irrespective of their work locations. Upon information and belief,
16 Defendants process payroll for departing employees in the same manner throughout the State
17 of California, regardless of the manner in which each employee's employment ends.

18 34. Defendants continue to employ non-exempt or hourly paid employees in
19 California.

20 35. Plaintiffs are informed and believe, and thereon allege, that at all times herein
21 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
22 and advisors knowledgeable about California labor and wage law, employment and personnel
23 practices, and about the requirements of California law.

24 36. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class
25 members were not paid for all hours worked because all hours worked were not recorded.

26 37. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
27 should have known that Plaintiffs and class members were entitled to receive certain wages
28 for overtime compensation and that they were not receiving certain wages for overtime

1 compensation.

2 38. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
3 should have known that Plaintiffs and class members were entitled to be paid at a regular rate
4 of pay, and corresponding rates of pay for overtime wages and/or meal, rest, and recovery
5 period premiums, that included as eligible income all remuneration required by law, including
6 but not limited to, all income derived from incentive pay, nondiscretionary bonuses, and/or
7 other forms of compensation, but failed to include all forms of remuneration in calculating the
8 regular rate of pay for Plaintiffs and class members.

9 39. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
10 should have known that Plaintiffs and class members were entitled to receive at least
11 minimum wages for compensation and that they were not receiving at least minimum wages
12 for work that was required to be done off-the-clock. In violation of the California Labor
13 Code, Plaintiffs and class members were not paid at least minimum wages for work done off-
14 the-clock.

15 40. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
16 should have known that Plaintiffs and class members were entitled to meal periods in
17 accordance with the California Labor Code and applicable IWC Wage Order or payment of
18 one (1) additional hour of pay at their regular rates of pay when they were not provided with
19 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiffs and class members
20 were not provided with all meal periods or payment of one (1) additional hour of pay at their
21 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
22 period.

23 41. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and class members were entitled to rest periods in
25 accordance with the California Labor Code and applicable IWC Wage Order or payment of
26 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
27 permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiffs
28 and class members were not authorized and permitted to take compliant rest periods, nor did

1 Defendants provide Plaintiffs and class members with payment of one (1) additional hour of
2 pay at their regular rates of pay when they were not authorized and permitted to take a
3 compliant rest period.

4 42. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
5 should have known that Plaintiffs and class members were entitled to recovery periods in
6 accordance with the California Labor Code and applicable General Industry Safety Order or
7 payment of one (1) additional hour of pay at their regular rates of pay when they were not
8 provided a compliant recovery period. In violation of the California Labor Code, Plaintiffs
9 and class members were not provided compliant recovery periods, nor did Defendants provide
10 Plaintiffs and class members with payment of one (1) additional hour of pay at their regular
11 rates of pay when they were not provided a compliant recovery period.

12 43. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiffs and class members were entitled to receive complete and
14 accurate wage statements in accordance with California law. In violation of the California
15 Labor Code, Plaintiffs and class members were not provided complete and accurate wage
16 statements.

17 44. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that they had a duty to maintain accurate and complete payroll records in
19 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
20 knowingly, and intentionally failed to do so.

21 45. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known that Plaintiffs and class members were entitled to timely payment of all
23 wages earned upon termination of employment. In violation of the California Labor Code,
24 Plaintiffs and class members did not receive payment of all wages due, including, but not
25 limited to, overtime wages; minimum wages; meal, rest, and recovery period premiums;
26 and/or sick leave pay, within permissible time periods.

27 46. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known that Plaintiffs and class members were entitled to timely payment of

1 wages during their employment. In violation of the California Labor Code, Plaintiffs and
2 class members did not receive payment of all wages, including, but not limited to, overtime
3 wages; minimum wages; meal, rest, recovery period premiums; and/or sick leave pay, within
4 permissible time periods.

5 47. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
6 should have known that Plaintiffs and class members were entitled to receive sick leave
7 benefits but failed to provide Plaintiffs and class members with all sick leave benefits,
8 including by failing to pay sick leave pay at the regular rate of pay, that included, as eligible
9 income, all income derived from incentive pay, nondiscretionary bonuses, and/or other forms
10 of compensation.

11 48. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and class members were entitled to receive full
13 reimbursement for all business-related expenses and costs they incurred during the course and
14 scope of their employment and that they did not receive full reimbursement of applicable
15 business-related expenses and costs incurred.

16 49. Plaintiffs are informed and believe, and thereon allege, that at all times herein
17 mentioned, Defendants knew or should have known that Defendants had a duty to provide
18 Plaintiffs and class members with written notice of the material terms of their employment
19 with Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

20 50. Plaintiffs are informed and believe, and thereon allege, that at all times herein
21 mentioned, Defendants knew or should have known that they had a duty to compensate
22 Plaintiffs and class members for all hours worked, and that Defendants had the financial
23 ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so,
24 and falsely represented to Plaintiffs and class members that they were properly denied wages,
25 all in order to increase Defendants' profits.

26 **PAGA REPRESENTATIVE ALLEGATIONS**

27 51. At all times herein set forth, PAGA provides that any provision of law under
28 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be

1 assessed and collected by the LWDA for violations of the California Labor Code and
2 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
3 civil action brought on behalf of themselves and other current or former employees pursuant
4 to procedures outlined in California Labor Code section 2699.3.

5 52. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
6 person who was employed by the alleged violator and against whom one or more of the alleged
7 violations was committed.”

8 53. Plaintiffs and other current and former employees of Defendants are “aggrieved
9 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
10 or former employees and one or more of the alleged violations were committed against them.

11 54. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
12 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
13 following requirements have been met:

- 14 (a) The aggrieved employee or representative shall give written notice by
15 online filing with the LWDA and by certified mail to the employer of
16 the specific provisions of the California Labor Code alleged to have
17 been violated, including the facts and theories to support the alleged
18 violation.
- 19 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
20 2699.3(a) and any employer response to that notice shall be
21 accompanied by a filing fee of seventy-five dollars (\$75).
- 22 (c) The LWDA shall notify the employer and the aggrieved employee or
23 representative by certified mail that it does not intend to investigate the
24 alleged violation (“LWDA Notice”) within sixty (60) calendar days of
25 the postmark date of the aggrieved employee’s notice. Upon receipt of
26 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
27 (65) calendar days of the postmark date of the aggrieved employee’s
28 notice, the aggrieved employee may commence a civil action pursuant

1 to California Labor Code section 2699 to recover civil penalties.

2 55. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
3 through Plaintiffs, may pursue a civil action arising under PAGA for violations of any
4 provision other than those listed in Section 2699.5 after the following requirements have been
5 met:

6 (a) The aggrieved employee or representative shall give written notice by
7 online filing with the LWDA and by certified mail to the employer of
8 the specific provisions of the California Labor Code alleged to have
9 been violated (other than those listed in Section 2699.5), including the
10 facts and theories to support the alleged violation.

11 (b) An aggrieved employee's notice filed with the LWDA pursuant to
12 2699.3(c) and any employer response to that notice shall be
13 accompanied by a filing fee of seventy-five dollars (\$75).

14 (c) The employer may cure the alleged violation within thirty-three (33)
15 calendar days of the postmark date of the notice sent by the aggrieved
16 employee or representative. The employer shall give written notice
17 within that period of time by certified mail to the aggrieved employee or
18 representative and by online filing with the LWDA if the alleged
19 violation is cured, including a description of actions taken, and no civil
20 action pursuant to Section 2699 may commence. If the alleged violation
21 is not cured within the 33-day period, the aggrieved employee may
22 commence a civil action pursuant to Section 2699.

23 56. On March 2, 2023, Plaintiff Jimenez provided written notice by online filing to
24 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
25 Labor Code alleged to have been violated, including facts and theories to support the alleged
26 violations, in accordance with California Labor Code section 2699.3. Plaintiff Jimenez's
27 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
28 The LWDA PAGA Administrator confirmed receipt of Plaintiff Jimenez's written notice and

1 assigned Plaintiff Jimenez PAGA Case Number LWDA-CM-939625-23. A true and correct
2 copy of Plaintiff Jimenez's written notice to the LWDA and Defendants is attached hereto as
3 "Exhibit 1."

4 57. On March 2, 2023, Plaintiff Pinzon provided written notice by online filing to
5 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
6 Labor Code alleged to have been violated, including facts and theories to support the alleged
7 violations, in accordance with California Labor Code section 2699.3. Plaintiff Pinzon's
8 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
9 The LWDA PAGA Administrator confirmed receipt of Plaintiff Pinzon's written notice and
10 assigned Plaintiff Pinzon PAGA Case Number LWDA-CM-939626-23. A true and correct
11 copy of Plaintiff Pinzon's written notice to the LWDA and Defendants is attached hereto as
12 "Exhibit 2."

13 58. On August 28, 2023, Plaintiff Munoz provided written notice by online filing to
14 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
15 Labor Code alleged to have been violated, including facts and theories to support the alleged
16 violations, in accordance with California Labor Code section 2699.3. Plaintiff Munoz's
17 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
18 The LWDA PAGA Administrator confirmed receipt of Plaintiff Munoz's written notice and
19 assigned Plaintiff Munoz PAGA Case Number LWDA-CM-978188-23. A true and correct
20 copy of Plaintiff Munoz's written notice to the LWDA and Defendants is attached hereto as
21 "Exhibit 3."

22 59. On February 3, 2023, Plaintiff Guazon provided written notice by online filing
23 to the LWDA and by Certified Mail to Defendants of the specific provisions of the California
24 Labor Code alleged to have been violated, including facts and theories to support the alleged
25 violations, in accordance with California Labor Code section 2699.3. Plaintiff Guazon's
26 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
27 The LWDA PAGA Administrator confirmed receipt of Plaintiff Guazon's written notice and
28 assigned Plaintiff Guazon PAGA Case Number LWDA-CM-933832-23. A true and correct

1 copy of Plaintiff Guazon's written notice to the LWDA and Defendants is attached hereto as
2 "Exhibit 4."

3 60. On February 3, 2023, Plaintiff Lainez provided written notice by online filing
4 to the LWDA and by Certified Mail to Defendants of the specific provisions of the California
5 Labor Code alleged to have been violated, including facts and theories to support the alleged
6 violations, in accordance with California Labor Code section 2699.3. Plaintiff Lainez's
7 written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75).
8 The LWDA PAGA Administrator confirmed receipt of Plaintiff Lainez's written notice and
9 assigned Plaintiff Lainez PAGA Case Number LWDA-CM-933835-23. A true and correct
10 copy of Plaintiff Lainez's written notice to the LWDA and Defendants is attached hereto as
11 "Exhibit 5."

12 61. On December 8, 2022, Plaintiff Magdaleno provided written notice by online
13 filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the
14 California Labor Code alleged to have been violated, including facts and theories to support
15 the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff
16 Magdaleno's written notice was accompanied with the applicable filing fee of seventy-five
17 dollars (\$75). The LWDA PAGA Administrator confirmed receipt of Plaintiff Magdaleno's
18 written notice and assigned Plaintiff Magdaleno PAGA Case Number LWDA-CM-923479-22.
19 On March 3, 2023, Plaintiff Magdaleno filed an amended written notice by online filing to the
20 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
21 Code alleged to have been violated, supplementing and clarifying the facts and theories to
22 support the alleged violations set forth in his original LWDA notice, in accordance with
23 California Labor Code section 2699.3. True and correct copies of Plaintiff Magdaleno's
24 written notices to the LWDA and Defendants is attached hereto as "Exhibit 6."

25 62. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
26 sent the notices described above to the LWDA, and the LWDA has not responded that it
27 intends to investigate Plaintiffs' claims and Defendants have not cured the violations.

28 63. Thus, Plaintiffs have satisfied the administrative prerequisites under California

1 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
2 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a),
3 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

4 64. Labor Code section 558(a) provides “[a]ny employer or other person acting on
5 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the Industrial Welfare
7 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
8 dollars (\$50) for each underpaid employee for each pay period for which the employee was
9 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
10 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
11 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
12 to any other civil or criminal penalty provided by law.”

13 65. Defendants, at all times relevant to this complaint, were employers or persons
14 acting on behalf of an employer(s) who violated Plaintiffs’ and other aggrieved employees’
15 rights by violating various sections of the California Labor Code as set forth above.

16 66. As set forth below, Defendants have violated numerous provisions of both the
17 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
18 Order.

19 67. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
20 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiffs, acting in the public interest as
21 private attorneys general, seek assessment and collection of civil penalties for themselves, all
22 other aggrieved employees, and the State of California against Defendants for violations of
23 California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d),
24 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

25 68. Under PAGA, Plaintiffs seek to represent a group of similarly aggrieved
26 employees defined as follows:

27 All California non-exempt employees of Roofline, Inc. and J.B.
28 Wholesale Roofing, Building Supplies, Inc., Heritage Landscape
Supply Group, Inc., SRS Distribution, Inc., Builders Supply

Logistics, Inc., Imperial Sprinkler Supply, LLC, Shear Builders, Inc., Heritage Pool Supply Group, Inc., and FWEP Acquisition, Inc. who worked between December 8, 2021 through and including the date of preliminary approval of settlement.

CLASS ACTION ALLEGATIONS

69. Plaintiffs bring this action on their own behalf, as well as on behalf of each and all other persons similarly situated, and thus seek class certification under California Code of Civil Procedure section 382.

70. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

71. Plaintiffs' proposed class consists of and is defined as follows:

All California non-exempt employees of Roofline, Inc. and J.B. Wholesale Roofing and Building Supplies, Inc. who worked at any time between June 29, 2021 through and including the date of preliminary approval of settlement, and all California non-exempt employees of Heritage Landscape Supply Group, Inc., SRS Distribution, Inc., Builders Supply Logistics, Inc., Imperial Sprinkler Supply, LLC, Shear Builders, Inc., Heritage Pool Supply Group, Inc., and FWEP Acquisition, Inc. who worked at any time between February 21, 2019 through and including the date of preliminary approval of settlement ("Class").

72. Members of the Class are referred to herein as "class members."

73. Plaintiffs reserve the right to redefine the Class and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

74. There are common questions of law and fact as to class members that predominate over questions affecting only individual members, including, but not limited to:

- (a) Whether Defendants required Plaintiffs and class members to work over eight (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to pay all legally required overtime compensation to Plaintiffs and class members;
- (b) Whether Defendants failed to include all forms of remuneration in the "regular rate" of pay as required by law for purposes of paying overtime wages and/or meal, rest, and recovery period premiums to Plaintiffs and

- 1 class members;
- 2 (c) Whether Defendants failed to pay Plaintiffs and class members at least
- 3 minimum wages for all hours worked;
- 4 (d) Whether Defendants failed to provide Plaintiffs and class members with
- 5 meal periods;
- 6 (e) Whether Defendants failed to authorize and permit Plaintiffs and class
- 7 members to take rest periods;
- 8 (f) Whether Defendants failed to provide Plaintiffs and class members with
- 9 recovery periods;
- 10 (g) Whether Defendants provided Plaintiffs and class members with
- 11 complete and accurate wage statements as required by California Labor
- 12 Code section 226(a);
- 13 (h) Whether Defendants maintained accurate payroll records as required by
- 14 California Labor Code section 1174(d);
- 15 (i) Whether Defendants failed to pay earned overtime wages; minimum
- 16 wages meal, rest, and recovery period premiums; and/or sick leave pay
- 17 due to Plaintiffs and class members upon their discharge;
- 18 (j) Whether Defendants failed timely to pay overtime wages; minimum
- 19 wages; meal, rest, and recovery period premiums; and/or sick leave pay
- 20 due to Plaintiffs and class members during their employment;
- 21 (k) Whether Defendants failed to properly calculate the “regular rate” of
- 22 pay upon which Plaintiffs’ and class members’ sick leave rate of pay
- 23 was based;
- 24 (l) Whether Defendants failed to reimburse Plaintiffs and class members
- 25 for necessary and required business-related expenditures and/or losses
- 26 incurred by them in the scope of their employment;
- 27 (m) Whether Defendants failed to provide written notice of information
- 28 material to Plaintiffs’ and class members’ employment with Defendants;

- 1 (n) Whether Defendants engaged in unlawful and unfair business practices
2 in violation of California Business & Professions Code sections 17200,
3 *et seq.*; and
4 (o) The appropriate amount of damages, restitution, or monetary penalties
5 resulting from Defendants' violations of California law.

6 75. There is a well-defined community of interest in the litigation and the class
7 members are readily ascertainable:

- 8 (a) Numerosity: The class members are so numerous that joinder of all
9 members would be unfeasible and impractical. The membership of the
10 entire class is unknown to Plaintiff at this time; however, the class is
11 estimated to be greater than one hundred (100) individuals and the
12 identity of such membership is readily ascertainable by inspection of
13 Defendants' employment records.
14 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
15 protect the interests of each class member with whom he has a well-
16 defined community of interest, and Plaintiff's claims (or defenses, if
17 any) are typical of all class members as demonstrated herein.
18 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
19 protect the interests of each class member with whom he has a well-
20 defined community of interest and typicality of claims, as demonstrated
21 herein. Plaintiff acknowledges that he has an obligation to make known
22 to the Court any relationship, conflicts or differences with any class
23 member. Plaintiff's attorneys, the proposed class counsel, are versed in
24 the rules governing class action discovery, certification, and settlement.
25 Plaintiff has incurred, and throughout the duration of this action, will
26 continue to incur costs and attorneys' fees that have been, are, and will
27 be necessarily expended for the prosecution of this action for the
28 substantial benefit of each class member.

- 1 (d) Superiority: The nature of this action makes the use of class action
2 adjudication superior to other methods. A class action will achieve
3 economies of time, effort, and expense as compared with separate
4 lawsuits, and will avoid inconsistent outcomes because the same issues
5 can be adjudicated in the same manner and at the same time for the
6 entire class.
- 7 (e) Public Policy Considerations: Employers in the State of California
8 violate employment and labor laws every day. Current employees are
9 often afraid to assert their rights out of fear of direct or indirect
10 retaliation. Former employees are fearful of bringing actions because
11 they believe their former employers might damage their future
12 endeavors through negative references and/or other means. Class
13 actions provide the class members who are not named in the complaint
14 with a type of anonymity that allows for the vindication of their rights
15 while simultaneously protecting their privacy.

16 **FIRST CAUSE OF ACTION**

17 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 18 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against** 19 **All Defendants)**

20 76. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
21 and every allegation set forth above.

22 77. Labor Code section 1198 makes it illegal to employ an employee under
23 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
24 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
25 shall be the . . . standard conditions of labor for employees. The employment of any employee
26 . . . under conditions of labor prohibited by the order is unlawful.”

27 78. California Labor Code section 1198 and the applicable IWC Wage Order
28 provide that it is unlawful to employ persons without compensating them at a rate of pay

1 either time-and-one-half or two-times that person's regular rate of pay, depending on the
2 number of hours worked by the person on a daily or weekly basis.

3 79. Specifically, the applicable IWC Wage Order provides that Defendants are and
4 were required to pay Plaintiffs and class members working more than eight (8) hours in a day
5 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
6 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
7 workweek.

8 80. The applicable IWC Wage Order further provides that Defendants are and were
9 required to pay Plaintiffs and class members working more than twelve (12) hours in a day,
10 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
11 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
12 employee, including nondiscretionary bonuses and incentive pay.

13 81. California Labor Code section 510 codifies the right to overtime compensation
14 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
15 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
16 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
17 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
18 in a day on the seventh (7th) day of work.

19 82. During the relevant time period, Defendants willfully failed to pay all overtime
20 wages owed to Plaintiffs and class members. During the relevant time period, Plaintiffs and
21 class members were not paid overtime premiums for all of the hours they worked in excess of
22 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
23 hours in a week, because all hours worked were not recorded.

24 83. First, Defendants had, and continue to have, a company-wide policy and/or
25 practice of discouraging and impeding Plaintiffs and class members from recording hours
26 worked that were outside of their scheduled shifts in order to limit the amount of overtime
27 employees could accrue. Because Defendants discouraged overtime accrual by, among other
28 things, altering and/or falsifying timesheets, Plaintiffs and class members were required to

1 complete assigned tasks outside of their scheduled shifts without being compensated for the
2 time they worked.

3 84. For example, before nearly every shift, Plaintiff Jimenez was required to spend
4 up to 10 minutes per instance preparing his company vehicle for the day before Defendants
5 permitted him to clock in for his shift. Further, at the end of each shift and per company
6 policy, Plaintiff Jimenez was required to spend 15 minutes inspecting the company vehicle
7 after he clocked out. Plaintiff Pinzon similarly spent time working before his shifts assisting
8 with preparing the truck for the day, spending up to 15 minutes per instance, 2-3 times per
9 month. Plaintiffs attempted to record this time spent working, but, on information and belief,
10 Defendants' management would subsequently alter their timesheets and shave off time spent
11 preparing the vehicles for the day and/or inspecting the vehicles at the end of the shifts to
12 avoid payment of additional wages to Plaintiffs and class members.

13 85. Second, Defendants had, and continue to have, a company-wide security policy
14 of allowing only certain employees to carry keys to Defendants' yard. Specifically, only
15 managerial employees and drivers were issued keys to access the yard at any given time. In
16 adherence with this policy, Plaintiff Jimenez and class members had to wait for other
17 employees to complete their duties before they could leave Defendants' premises together, as
18 employees without a key had no means of locking the gate. For example, Plaintiff Jimenez
19 would often be the last driver to leave the premises, causing him to have to wait up to 30
20 minutes after clocking out until other employees had completed their tasks so he could lock up
21 the yard before leaving for the day. Similarly, and in adherence with this policy, Plaintiff
22 Pinzon and class members had to wait up to 30 minutes for a managerial employee or a driver
23 to arrive at Defendants' premises and unlock the gate in the mornings before they could clock
24 in for their shifts. As a result, Plaintiffs and class members were subject to Defendants'
25 control before they had clocked in or after they had clocked out for their shifts, but were not
26 compensated for this time.

27 86. Third, Defendants had, and continue to have, company-wide policies and/or
28 practices of understaffing and assigning heavy workloads, which resulted in a lack of meal

1 period coverage and prevented Plaintiffs and class members from taking all uninterrupted
2 meal periods to which they were entitled. Defendants also had a practice of failing to
3 schedule meal periods, which further caused Plaintiffs and class members to not be relieved of
4 their duties for compliant meal periods. In conjunction with these policies and/or practices,
5 Defendants have, systematically, and on a company-wide basis, scheduled and dispatched
6 their employees to complete time-sensitive jobs, which included traveling to various locations,
7 unloading roofing materials, and communicating with customers, without building in
8 sufficient time to allow for 30-minute meal periods, which further prevented Plaintiffs and
9 class members from taking all uninterrupted 30-minute meal periods, and forced them to work
10 off-the-clock during their meal periods to complete their assigned routes. Because there were
11 too few employees assigned to job sites to handle the workload and unload roofing materials,
12 completing the jobs could take longer than the time Defendants allotted for them, such that
13 Plaintiffs and class members were unable to take compliant meal periods. In addition to
14 varying job durations, travel time between job sites could take longer than anticipated due to
15 traffic conditions, which further impeded Plaintiffs and class members from taking compliant
16 meal periods. And, upon information and belief, Defendants had no mechanism in place to
17 permit Plaintiffs and class members to take meal periods when the schedule was thrown off
18 because one or more of their jobs took longer than the scheduled time, or if travel time
19 between job sites was extended by traffic conditions.

20 87. Furthermore, on information and belief, because Defendants frowned upon
21 employees accruing meal period penalties, Defendants' management pressured Plaintiffs and
22 class members to clock out for meal periods and/or adjusted their time records to reflect
23 compliant meal periods, regardless of whether they had received a compliant meal period or
24 not, in order to strictly limit the meal penalties that would need to be paid by Defendants.
25 Thus, Defendants did not record all hours worked during meal periods, and Plaintiffs and class
26 members performed work during meal periods for which they were not paid.

27 88. Defendants knew or should have known that as a result of these company-wide
28 practices and/or policies, Plaintiffs and class members were performing their assigned duties

1 off-the-clock before and after their shifts and/or during meal periods, and were suffered or
2 permitted to perform work for which they were not paid. Because Plaintiffs and class
3 members worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more,
4 some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiffs and
5 class members were not paid overtime wages for all of the overtime hours they actually
6 worked.

7 89. Moreover, Defendants did not pay Plaintiffs and class members the correct
8 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
9 wage, Defendants paid Plaintiffs and class members incentive pay, nondiscretionary bonuses,
10 and/or other forms of remuneration. However, in violation of the California Labor Code,
11 Defendants failed to incorporate all compensation, including incentive pay, nondiscretionary
12 bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for
13 purposes of calculating the overtime wage rate. Therefore, during times when Plaintiffs and
14 class members worked overtime and received these other forms of pay, Defendants failed to
15 pay all overtime wages by paying a lower overtime rate than required.

16 90. Defendants' failure to pay Plaintiffs and class members the balance of overtime
17 compensation as required by California law, violates the provisions of California Labor Code
18 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class
19 members are entitled to recover from Defendants their unpaid overtime compensation, as well
20 as interest, costs, and attorneys' fees.

21 **SECOND CAUSE OF ACTION**

22 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 23 **Minimum Wages**

24 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against**
25 **All Defendants)**

26 91. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
27 and every allegation set forth above.

28 92. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,

1 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
2 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
3 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the
4 time during which an employee is subject to the control of an employer, and includes all the
5 time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
6 Code Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

7 93. As set forth above, due to Defendants’ restrictions on overtime accrual,
8 Defendants systematically failed to pay Plaintiffs and class members for actual hours worked
9 before and after their scheduled shifts, because these hours were not accurately recorded.
10 Because Defendants discouraged and impeded Plaintiffs and class members from recording
11 hours worked that were outside of their scheduled shifts, Plaintiffs and class members were
12 required to perform work off-the-clock prior to the start of their shifts and/or after their shifts,
13 including preparing the company vehicle for the day, inspecting the vehicle at the end of each
14 day, waiting for other employees to complete their duties to lock the gate, and/or waiting for a
15 managerial employee to arrive and unlock the gate in the morning. As also stated, on
16 information and belief, Defendants had, and continue to have, a company-wide policy of
17 adjusting or shaving down Plaintiffs’ and class members’ hourly clock-in and clock-out times
18 in their timekeeping system, further resulting in the failure to pay Plaintiffs and class members
19 minimum wages for all hours actually worked.

20 94. Further, as also stated above, due to Defendants’ policies and/or practices of
21 understaffing, assigning heavy workloads while allowing insufficient time to complete
22 assigned jobs, and failing to schedule meal periods, Plaintiffs and class members were
23 impeded from taking all uninterrupted meal periods to which they were entitled and were
24 required to work off-the-clock during meal periods. Moreover, as stated, in order to prevent
25 employees from accruing meal period penalties, upon information and belief, Defendants’
26 management pressured employees to clock out for meal periods and/or altered timesheets even
27 when meal periods were missed, short, and/or interrupted. Thus, Defendants systematically
28 failed to pay Plaintiffs and class members for actual hours worked during unpaid meal periods

1 because these hours were not always correctly recorded.

2 95. Thus, Defendants did not pay minimum wages for all hours worked by
3 Plaintiffs and class members. To the extent that these off-the-clock hours did not qualify for
4 overtime premium payment, Defendants did not pay at least minimum wages for those hours
5 worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197,
6 1197.1, and 1198.

7 96. Defendants' failure to pay Plaintiffs and class members minimum wages
8 violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
9 California Labor Code section 1194.2, Plaintiffs and class members are entitled to recover
10 from Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and
11 interest thereon.

12 **THIRD CAUSE OF ACTION**

13 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period** 14 **Violations** 15 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against** 16 **All Defendants)**

17 97. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
18 and every allegation set forth above.

19 98. At all relevant times herein set forth, California Labor Code section 512(a)
20 provides that an employer may not require, cause, or permit an employee to work for a period
21 of more than five (5) hours per day without providing the employee with a meal period of not
22 less than thirty (30) minutes, except that if the total work period per day of the employee is
23 not more than six (6) hours, the meal period may be waived by mutual consent of both the
24 employer and the employee. Under California law, first meal periods must start after no more
25 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

26 99. At all relevant times herein set forth, California Labor Code sections 226.7,
27 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
28 meal period mandated by an applicable order of the IWC.

1 100. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a),
2 and the applicable IWC Wage Order also require employers to provide a second meal period
3 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
4 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
5 total hours worked is no more than twelve (12) hours, the second meal period may be waived
6 by mutual consent of the employer and the employee only if the first meal period was not
7 waived.

8 101. First, during the relevant time period, as stated, Defendants had, and continue
9 to have, a company-wide policy and/or practice of understaffing, assigning heavy workloads,
10 and scheduling time-sensitive jobs while allowing insufficient time for the employees to
11 actually complete the jobs, which resulted in a lack of meal period coverage and prevented
12 Plaintiffs and class members from taking all timely, uninterrupted meal periods to which they
13 were entitled. Further, Defendants' company-wide practice of failing to schedule meal periods
14 exacerbated the lack of meal period coverage and further caused Plaintiffs and class members
15 to not be relieved of their duties for compliant meal periods.

16 102. As a result, Plaintiffs and class members would be forced to work in excess of
17 five (5) hours before taking a meal period and, at times, had to forgo their meal periods
18 altogether. For example, because of Defendants' policy and/or practice of understaffing and
19 assigning heavy workloads, Plaintiffs had to forgo their meal periods 1-3 times per week; on
20 the days Plaintiffs were able to take their meal periods, they took their meal periods late, after
21 the end of their fifth hour of work. Moreover, Plaintiffs' meal periods were occasionally cut
22 short by their supervisors asking them to return to work and continue making timely
23 deliveries.

24 103. Second, as set forth above, because Defendants frowned upon employees
25 accruing meal period penalties, Defendants' management pressured employees to clock out
26 for meal periods and/or altered timesheets to reflect compliant meal periods, regardless of
27 whether they had received a compliant meal period or not, in order to strictly limit the meal
28 penalties that would need to be paid by Defendants.

104. Third, Defendants did not provide Plaintiffs and class members with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During their employment, Plaintiffs worked shifts in excess of ten (10) or more hours per day but were not provided a second 30-minute meal period. Plaintiffs and class members did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

105. At all times herein mentioned, Defendants knew or should have known that, as a result of these policies, Plaintiffs and class members were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. Defendants further knew or should have known that Defendants did not pay Plaintiffs and class members meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

106. Moreover, Defendants engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Plaintiffs and class members have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants did pay Plaintiffs and class members premium pay for missed, late, and interrupted meal periods, Defendants did not pay Plaintiffs and class members at the correct rate of pay for premiums because Defendants systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a result, Defendants failed to provide Plaintiffs and class members compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

107. Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiffs and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

FOURTH CAUSE OF ACTION

**Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations
(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against
All Defendants)**

108. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

109. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs’ and class members’ employment by Defendants.

110. At all relevant times, the applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

111. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiffs and class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

112. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiffs and class members to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants’ company-

1 wide practices, including understaffing, assigning heavy workloads, and scheduling time-
2 sensitive jobs, prevented Plaintiffs and class members from being relieved of all duty to take
3 rest periods. Additionally, Defendants failed to schedule rest periods, which further led to
4 Plaintiffs and class members not being authorized and permitted to take rest periods.

5 113. Furthermore, on information and belief, Defendants maintained and
6 implemented a company-wide on-premises rest period policy, which effectively required that
7 Plaintiffs and/or class members remain on the premises during their rest periods. Because
8 Plaintiffs and/or class members were restricted from leaving Defendants' premises during rest
9 periods, they were denied the ability to use their rest periods freely for their own purposes,
10 such as completing personal errands. Thus, Defendants effectively maintained control over
11 Plaintiffs and class members during rest periods.

12 114. As a result of Defendants' practices and policies, Plaintiffs and class members
13 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
14 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
15 Plaintiffs had to forego their rest periods because of the heavy workload and Defendants'
16 failure to schedule rest periods for employees.

17 115. Defendants have also engaged in a company-wide practice and/or policy of not
18 paying all rest period premiums owed when compliant rest periods are not authorized and
19 permitted. Because of this practice and/or policy, Plaintiffs and class members have not
20 received premium pay for all missed rest periods. Alternatively, to the extent that Defendants
21 did pay Plaintiffs and class members one (1) additional hour of premium pay for missed rest
22 periods, Defendants did not pay Plaintiffs and class members at the correct rate of pay for
23 premiums because Defendants failed to include all forms of compensation, such as incentive
24 pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.
25 As a result, Defendants denied Plaintiffs and class members rest periods and failed to pay
26 them rest period premiums due, in violation of Labor Code sections 226.7 and 516, and the
27 applicable IWC Wage Order.

28 116. Defendants' conduct violates the applicable IWC Wage Order and California

1 Labor Code sections 226.7, 516, and 1198. Plaintiffs and class members are therefore entitled
2 to recover from Defendants one (1) additional hour of pay at the employee’s regular rate of
3 compensation for each work day that a compliant rest period was not authorized and
4 permitted.

5 **FIFTH CAUSE OF ACTION**

6 **Violation of California Labor Code §§ 226.7, 516, and 1198 & California Code of** 7 **Regulations, Title 8, Section 3395—Heat Recovery Period Violations** 8 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against** 9 **All Defendants)**

10 117. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
11 and every allegation set forth above.

12 118. At all relevant times herein set forth, the applicable General Industry Safety
13 Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs’
14 and class members’ employment by Defendants.

15 119. At all relevant times, California Labor Code section 226.7(a) defines “recovery
16 period” to mean a cooldown period afforded an employee to prevent heat illness. California
17 Labor Code section 226.7 provides that no employer shall require an employee to work during
18 any recovery period mandated by an applicable order of the California IWC, the Occupational
19 Safety and Health Standards Board, or the Division of Occupational Safety and Health. The
20 applicable General Industry Safety Order provides that “[w]hen the outdoor temperature in the
21 work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more
22 areas with shade at all times while employees are present that are either open to the air or
23 provided with ventilation or cooling.” Cal. Code Regs. tit. 8, § 3395(d)(1). Furthermore,
24 “[t]he amount of shade present shall be at least enough to accommodate the number of
25 employees on recovery or rest periods, so that they can sit in a normal posture fully in the
26 shade without having to be in physical contact with each other.” *Id.* “Employees shall be
27 allowed and encouraged to take a preventative cool-down rest in the shade when they feel the
28 need to do so to protect themselves from overheating. Such access to shade shall be permitted

at all times.” *Id.*

120. During the relevant time period, Defendants violated California Labor Code section 226.7 and California Code of Regulations, Title 8, section 3395(d), because Defendants failed to provide Plaintiffs and class members with recovery periods. For example, Plaintiffs were not provided shaded areas for recovery while working even though the majority of their work was performed outside and under the sun.

121. Defendants also engaged in a company-wide practice and/or policy of not paying recovery period premiums owed when compliant recovery periods were not provided. Because of this practice and/or policy, Plaintiffs and class members have not received premium pay for all missed recovery periods. Alternatively, to the extent that Defendants did pay Plaintiffs and class members one (1) additional hour of premium pay for missed recovery periods, Defendants did not pay Plaintiffs and class members at the correct rate of pay for premiums because Defendants failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a result, Defendants denied Plaintiffs and class members recovery periods and failed to pay them recovery period premiums due, in violation of California Labor Code section 226.7 and the applicable General Industry Safety Order.

122. Defendants’ conduct violates the applicable General Industry Safety Order and California Labor Code sections 226.7, 516, and 1198. Plaintiffs and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee’s regular rate of compensation for each work day that a compliant recovery period was not provided.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records (Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against All Defendants)

123. Plaintiffs incorporate by reference and re-allege as if fully stated herein each

1 and every allegation set forth above.

2 124. At all relevant times herein set forth, California Labor Code section 226(a)
3 provides that every employer shall furnish each of his or her employees an accurate and
4 complete itemized wage statement in writing, including, but not limited to, the name and
5 address of the legal entity that is the employer, the inclusive dates of the pay period, total
6 hours worked, and all applicable rates of pay.

7 125. At all relevant times, Defendants have knowingly and intentionally provided
8 Plaintiffs and class members with uniform, incomplete, and inaccurate wage statements. For
9 example, Defendants issued uniform wage statements to Plaintiffs and class members that fail
10 to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable
11 hourly rates in effect during the pay period, including rates of pay for overtime wages; meal,
12 rest, and recovery period premiums; and/or paid sick leave, and the corresponding number of
13 hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),
14 226(a)(2), 226(a)(5), and 226(a)(9).

15 126. Because Defendants did not record the time Plaintiffs and class members spent
16 working off the clock and deducted time from their records for meal periods that were
17 interrupted and/or missed (and therefore time for which they should have been paid),
18 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiffs
19 and class members in compliance with sections 226(a)(1) and 226(a)(5). For the same reason,
20 Defendants failed to accurately list the total number of hours worked by Plaintiffs and class
21 members, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay
22 in effect during the pay period and the corresponding accurate number of hours worked at
23 each hourly rate, in violation of section 226(a)(9).

24 127. Additionally, because Defendants did not calculate Plaintiffs' and Class
25 members' regular rate of pay correctly for purposes of paying overtime wages; meal, rest,
26 recovery period premiums; and/or paid sick leave, Defendants did not list the correct amount
27 of gross wages in compliance with section 226(a)(1). For the same reason, Defendants failed
28 to list the correct amount of net wages in violation of section 226(a)(5). Defendants also

1 failed to correctly list all applicable hourly rates in effect during the pay period, namely,
2 correct rates of pay for overtime wages; meal, rest, and recovery premiums; and/or paid sick
3 leave, in violation of section 226(a)(9).

4 128. The wage statement deficiencies also include, among other things, failing to list
5 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
6 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
7 for which employees were paid; failing to list the name of the employee and only the last four
8 digits of his or her social security number or an employee identification number other than a
9 social security number; failing to list the name and address of the legal entity that is the
10 employer; and/or failing to state all hours worked as a result of not recording or stating the
11 hours worked off-the-clock.

12 129. California Labor Code section 1174(d) provides that “[e]very person employing
13 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
14 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
15 plants or establishments at which employees are employed, payroll records showing the hours
16 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
17 applicable piece rate paid to, employees employed at the respective plants or
18 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
19 Defendants willfully failed to maintain accurate payroll records for Plaintiffs and class
20 members showing the daily hours they worked and the wages paid thereto as a result of failing
21 to record the off-the-clock hours that they worked.

22 130. California Labor Code section 1198 provides that the maximum hours of work
23 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
24 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
25 employment of any employees for longer hours than those fixed by the order or under
26 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
27 Wage Order, employers are required to keep accurate time records showing when the
28 employee begins and ends each work period and meal period. During the relevant time

1 period, Defendants engaged in company-wide practices and/or policies of failing to record
2 actual hours worked (including falsifying time records by recording that compliant meal
3 periods were taken regardless of if or when meal periods were actually taken), and thereby
4 failed, on a company-wide basis, to keep accurate records of work period and meal period
5 start and stop times for Plaintiffs and class members, in violation of section 1198. Also, in
6 light of Defendants' failure to provide Plaintiffs and class members with second 30-minute
7 meal periods to which they were entitled, Defendants kept no records of meal start and end
8 times for second meal periods.

9 131. Plaintiffs and class members are entitled to recover from Defendants the greater
10 of their actual damages caused by Defendants' failure to comply with California Labor Code
11 section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
12 employee.

13 **SEVENTH CAUSE OF ACTION**

14 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 15 **Termination**

16 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against**
17 **All Defendants)**

18 132. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
19 and every allegation set forth above.

20 133. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
21 that if an employer discharges an employee, the wages earned and unpaid at the time of
22 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
23 her employment, his or her wages shall become due and payable not later than seventy-two
24 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
25 his or her intention to quit, in which case the employee is entitled to his or her wages at the
26 time of quitting.

27 134. On information and belief, Defendants have a company-wide practice or policy
28 of not paying departing employees their final wages until they return all of their uniform

1 items, instead of adhering to the time requirements set forth in Labor Code sections 201 and
2 202. For example, Plaintiff Pinzon was terminated; however, he did not receive his final pay
3 until the following day when he reported to Defendants' office to return his uniforms. Thus,
4 Defendants failed to pay Plaintiff Pinzon his final wages immediately, in violation of
5 California Labor Code section 201.

6 135. In addition, Defendants willfully failed to pay Plaintiffs and class members
7 who are no longer employed by Defendants the earned and unpaid wages set forth above,
8 including but not limited to, overtime wages; minimum wages; meal, rest, and recovery period
9 premiums; and/or sick leave pay, either at the time of discharge, or within seventy-two (72)
10 hours of their leaving Defendants' employ.

11 136. Defendants' failure to pay Plaintiffs and class members who are no longer
12 employed by Defendants their wages earned and unpaid at the time of discharge, or within
13 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
14 and 202. Plaintiffs and class members are therefore entitled to recover from Defendants the
15 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
16 thirty (30) day maximum pursuant to California Labor Code section 203.

17 **EIGHTH CAUSE OF ACTION**

18 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 19 **Employment**

20 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against**
21 **All Defendants)**

22 137. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
23 and every allegation set forth above.

24 138. This cause of action is dependent upon, and wholly derivative of, the overtime
25 wages; minimum wages; meal, rest, and recovery period premiums; and/or sick leave pay that
26 were not timely paid to Plaintiffs and class members during their employment.

27 139. At all times relevant herein set forth, Labor Code section 204 provides that all
28 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)

1 days, inclusive, of any calendar month, other than those wages due upon termination of an
2 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
3 the month during which the labor was performed.

4 140. At all times relevant herein, Labor Code section 204 provides that all wages
5 earned by any person in any employment between the sixteenth (16th) and the last day,
6 inclusive, of any calendar month, other than those wages due upon termination of an
7 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
8 month.

9 141. At all times relevant herein, Labor Code section 204 provides that all wages
10 earned for labor in excess of the normal work period shall be paid no later than the payday for
11 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
12 204 provides that the requirements of this section are deemed satisfied by the payment of
13 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
14 seven (7) calendar days following the close of the payroll period.

15 142. During the relevant time period, Defendants willfully failed to pay Plaintiffs
16 and class members all wages due including, but not limited to, overtime wages; minimum
17 wages; meal, rest, and recovery period premiums; and/or sick leave pay within the time
18 periods specified by California Labor Code section 204.

19 143. Defendants' failure to pay Plaintiffs and class members all wages due violates
20 Labor Code section 204. Plaintiffs and class members are therefore entitled to recover from
21 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

22 **NINTH CAUSE OF ACTION**

23 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 24 **(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against** 25 **All Defendants)**

26 144. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
27 and every allegation set forth above.

28 145. At all times herein set forth, California Labor Code section 2802 provides that

1 an employer must reimburse employees for all necessary expenditures and losses incurred by
2 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
3 to prevent employers from passing off their cost of doing business and operating expenses on
4 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
5 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen
6 tools or equipment are required by the employer or are necessary to the performance of a job,
7 such tools and equipment shall be provided and maintained by the employer, except that an
8 employee whose wages are at least two (2) times the minimum wage provided herein may be
9 required to provide and maintain hand tools and equipment customarily required by the trade
10 or craft.”

11 146. First, during the relevant time period, Plaintiffs and class members were
12 required to use their personal mobile devices, including, but not limited to, cellular phones,
13 and/or mobile data to carry out their job duties, but Defendants failed to reimburse them for
14 the costs of their work-related mobile device expenses. For example, Plaintiffs were required
15 to use their personal cellular phones to converse with their supervisors and dispatch about
16 work-related matters. Further, Plaintiffs were required to download a “Workday” mobile
17 application on their personal mobile devices which they used to clock in and out for their meal
18 periods and to view their paystubs and schedule. Additionally, Plaintiff Jimenez was required
19 to use his personal mobile device to take photos of the materials once a delivery was complete
20 as proof of proper delivery and handling. Although Defendants required Plaintiffs and class
21 members to utilize their personal mobile devices and/or mobile data to carry out their work-
22 related responsibilities, Defendants failed to reimburse them for these costs.

23 147. Second, during the relevant time period, Defendants, on a company-wide basis,
24 required that Plaintiff Jimenez and class members utilize their own personal vehicles to carry
25 out company business, but failed to reimburse them for all costs of travel, including mileage.
26 For example, Defendants requested that Plaintiff Jimenez drive his own personal vehicle to
27 make small nearby deliveries to avoid additional wear and tear on the company vehicles.
28 Additionally, during the relevant time period, Defendants had a company-wide policy and/or

1 practice of requiring employees to travel in their own personal vehicles to designated medical
2 facilities to undergo random mandatory drug testing, but did not reimburse them for their
3 travel expenses, including mileage. At all times, Defendants were in control of scheduling the
4 date and time for the drug testing, selecting the provider or facility where the drug tests were
5 to take place, and determining the scope of the drug testing. For example, Plaintiff Jimenez
6 drove his personal vehicle to undergo a mandatory drug test per Defendants' instructions, but
7 was not reimbursed for his mileage to and from the medical facility. Although Defendants
8 required Plaintiff Jimenez and class members to use their own personal vehicles to complete
9 their work-related duties, Defendants did not reimburse them for their travel expenses.

10 148. Third, during the relevant time period, Defendants required Plaintiffs and class
11 members to purchase tools, supplies and safety equipment necessary for the performance of
12 their duties, but failed to reimburse them for their out-of-pocket costs. For example, Plaintiff
13 Jimenez was required to purchase a flashlight which he needed to perform company vehicle
14 inspections. In addition, Plaintiffs and class members were required to purchase special safety
15 shoes, such as steel-toed boots, which they were required to wear while at work, but they were
16 not reimbursed for these costs. Although Defendants required Plaintiffs and class members to
17 purchase tools, supplies and safety equipment to carry out their work-related responsibilities,
18 Defendants failed to reimburse them for their out-of-pocket costs.

19 149. Defendants could have provided Plaintiffs and class members with the actual
20 equipment for use on the job, such as company mobile devices; company vehicles; and/or
21 tools, supplies and safety equipment. Or, Defendants could have reimbursed employees for
22 the costs of their mobile device usage; travel expenses; mileage; and/or tool, supply, and
23 safety equipment purchases. Instead, Defendants passed these operating costs off onto
24 Plaintiffs and class members.

25 150. Defendants' company-wide policy and/or practice of passing on their operating
26 costs to Plaintiffs and class members violates California Labor Code section 2802. Defendants
27 have intentionally and willfully failed to reimburse Plaintiffs and class members for necessary
28 business-related expenses and costs.

151. Plaintiffs and class members are entitled to recover from Defendants their business-related expenses incurred during the course and scope of their employment, plus interest.

TENTH CAUSE OF ACTION

For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.*
(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against All Defendants)

152. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

153. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 246, 516, 1182.12, and 2810.5.

154. Defendants’ conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiffs and other aggrieved employees with all required overtime pay, as alleged herein;
- (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants’ failure to include all forms of remuneration in the “regular rate” of pay as required by law for purposes of paying overtime wages and/or meal, rest, and recovery period premiums, to Plaintiffs and other aggrieved employees, as alleged herein;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order for Defendants’ failure to

1 compensate Plaintiffs and other aggrieved employees with at least
2 minimum wages for all hours worked, as alleged herein;

3 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
4 applicable IWC Wage Order for Defendants' failure to provide
5 Plaintiffs and other aggrieved employees with meal periods, as alleged
6 herein;

7 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
8 applicable IWC Wage Order for Defendants' failure to authorize and
9 permit Plaintiffs and other aggrieved employees to take rest periods, as
10 alleged herein;

11 (f) Violation of Labor Code sections 226.7, 516, and 1198, and the
12 applicable General Industry Safety Order, for failure to provide heat
13 recovery periods to Plaintiffs and other aggrieved employees, as alleged
14 herein;

15 (g) Violation of Labor Code sections 226(a) and 1198, and the applicable
16 IWC Wage Order for failure to provide accurate and complete wage
17 statements to Plaintiffs and other aggrieved employees, as alleged
18 herein;

19 (h) Violation of Labor Code sections 1174(d) and 1198, and the applicable
20 IWC Wage Order for failure to maintain payroll records, as alleged
21 herein;

22 (i) Violation of Labor Code sections 201 and 202 for failure to pay all
23 earned wages upon termination, as alleged herein;

24 (j) Violation of Labor Code section 204 for failure to pay all earned wages
25 during employment, as alleged herein;

26 (k) Violation of Labor Code section 246 for failure to provide all sick leave
27 benefits, including failing to properly calculate the sick leave rate paid
28 to Plaintiffs and other aggrieved employees, as set forth below;

1 (l) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs
2 and other aggrieved employees for all business expenses necessarily
3 incurred, as alleged herein; and

4 (m) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
5 provide written notice of information material to Plaintiffs' and other
6 aggrieved employees' employment with Defendants, as set forth below.

7 155. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
8 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
9 days from the commencement of employment with paid sick days, to be accrued at least one
10 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
11 employers must provide no less than 24 hours or three (3) days of paid sick leave (or
12 equivalent paid leave or paid time off) in each year of the employee's employment. Further,
13 Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using
14 one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in
15 the same manner as the regular rate of pay for the workweek in which the employee uses paid
16 sick time, whether or not the employee actually works overtime in that workweek[;]" or 2)
17 "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's
18 total wages, not including overtime premium pay, by the employee's total hours worked in the
19 full pay periods of the prior 90 days of employment."

20 156. During the relevant time period, Defendants did not provide Plaintiffs and
21 aggrieved employees with all sick leave benefits, including by failing to pay them the correct
22 sick leave rates of pay. In addition to an hourly wage, Defendants paid Plaintiffs and other
23 aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of
24 remuneration. However, in violation of the California Labor Code, Defendants failed to
25 incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into
26 the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate.
27 Therefore, during times when Plaintiffs and other aggrieved employees took sick leave and
28 received these other forms of pay, Defendants failed to pay all sick leave benefits by paying a

1 lower sick leave pay rate than required. Specifically, Defendants paid Plaintiffs and other
2 aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate
3 of pay.

4 157. Defendants' failure to properly calculate the sick leave rates of pay based on all
5 remuneration paid has resulted in an underpayment of sick leave benefits to Plaintiffs and
6 other aggrieved employees on a company-wide basis in violation of Labor Code section
7 246(l). Plaintiffs and other aggrieved employees are entitled to recover civil penalties
8 pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

9 158. At all relevant times herein, California's Wage Theft Prevention Act was
10 enacted to ensure that employers provide employees with basic information material to their
11 employment relationship at the time of hiring, and to ensure that employees are given written
12 and timely notice of any changes to basic information material to their employment. Codified
13 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
14 time of hiring, an employer must provide written notice to employees containing basic and
15 material payroll information, including, among other things, the rate(s) of pay and basis
16 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
17 including any rates for overtime, the regular payday designated by the employer, and any
18 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
19 Code § 2810.5(a)(1)(A)-(C).

20 159. At all relevant times, on information and belief, Defendants failed, on a
21 company-wide basis, to provide written notice to Plaintiffs and other aggrieved employees
22 that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
23 Defendants' failure to provide Plaintiffs and other aggrieved employees with written notice of
24 basic information regarding their employment with Defendants is in violation of Labor Code
25 section 2810.5. Plaintiffs and other aggrieved employees are therefore entitled to recover civil
26 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

27 **ELEVENTH CAUSE OF ACTION**

28 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

Unlawful Business Practices
(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against
All Defendants)

160. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

161. Defendants are “persons” as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

162. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injury in fact and have lost money as a result of Defendants’ unlawful business practices. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

163. Defendants’ activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

164. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants’ policies and practices have violated state law in at least the following respects:

- (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198 and the applicable IWC Wage Order, as alleged herein;
- (b) Failing to include all forms of remuneration in the “regular rate” of pay as required by law for purposes of paying overtime wages and/or meal, rest, and recovery period premiums to Plaintiffs and class members, in violation of California Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order, as alleged herein;

- 1 (c) Failing to pay at least minimum wage to Plaintiffs and class members in
2 violation of California Labor Code sections 1182.12, 1194, 1197,
3 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
4 herein;
- 5 (d) Failing to provide uninterrupted meal periods to Plaintiffs and class
6 members in violation of California Labor Code sections 226.7, 512(a),
7 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- 8 (e) Failing to authorize and permit Plaintiffs and class members to take
9 uninterrupted rest periods in violation of California Labor Code sections
10 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged
11 herein;
- 12 (f) Failing to provide recovery periods to Plaintiffs and class members in
13 violation of California Labor Code sections 226.7, 516, and 1198, and the
14 applicable General Industry Safety Order, as alleged herein;
- 15 (g) Failing to provide Plaintiffs and class members with accurate wage
16 statements and failing to maintain accurate payroll records in violation
17 of California Labor Code sections 226(a), 1174(d), and 1198, and the
18 applicable IWC Wage Order, as alleged herein;
- 19 (h) Failing timely to pay all earned wages to Plaintiffs and class members in
20 violation of California Labor Code section 204, as alleged herein;
- 21 (i) Failing to properly calculate the sick leave paid to Plaintiffs and class
22 members in violation of Labor Code section 246(l), as set forth below;
- 23 (j) Failing to reimburse Plaintiffs and class members for all business
24 expenses necessarily incurred in violation of California Labor Code
25 section 2802, as alleged herein; and
- 26 (k) Failing to provide written notice of information material to Plaintiffs'
27 and class members' employment with Defendants in violation of
28 California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

1 165. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
2 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
3 days from the commencement of employment with paid sick days, to be accrued at least one
4 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
5 employers must provide no less than 24 hours or three (3) days of paid sick leave (or
6 equivalent paid leave or paid time off) in each year of the employee's employment. Further,
7 Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using
8 one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in
9 the same manner as the regular rate of pay for the workweek in which the employee uses paid
10 sick time, whether or not the employee actually works overtime in that workweek[;]" or 2)
11 "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's
12 total wages, not including overtime premium pay, by the employee's total hours worked in the
13 full pay periods of the prior 90 days of employment."

14 166. During the relevant time period, on information and belief, Defendants did not
15 pay Plaintiffs and class members the correct sick leave rates of pay. In addition to an hourly
16 wage, Defendants paid Plaintiffs and class members incentive pay, nondiscretionary bonuses,
17 and/or other forms of remuneration. However, in violation of the California Labor Code,
18 Defendants failed to incorporate all remunerations, including incentive pay and/or
19 nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of
20 calculating the sick leave pay rate. Therefore, during times when Plaintiffs and class members
21 took sick leave and received these other forms of pay, Defendants failed to pay all sick leave
22 benefits by paying a lower sick leave rate than required. Specifically, Defendants paid
23 Plaintiffs and class members sick leave based on their hourly rate of pay instead of their
24 regular rate of pay.

25 167. Defendants' failure to properly calculate the sick leave rates of pay based on all
26 remuneration paid has resulted in an underpayment of sick leave benefits to Plaintiffs and
27 class members on a company-wide basis in violation of Labor Code section 246(l).

28 168. At all relevant times herein, California's Wage Theft Prevention Act was

1 enacted to ensure that employers provide employees with basic information material to their
2 employment relationship at the time of hiring, and to ensure that employees are given written
3 and timely notice of any changes to basic information material to their employment. Codified
4 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
5 time of hiring, an employer must provide written notice to employees containing basic and
6 material payroll information, including, among other things, the rate(s) of pay and basis
7 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
8 including any rates for overtime, the regular payday designated by the employer, and any
9 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
10 Code § 2810.5(a)(1)(A)-(C).

11 169. At all relevant times, on information and belief, Defendants failed, on a
12 company-wide basis, to provide written notice to Plaintiffs and class members that lists the
13 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
14 to provide Plaintiffs and class members with written notice of basic information regarding
15 their employment with Defendants is in violation of California Labor Code section 2810.5.

16 170. As a result of the violations of California law herein described, Defendants
17 unlawfully gained an unfair advantage over other businesses. Plaintiffs and class members
18 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
19 herein.

20 171. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
21 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
22 Defendants during a period that commences four years prior to the filing of this complaint; a
23 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
24 class members; and an award of attorneys' fees pursuant to California Code of Civil
25 Procedure section 1021.5 and other applicable laws; and an award of costs.

26 **TWELFTH CAUSE OF ACTION**

27 **Violation of California Business & Professions Code §§ 17200, *et seq.* –** 28 **Unfair Business Practices**

**(Brought by Plaintiffs Jimenez, Pinzon, Munoz, Guazon, Lainez, and Magdaleno Against
All Defendants)**

172. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

173. Defendants are “persons” as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

174. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

175. Defendants’ activities, namely Defendants’ company-wide practice and/or policy of not paying Plaintiffs and class members meal, rest, recovery period premiums due to them under Labor Code section 226.7, deprived Plaintiffs and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiffs and class members as part of their employment with Defendants, and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

176. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants’ policies and practices have violated the spirit of California’s meal and rest period laws and constitute acts against the public policy behind these laws.

177. Pursuant to California Business & Professions Code sections 17200, *et seq.*,

1 Plaintiffs and class members are entitled to restitution for the class-wide loss of the statutory
2 benefits implemented by section 226.7 withheld and retained by Defendants during a period
3 that commences four years prior to the filing of this complaint; a permanent injunction
4 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
5 Plaintiffs and class members; an award of attorneys' fees pursuant to California Code of Civil
6 Procedure section 1021.5 and other applicable laws; and an award of costs.

7 **REQUEST FOR JURY TRIAL**

8 Plaintiffs request a trial by jury.

9 **PRAYER FOR RELIEF**

10 Plaintiffs, on behalf of all others similarly situated, pray for relief and judgment
11 against Defendants, jointly and severally, as follows:

12 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
13 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiffs
14 reserve the right to amend their prayer for relief to seek a different amount.

15 **Class Certification**

- 16 2. That this case be certified as a class action;
17 3. That Plaintiffs be appointed as the representatives of the Class;
18 4. That counsel for Plaintiffs be appointed as class counsel.

19 **As to the First Cause of Action**

20 5. That the Court declare, adjudge, and decree that Defendants violated California
21 Labor Code sections 510 and 1198, and the applicable IWC Wage Order by willfully failing to
22 pay all overtime wages due to Plaintiffs and class members;

23 6. For general unpaid wages at overtime wage rates and such general and special
24 damages as may be appropriate;

25 7. For pre-judgment interest on any unpaid overtime compensation commencing
26 from the date such amounts were due, or as otherwise provided by law;

27 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
28 California Labor Code section 1194(a); and

1 9. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 **As to the Second Cause of Action**

4 10. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage
6 Order by willfully failing to pay minimum wages to Plaintiffs and class members;

7 11. For general unpaid wages and such general and special damages as may be
8 appropriate;

9 12. For pre-judgment interest on any unpaid compensation from the date such
10 amounts were due, or as otherwise provided by law;

11 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
12 California Labor Code section 1194(a);

13 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

14 15. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Third Cause of Action**

17 16. That the Court declare, adjudge, and decree that Defendants violated California
18 Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by
19 willfully failing to provide all meal periods to Plaintiffs and class members;

20 17. That the Court make an award to the Plaintiffs and class members of one (1)
21 hour of pay at each employee's regular rate of pay for each workday that a meal period was
22 not provided;

23 18. For all actual, consequential, and incidental losses and damages, according to
24 proof;

25 19. For premiums pursuant to California Labor Code section 226.7(c);

26 20. For pre-judgment interest on any unpaid meal period premiums from the date
27 such amounts were due, or as otherwise provided by law;

28 21. For attorneys' fees pursuant to California Code of Civil Procedure section

1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully failing to authorize and permit Plaintiffs and class members to take all rest periods;

24. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

25. For all actual, consequential, and incidental losses and damages, according to proof;

26. For premiums pursuant to California Labor Code section 226.7(c);

27. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

28. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

29. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198 and the applicable General Industry Safety Order by willfully failing to provide all recovery periods to Plaintiffs and class members;

31. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a recovery period was not provided;

32. For all actual, consequential, and incidental losses and damages, according to proof;

33. For premiums pursuant to California Labor Code section 226.7(c);

34. For pre-judgment interest on any unpaid recovery period premiums from the date such amounts were due, or as otherwise provided by law;

35. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

36. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

37. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiffs and class members, and willfully failed to provide accurate itemized wage statements thereto;

38. For all actual, consequential, and incidental losses and damages, according to proof;

39. For injunctive relief pursuant to California Labor Code section 226(h);

40. For statutory penalties pursuant to California Labor Code section 226(e);

41. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

42. For such other and further relief as the Court may deem equitable and appropriate.

As to the Seventh Cause of Action

43. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages; minimum wages; meal, rest, and recovery period premiums; and/or sick leave pay owed at the time of termination of the employment of Plaintiffs and other terminated class members;

44. For all actual, consequential and incidental losses and damages, according to proof;

45. For waiting time penalties according to proof pursuant to California Labor

Code section 203 for all employees who have left Defendants' employ;

46. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

47. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

48. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

49. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiffs and class members overtime wages; minimum wages; meal, rest, and recovery period premiums; and/or sick leave pay during their employment;

50. For all actual, consequential and incidental losses and damages, according to proof;

51. For statutory penalties according to proof pursuant to California Labor Code section 210;

52. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

53. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

54. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

55. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiffs and class members;

56. For unpaid business-related expenses and such general and special damages as may be appropriate;

1 57. For pre-judgment interest on any unpaid business-related expenses from the
2 date such amounts were due, or as otherwise provided by law;

3 58. For all actual, consequential, and incidental losses and damages, according to
4 proof;

5 59. For attorneys' fees and costs pursuant to California Labor Code section
6 2802(c), or as otherwise provided by law; and

7 60. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 **As to the Tenth Cause of Action**

10 61. That the Court declare, adjudge and decree that Defendants violated the
11 following California Labor Code provisions as to Plaintiffs and/or other aggrieved employees:
12 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
13 to include all forms of remuneration in the "regular rate" of pay for purposes of paying
14 overtime wages and/or meal, rest, and recovery period premiums); 1182.12, 1194, 1197,
15 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7,
16 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by
17 failing to authorize and permit all rest periods); 226.7, 516, and 1198 (by failing to provide
18 heat recovery periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
19 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
20 earned wages upon termination); 204 (by failing to timely pay all earned wages during
21 employment); 246 (by failing to properly calculate sick leave rates of pay); 2802 (by failing to
22 reimburse business expenses); and 2810.5 (by failing to provide written notice of material
23 terms of employment);

24 62. For civil penalties pursuant to the California Labor Code, including sections
25 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor
26 Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194,
27 1197, 1197.1, 1198, 2802, and 2810.5;

28 63. For attorneys' fees and costs pursuant to California Labor Code section

2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5; and

64. For pre-judgment and post-judgment interest as provided by law; and for such other and further relief as the Court may deem equitable and appropriate.

As to the Eleventh Cause of Action

65. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiffs and class members all overtime wages due to them, failing to include all forms of remuneration in the "regular rate" of pay for purposes of paying overtime wages and/or meal, rest, and recovery period premiums to Plaintiffs and class members, failing to provide Plaintiffs and class members all minimum wages due to them, failing to provide Plaintiffs and class members all meal periods, failing to authorize and permit Plaintiffs and class members to take all rest periods, failing to provide Plaintiffs and class members recovery periods, failing to provide Plaintiffs and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class members, failing to timely pay Plaintiffs and class members all earned wages during employment, failing to properly calculate Plaintiffs' and class members' sick leave, failing to reimburse Plaintiffs and class members for business-related expenses, and failing to provide notice of material terms of employment constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

66. For restitution of unpaid wages to Plaintiffs and all class members and prejudgment interest from the day such amounts were due and payable;

67. For the appointment of a receiver to receive, manage, and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

68. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

69. For such other and further relief as the Court may deem equitable and appropriate.

As to the Twelfth Cause of Action

70. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiffs and class members the statutory benefits guaranteed under section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

71. For restitution of the statutory benefits under section 226.7 unfairly withheld from Plaintiffs and class members and prejudgment interest from the day such amounts were due and payable;

72. For the appointment of a receiver to receive, manage, and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

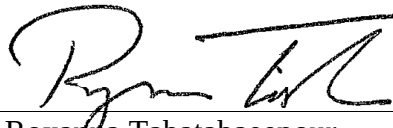
73. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

74. For pre-judgment and post-judgment interest as provided by law; and
For such other and further relief as the Court may deem equitable and appropriate.

Dated: August 1, 2024

Respectfully submitted,

Capstone Law APC

By: 

Roxanna Tabatabaeepour
Ryan Tish
Alexander Wallin

Attorneys for Plaintiffs Carlos Jimenez,
Juan Pinzon, Juan Munoz, Albert Guazon,
Ernesto Lainez and Michael Magdaleno

EXHIBIT “1”



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March 2, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Carlos Jimenez v. Roofline, Inc. dba Roofline Supply & Delivery, et al.*

Dear PAGA Administrator:

This office represents Carlos Jimenez in connection with his claims under the California Labor Code. Mr. Jimenez was an employee of ROOFLINE, INC. DBA ROOFLINE SUPPLY & DELIVERY; SRS DISTRIBUTION INC.; J. B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC.; and/or BUILDERS SUPPLY LOGISTICS, INC. For the purpose of this letter, Mr. Jimenez collectively refers to these entities as "SRS."

The employers may be contacted directly at the addresses below:

ROOFLINE, INC. DBA
ROOFLINE SUPPLY & DELIVERY
7440 S STATE HIGHWAY 121
MCKINNEY, TX 75070

SRS DISTRIBUTION INC.
7440 S. STATE HIGHWAY 121
MCKINNEY, TX 75070

J. B. WHOLESALE ROOFING AND BUILDING
SUPPLIES, INC.
7440 STATE HIGHWAY 121
MCKINNEY, TX 75070

BUILDERS SUPPLY LOGISTICS, INC.
7440 STATE HIGHWAY 121
MCKINNEY, TX 75070

Mr. Jimenez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Jimenez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by SRS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

SRS employed Mr. Jimenez as an hourly paid, non-exempt Driver from approximately February 2019 to June 2022. During his employment, Mr. Jimenez typically worked nine (9) to ten (10) hours

per day and five (5) days per week. Mr. Jimenez was compensated approximately \$27.22 per hour. His job duties included, without limitation, loading trucks with roofing materials, driving and delivering materials to residential and commercial sites, and unloading materials at customers' premises.

SRS committed one or more of the following Labor Code violations against Mr. Jimenez, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

SRS's Company-Wide and Uniform Payroll and HR Practices

ROOFLINE, INC. dba ROOFLINE SUPPLY & DELIVERY is an Oregon corporation; SRS DISTRIBUTION INC. and BUILDERS SUPPLY LOGISTICS, INC. are Delaware corporations; and J. B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC. is a California corporation. Together, they are a leading distributor of roofing materials and building products in the United States. Upon information and belief, SRS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in McKinney, Texas, for all non-exempt, hourly paid employees working for SRS in California, including Mr. Jimenez and other aggrieved employees. At all relevant times, SRS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Jimenez and other aggrieved employees, regardless of their location or position.

Upon information and belief, SRS maintains a centralized Payroll department at its corporate headquarters in McKinney, Texas, which processes payroll for all non-exempt, hourly paid employees working for SRS in California, including Mr. Jimenez and other aggrieved employees. Further, SRS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Jimenez and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, SRS utilized the same methods and formulas when calculating wages due to Mr. Jimenez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration

¹ These facts, theories, and claims are based on Mr. Jimenez's experience and counsel's review of those records currently available relating to Mr. Jimenez's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Jimenez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

SRS willfully failed to pay all overtime wages owed to Mr. Jimenez and other aggrieved employees. During the relevant time period, Mr. Jimenez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, SRS had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Jimenez and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. Because SRS discouraged overtime accrual by, among other things, altering and/or falsifying timesheets, Mr. Jimenez and other aggrieved employees were required to complete assigned tasks outside of their scheduled shifts without being compensated for the time they worked. For example, before nearly every shift Mr. Jimenez was required to spend up to 10 minutes per instance preparing his company vehicle for the day before SRS permitted him to clock in for his shift. Further, at the end of each shift and per company policy, Mr. Jimenez was required to spend 15 minutes inspecting the company vehicle after he clocked out. Mr. Jimenez and other aggrieved employees attempted to record this time spent working, but, on information and belief, SRS's management would subsequently alter their timesheets and shave off time spent preparing the vehicles for the day and/or inspecting the vehicles at the end of the shifts to avoid payment of additional wages to Mr. Jimenez and other aggrieved employees.

Second, SRS had, and continues to have, a company-wide security policy of allowing only certain employees to carry keys to SRS's yard. Specifically, only managerial employees and drivers were issued keys to access the yard at any given time. In adherence with this policy, Mr. Jimenez and other aggrieved employees had to wait for other employees to complete their duties before they could leave SRS's premises together, as employees without a key had no means of locking the gate. For example, Mr. Jimenez would often be the last driver to leave the premises, causing him to have to wait up to 30 minutes after clocking out until other employees had completed their tasks so he could lock up the yard before leaving for the day. Similarly, and in adherence with this policy, other aggrieved employees had to wait up to 30 minutes for a managerial employee or a driver to arrive at SRS's premises and unlock the gate in the mornings before they could clock in for their shifts. As a result, Mr. Jimenez and other aggrieved employees were subject to SRS's control before they had clocked in or after they had clocked out for their shifts, but were not compensated for this time.

Third, SRS had, and continues to have, company-wide policies and/or practices of understaffing and assigning heavy workloads, which resulted in a lack of meal period coverage and prevented Mr. Jimenez and other aggrieved employees from taking all uninterrupted meal periods to which they were entitled. SRS also had a practice of failing to schedule meal periods, which further caused Mr. Jimenez and other aggrieved employees to not be relieved of their duties for compliant meal periods. In conjunction with these policies and/or practices, SRS has, systematically, and on a company-wide basis, scheduled and dispatched their employees to complete time-sensitive jobs, which included traveling to various locations, unloading roofing materials, and communicating with customers, without building in sufficient time to allow for 30-minute meal periods, which further prevented Mr. Jimenez and other aggrieved employees from taking all uninterrupted 30-minute meal periods, and forced them to work off-the-clock during their meal periods to complete their assigned routes. Because there were too few employees assigned to job sites to handle the workload and unload

roofing materials, completing the jobs could take longer than the time SRS allotted for them, such that Mr. Jimenez and other aggrieved employees were unable to take compliant meal periods. In addition to varying job durations, travel time between job sites could take longer than anticipated due to traffic conditions, which further impeded Mr. Jimenez and other aggrieved employees from taking compliant meal periods. And, upon information and belief, SRS had no mechanism in place to permit Mr. Jimenez and other aggrieved employees to take meal periods when the schedule was thrown off because one or more of their jobs took longer than the scheduled time, or if travel time between job sites was extended by traffic conditions.

Furthermore, on information and belief, because SRS frowned upon employees accruing meal period penalties, SRS's management pressured Mr. Jimenez and other aggrieved employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit the meal penalties that would need to be paid by SRS. Thus, SRS did not record all hours worked during meal periods, and Mr. Jimenez and other aggrieved employees performed work during meal periods for which they were not paid.

SRS knew or should have known that as a result of these company-wide practices and/or policies, Mr. Jimenez and other aggrieved employees were working off-the-clock before and after their shifts and during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Jimenez and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Further, SRS did not pay Mr. Jimenez and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, SRS paid Mr. Jimenez and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SRS failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Mr. Jimenez and other aggrieved employees worked overtime and received these other forms of pay, SRS failed to pay all overtime wages by paying a lower overtime rate than required.

For example, SRS paid Mr. Jimenez and other aggrieved employees nondiscretionary bonuses and/or incentive pay. These bonus and incentive payments were listed on Mr. Jimenez's and other aggrieved employees' wage statements as "Driver Bonus Program," "Spot Bonus," and "Inflation Supp Pay." During pay periods that Mr. Jimenez and other aggrieved employees were paid overtime wages, SRS failed to incorporate bonus pay into Mr. Jimenez's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, SRS paid Mr. Jimenez and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. SRS's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Jimenez and other aggrieved employees on a company-wide basis.

SRS's failure to pay Mr. Jimenez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Jimenez and other aggrieved employees are entitled to recover civil

penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

As set forth above, due to SRS's restrictions on overtime accrual, SRS systematically failed to pay Mr. Jimenez and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. Because SRS discouraged and impeded Mr. Jimenez and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, Mr. Jimenez and other aggrieved employees were required to perform work off-the-clock prior to the start of their shifts and/or after their shifts, including preparing the company vehicle for the day, inspecting the vehicle at the end of each day, waiting for other employees to complete their duties to lock the gate, and/or waiting for a managerial employee to arrive and unlock the gate in the morning. As also stated, on information and belief, SRS had, and continues to have, a company-wide policy of adjusting or shaving down Mr. Jimenez's and other aggrieved employees' hourly clock-in and clock-out times in its timekeeping system, further resulting in the failure to pay Mr. Jimenez and other aggrieved employees minimum wages for all hours actually worked.

Further, as also stated above, due to SRS's policies and/or practices of understaffing, assigning heavy workloads while allowing insufficient time to complete assigned jobs, and failing to schedule meal periods, Mr. Jimenez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods. Moreover, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, SRS's management pressured employees to clock out for meal periods and/or altered timesheets even when meal periods were missed, short, and/or interrupted. Thus, SRS systematically failed to pay Mr. Jimenez and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, SRS did not pay at least minimum wages for all hours worked by Mr. Jimenez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, SRS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, SRS regularly failed to pay at least minimum wages to Mr. Jimenez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, as stated, SRS had, and continues to have, a company-wide policy and/or practice of understaffing, assigning heavy workloads, and scheduling time-sensitive jobs while allowing insufficient time for the employees to actually complete the jobs, which resulted in a lack of meal period coverage and prevented Mr. Jimenez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, SRS's company-wide practice of failing to schedule meal periods exacerbated the lack of meal period coverage and further caused Mr. Jimenez and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Jimenez and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had to forgo their meal periods altogether. For example, because of SRS's policy and/or practice of understaffing and assigning heavy workloads, Mr. Jimenez sometimes had to forgo his meal periods; on the days Mr. Jimenez was able to take his meal periods, he took his meal periods late, after the end of his fifth hour of work. Moreover, Mr. Jimenez's meal periods were occasionally cut short by his supervisors asking him to return to work and continue making timely deliveries.

Second, as set forth above, because SRS frowned upon employees accruing meal period penalties, SRS's management pressured employees to clock out for meal periods and/or altered timesheets to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit the meal penalties that would need to be paid by SRS.

Third, SRS did not provide Mr. Jimenez and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During their employment, Mr. Jimenez and other aggrieved employees worked shifts in excess of ten (10) or more hours per day but were not provided a second 30-minute meal period. Mr. Jimenez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, SRS knew or should have known that, as a result of these policies, Mr. Jimenez and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. SRS further knew or should have known that SRS did not pay Mr. Jimenez and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, or missed.

Moreover, SRS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Jimenez and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that SRS did pay Mr. Jimenez and other aggrieved employees premium pay for missed, late, and interrupted meal periods, SRS did not pay Mr. Jimenez and other aggrieved employees at the correct rate of pay for premiums because SRS systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a result, SRS failed to provide Mr. Jimenez and other aggrieved employees compliant meal periods in violation of California Labor Code sections 226.7, 512, and 516 and failed to pay the full meal period premiums due.

Accordingly, SRS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, SRS regularly failed to authorize and permit Mr. Jimenez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, SRS's company-wide practices, including understaffing, assigning heavy workloads, and scheduling time-sensitive jobs, prevented Mr. Jimenez and other aggrieved employees from being relieved of all duty to take rest periods. Additionally,

SRS failed to schedule rest periods, which further led to Mr. Jimenez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, SRS maintained and implemented a company-wide on-premises rest period policy, which effectively required that Mr. Jimenez and/or other aggrieved employees remain on the premises during their rest periods. Because Mr. Jimenez and/or other aggrieved employees were restricted from leaving SRS's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as completing personal errands. Thus, SRS effectively maintained control over Mr. Jimenez and/or other aggrieved employees during rest periods.

As a result of SRS's practices and policies, Mr. Jimenez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Jimenez had to forego his rest periods because of the heavy workload and SRS's failure to schedule rest periods for employees.

SRS has also engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Jimenez and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that SRS did pay Mr. Jimenez and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, SRS did not pay Mr. Jimenez and other aggrieved employees at the correct rate of pay for premiums because SRS failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, SRS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 & California Code of Regulations Title 8, Section 3395 – Failure to Provide Heat Recovery Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide recovery periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest or recovery period is not provided. California Labor Code section 226.7(a) defines "recovery period" to mean a cooldown period afforded an employee to prevent heat illness. California Labor Code section 226.7 provides that no employer shall require an employee to work during any recovery period mandated by an applicable order of the California IWC, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health. The applicable General Industry Safety ("GIS") Order provides that "[w]hen the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling." Cal. Code of Reg., Title 8, § 3395(d)(1). Furthermore, "[t]he amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other." *Id.* "Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel the need to

do so to protect themselves from overheating. Such access to shade shall be permitted at all times.”
Id.

During the relevant time period, SRS violated California Labor Code section 226.7 and California Code of Regulations, Title 8, section (d), because SRS failed to provide Mr. Jimenez and other aggrieved employees with recovery periods. For example, Mr. Jimenez and other aggrieved employees were not provided shaded areas for recovery while working even though the majority of their work was performed outside and under the sun.

SRS also has engaged in a company-wide practice and/or policy of not paying all recovery period premiums owed when compliant recovery periods are not provided. Because of this practice and/or policy, Mr. Jimenez and other aggrieved employees have not received premium pay for all missed recovery periods. Alternatively, to the extent that SRS did pay Mr. Jimenez and other aggrieved employees for missed recovery periods, SRS did not pay Mr. Jimenez and other aggrieved employees at the correct rate of pay, because SRS systematically failed to include all compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, SRS failed to provide all recovery periods in violation of California Labor Code sections 226.7, 516, and 1198, and California Code of Regulations, Title 8, section 3395. Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. SRS has not provided Mr. Jimenez and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, SRS has knowingly and intentionally provided Mr. Jimenez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, SRS issued uniform wage statements to Mr. Jimenez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages; meal, rest, and recovery period premiums; and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, SRS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because SRS did not record the time Mr. Jimenez and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), SRS did not list the correct amount of

gross wages and net wages earned by Mr. Jimenez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, SRS failed to accurately list the total number of hours worked by Mr. Jimenez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

Additionally, because SRS did not calculate Mr. Jimenez's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages; meal, rest, and recovery period premiums; and/or paid sick leave, SRS did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, SRS failed to list the correct amount of net wages in violation of section 226(a)(5). SRS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages; meal, rest, and recovery period premiums; and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." At all relevant times, and in violation of Labor Code section 1174(d), SRS willfully failed to maintain accurate payroll records for Mr. Jimenez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, SRS engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Jimenez and other aggrieved employees, in violation of section 1198. Furthermore, in light of SRS's failure to provide Mr. Jimenez and other aggrieved employees with second 30-minute meal periods to which they were entitled, SRS kept no records of meal start and end times for second meal periods.

Because SRS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Jimenez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Jimenez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, SRS willfully failed to pay Mr. Jimenez and other aggrieved employees all wages due including, but not limited to, overtime wages; minimum wages; meal, rest, and recovery period premiums; and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (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.

SRS willfully failed to pay Mr. Jimenez and other aggrieved employees who are no longer employed by SRS the earned and unpaid wages set forth above, including but not limited to, overtime wages; minimum wages; meal, rest, and recovery period premiums; and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving SRS's employ.

Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Unpaid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, SRS did not pay Mr. Jimenez and other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, SRS paid Mr. Jimenez and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SRS failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when Mr. Jimenez and other aggrieved employees took sick leave and received these other forms of pay, SRS failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, SRS paid Mr. Jimenez and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

SRS's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Mr. Jimenez and other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l). Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

First, during the relevant time period, Mr. Jimenez and other aggrieved employees were required to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to

carry out their job duties, but SRS failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Jimenez was required to use his personal cellular phone to converse with his supervisors and dispatch about work-related matters. Further, Mr. Jimenez was required to download a “Workday” mobile application on his personal mobile device which he used to clock in and out for his meal periods and to view his paystubs and schedule. Additionally, Mr. Jimenez and other aggrieved employees were required to use their personal mobile devices to take photos of the materials once a delivery was complete as proof of proper delivery and handling. Although SRS required Mr. Jimenez and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, SRS failed to reimburse them for these costs.

Second, during the relevant time period, SRS, on a company-wide basis, required that Mr. Jimenez and other aggrieved employees utilize their own personal vehicles to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, SRS requested that Mr. Jimenez drive his own personal vehicle to make small nearby deliveries to avoid additional wear and tear on the company vehicles. Additionally, during the relevant time period, SRS had a company-wide policy and/or practice of requiring employees to travel in their own personal vehicles to designated medical facilities to undergo random mandatory drug testing, but did not reimburse them for their travel expenses, including mileage. At all times, SRS was in control of scheduling the date and time for the drug testing, selecting the provider or facility where the drug tests were to take place, and determining the scope of the drug testing. For example, Mr. Jimenez drove his personal vehicle to undergo a mandatory drug test per SRS’s instructions, but was not reimbursed for his mileage to and from the medical facility. Although SRS required Mr. Jimenez and other aggrieved employees to use their own personal vehicles to complete their work-related duties, SRS did not reimburse them for their travel expenses.

Third, during the relevant time period, SRS required Mr. Jimenez and other aggrieved employees to purchase tools, supplies and safety equipment necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. For example, Mr. Jimenez was required to purchase a flashlight which he needed to perform company vehicle inspections. In addition, Mr. Jimenez and other aggrieved employees were required to purchase special safety shoes, such as steel-toed boots, which they were required to wear while at work, but they were not reimbursed for these costs. Although SRS required Mr. Jimenez and other aggrieved employees to purchase tools, supplies and safety equipment to carry out their work-related responsibilities, SRS failed to reimburse them for their out-of-pocket costs.

SRS could have provided Mr. Jimenez and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices; company vehicles; and/or tools, supplies and safety equipment. Or, SRS could have reimbursed employees for the costs of their mobile device usage; travel expenses; mileage; and/or tool, supply, and safety equipment purchases. Instead, SRS passed these operating costs off onto Mr. Jimenez and other aggrieved employees.

Thus, SRS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Jimenez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

SRS failed to provide Mr. Jimenez and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). SRS's failure to provide Mr. Jimenez and other aggrieved employees with written notice of basic information regarding their employment with SRS is in violation of Labor Code section 2810.5.

Mr. Jimenez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." SRS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Jimenez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Jimenez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Jimenez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against SRS for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Jimenez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Ninel", is shown on a light-colored background.

Ninel Kocharyan

Copy: ROOFLINE INC. DBA ROOFLINE SUPPLY & DELIVERY (via U.S. Certified Mail); SRS DISTRIBUTION INC. (via U.S. Certified Mail); J. B. WHOLESALE ROOFING AND BUILDING SUPPLIES, INC. (via Certified Mail); BUILDERS SUPPLY LOGISTICS, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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MCKINNEY, TX 75070

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Restricted Delivery

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A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

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\$

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7440 S. STATE HIGHWAY 121
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7440 S. STATE HIGHWAY 121
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PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

1. Received by (Printed Name)

C. Date of Delivery

2. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Agent

☐ Adult Signature Restricted Delivery

☐ Address

☒ Certified Mail®

☐ Registered Mail™

☐ Certified Mail Restricted Delivery

☐ Signature Confirmation™

☐ Collect on Delivery Restricted Delivery

☐ Signature Confirmation Restricted Delivery

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Domestic Return Receipt

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1875 Century Park, East, 1000
Los Angeles, CA. 90067



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BUILDING SUPPLIES, INC.
7440 STATE HIGHWAY 121
MCKINNEY, TX 75070

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J. B. WHOLESALE ROOFING &
BUILDING SUPPLIES, INC.
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MCKINNEY, TX 75070

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A. Signature

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☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

4. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Restricted Delivery

☐ Priority Mail Express

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

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J. B. WHOLESALE ROOFING &
BUILDING SUPPLIES, INC.
7440 STATE HIGHWAY 121
MCKINNEY, TX 75070

Signature of Addressee

Postmark

Capstone Law, APC
1875 Century Park East, 1000
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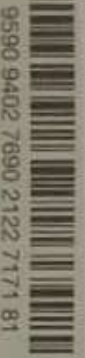
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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Received by (Printed Name)

☐ Agent
☐ Addressee

C. Date of Delivery

Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
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- ☒ Certified Mail
- ☐ Certified Mail Restricted Delivery
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- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation
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INC.
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THANE
RASH

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **August 1, 2024**, I served the document described as: **SECOND AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Carrie A. Gonell
Carrie.Gonell@morganlewis.com
Samuel S. Sadeghi
Sam.Sadeghi@morganlewis.com
Mayra Negrete
Mayra.Negrete@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
600 Anton Boulevard, Suite 1800
Costa Mesa, CA 92626
Telephone: 714-830-0600
Facsimile: 714-830-0700

Attorneys for Defendants:
ROOFLINE, INC. dba ROOFLINE SUPPLY
& DELIVERY
SRS DISTRIBUTION INC.
J. B. WHOLESALE ROOFING AND
BUILDING SUPPLIES, INC.
BUILDERS SUPPLY LOGISTICS, INC.

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

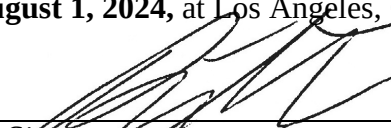
☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **August 1, 2024**, at Los Angeles, California.

Riley McIntire

Type/Print Name



Signature