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Superior Court of California,
County of San Diego

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

ADRIAN MORALES, an individual as
the State of California's designated
proxy under the Private Attorneys
General Act (PAGA) and on behalf of
others,

Plaintiffs,

vs.

LVMH FRAGRANCE BRANDS US
LLC, a Delaware corporation; and
DOES 1 through 50,
Defendants.

Case No.: 37-2023-00041397-CU-OE-
CTL

Judge: Hon. Kenneth J. Medel

**REPRESENTATIVE ACTION
FIRST AMENDED COMPLAINT
PURSUANT TO THE PAGA FOR:**

- 1. Failure to pay
minimum/regular wages;**
- 2. Failure to Pay State Overtime;**
- 3. Failure to Comply with Meal
Break Laws;**
- 4. Failure to Comply with Rest
Break Laws;**
- 5. Failure to Reimburse
Expenses;**
- 6. Failure to Provide Accurate
Wage Statements;**
- 7. Failure to Pay Wages Timely;**
- 8. Failure to Provide and
Maintain Records; and**
- 9. Violation of Various
Miscellaneous Provisions of the
Labor Code via the PAGA.**

Date Comp. Filed: Sep. 25, 2023

1 Plaintiff ADRIAN MORALES, in his capacity as the State of California's
2 designated proxy under the Private Attorneys General Act and on behalf of Aggrieved
3 Employees (collectively the "Plaintiffs"), alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is a representative action under the Private Attorneys General Act
6 (PAGA) of 2004, as amended, Labor Code §§ 2698, *et seq.*

7 2. By this action, Plaintiffs seek only civil penalties on behalf of Aggrieved
8 Employees for Defendants' violations of the California Labor Code. (*Adolph v. Uber*
9 *Technologies, Inc.* (2023) 14 Cal.5th 1104.)

10 **JURISDICTION AND VENUE**

11 3. Pursuant to Article VI, § 10 of the California Constitution, subject matter
12 jurisdiction is proper in the Superior Court of California, State of California because
13 Plaintiffs allege claims arising under California law.

14 4. This Court has jurisdiction over the Defendants because each is an
15 association, corporation, business entity, or individual that conducts substantial
16 business in the State of California.

17 5. Pursuant to § 395 of the California Code of Civil Procedure, venue is
18 proper in the Superior Court of California for the County of San Diego because
19 Defendant is a Delaware corporation doing business in California and which entity
20 does not report to the Secretary of State where it maintains its principal place of
21 business in California and Defendants conduct substantial business in the County of
22 San Diego regardless. (*Easton v. Superior Court* (1970) 12 Cal.App.3d 243, 246 [a
23 foreign corporation that has not designated a principal office within the state may be
24 sued in any county in the state].)

25 **THE PARTIES**

26 6. The State of California is the real party in interest in a PAGA action.
27 (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81 [the "government entity on
28 whose behalf the plaintiff files suit is always the real party in interest."].)

1 7. Plaintiff ADRIAN MORALES is an individual residing in California.

2 8. Defendant LVMH FRAGRANCE BRANDS US LLC is a Delaware
3 corporation doing business in California.

4 9. The true names and capacities, whether individual, corporate, associate or
5 otherwise of the Defendants named herein as DOES 1 through 50, are unknown to
6 Plaintiffs at this time. Plaintiffs therefore sues said Defendants by such fictitious names
7 pursuant to § 474 of the California Code of Civil Procedure. Plaintiffs will seek leave
8 to amend this Complaint to allege the true names and capacities of DOES 1 through 50
9 when their names are ascertained. Plaintiffs are informed and believe, and based
10 thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiffs
11 for the events and actions alleged herein.

12 10. Unless otherwise specified by name, the named Defendants and DOES 1
13 through 50 will be collectively referred to as "DEFENDANT EMPLOYER" and/or
14 "Defendants."

15 11. Plaintiffs are informed and believe, and based thereon allege, that each
16 Defendant was acting as an agent, joint venturer, an integrated enterprise and/or alter
17 ego for each of the other Defendants and each were co-conspirators with respect to the
18 acts and the wrongful conduct alleged herein so that each is responsible for the acts of
19 the other pursuant to the conspiracy and in proximate connection with the other
20 Defendant(s).

21 12. Plaintiffs are informed and believe, and based thereon allege, that each
22 Defendant was acting partly within and partly without the scope and course of their
23 employment, and was acting with the knowledge, permission, consent, and ratification
24 of every other Defendant.

25 13. Plaintiffs are informed and believe, and based thereon allege that each of
26 the Defendants was an agent, managing general partner, managing member, owner, co-
27 owner, partner, employee, and/or representative of each of the Defendants and was at
28 all times material hereto, acting within the purpose and scope of such agency,

1 employment, contract and/or representation, and that each of them is jointly and
2 severally liable to Plaintiffs.

3 14. Plaintiffs are informed and believe, and based thereon allege that each of
4 the Defendants is liable to Plaintiffs under legal theories and doctrines including but
5 not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter
6 ego, based in part, on the facts set forth below.

7 15. Plaintiffs are informed and believe, and based thereon allege, that each
8 of the named Defendants are part of an integrated enterprise and have acted or
9 currently act as the employer and/or joint employer of the Aggrieved Employees
10 making each of them liable for the wage and hour violations alleged herein.

11 16. Plaintiffs are informed and believe, and therefore allege, that one, more
12 than one, or each of the named Defendants are liable to the Plaintiffs under legal
13 theories and doctrines including but not limited to (1) the common law joint employer
14 doctrine and/or (2) Labor Code § 2810.3 because at least one of these named
15 Defendants worked as the central hub to an overall business operation by which the
16 interrelationship between these Defendants makes each of the Defendants liable for
17 the wage and hour violations alleged herein.

18 **GENERAL ALLEGATIONS**

19 17. Defendants are in the fragrance, cosmetic, and retail business.

20 18. Within the last 12 months of the date of this Complaint, Defendants
21 employed the named Plaintiff to work as a nonexempt employee.

22 19. The named Plaintiff is an “aggrieved employee” because Defendants
23 employed Plaintiff in California and Plaintiff experienced one or more of the alleged
24 Labor Code violations committed against the Plaintiff, and therefore the named
25 Plaintiff is properly suited to act on behalf the state, and collect civil penalties for all
26 violations committed against the Represented Employees, who are also aggrieved
27 employees as defined by Labor Code § 2699(c).

28 20. California law provides that an aggrieved employee may file a

1 representative action under the PAGA against an employer for civil penalties in
2 connection with violations of the Labor Code and Wage Order.

3 21. On information and belief, current and former employees of Defendants
4 suffered from Defendants' Labor Code violations.

5 **Failure to Provide Payroll Records and Plaintiff's Personnel File.**

6 22. On July 1, 2023, Plaintiff, via counsel, sent a letter to DEFENDANT
7 EMPLOYER requesting access to Plaintiff's payroll records and employee personnel
8 file.

9 23. Plaintiff received no response to the foregoing letter.

10 24. On August 22, 2023, Plaintiff, via counsel, sent virtually the same
11 correspondence sent on July 1, 2023 to DEFENDANT EMPLOYER.

12 25. On August 29, 2023, Plaintiff, via counsel, received a partial production
13 of Plaintiff's payroll records and employee personnel file.

14 26. Missing from the production are, among other things, Plaintiff's time
15 records, employee handbooks he signed for, consumer report disclosure forms (if
16 any), performance appraisals, and termination paperwork. *See Iljas v. Ripley Entm't*
17 *Inc.*, 403 F. Supp. 3d 793, **19-20 (N.D. Cal. 2019) (held summary judgement
18 granted to former plaintiff-employee for claims via LC 226 and 1198.5 for failure to
19 provide wage statements thus awarding penalties, fees, and costs); *Harper v. Charter*
20 *Communs., LLC*, 2021 U.S. Dist. LEXIS 28747, *61-62 (E.D. Cal. 2021) (court
21 denied defendant's MSJ where plaintiff-employee showed evidence that defendant-
22 employer failed to timely provide all wage statements, corrective action reports,
23 letters related to their termination, and commission plan documents and receipts in its
24 production); *County v. Cedars-Sinai Med. Ctr.*, 2020 Cal. Super. LEXIS 52468, *5
25 (court denied defendant's demurrer to plaintiff's LC 226 claim that defendant failed
26 to produce time records and employee handbooks).

27 27. To date, DEFENDANT EMPLOYER has failed to produce all of
28 Plaintiff's personnel file and payroll records.

Minimum Wage/Regular Wage/Overtime claims.

28. From at least one year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege, that Defendants failed to pay Aggrieved Employees all minimum/regular/local law wages as required by law.

29. The named Plaintiff and Aggrieved Employees normally started work from home, gathering equipment, supplies, product brochures, and other information Defendants mailed or otherwise supplied to its workers' homes, unpacking the foregoing materials and placing such materials into their cars to bring to a predetermined workplace for set-up and display.

30. The process of unpacking the materials Defendants sent to Aggrieved Employees and travelling to client locations sometimes took minutes or hours to perform and Defendants regularly and systematically, as a policy and practice, did not permit Aggrieved Employees to report this worktime and, thus, Defendants did not pay them for this labor in violation of California law.

31. During all times relevant, and pursuant to company policy and/or practice and/or direction, Defendants required Aggrieved Employees to drive their personal vehicles, but Defendants did not pay them for their travel time despite the requirement to pay them for travel time per California law.

32. In particular, Defendants via their managers, enforced a policy that prohibited Aggrieved Employees from writing down and/or reporting their time spent traveling to and from more than one retail establishment during the same workday regardless of how long it took to travel between jobsites.

33. During all times relevant, and pursuant to company policy and/or practice and/or direction, Defendants required Aggrieved Employees to work more than 40 hours per week and/or eight hours in a workday, and when Aggrieved Employees regularly worked off the clock by traveling in the same workday, they were required to not accurately record their time worked inasmuch as they were required to subtract all

1 their time spent traveling to more than one worksite in the same workday from their
2 timesheets.

3 34. Plaintiffs are informed and believe, and therefore allege, that Plaintiffs'
4 unpaid wage claims are also premised on many situations, the exact number which will
5 be proven at trial, where Aggrieved Employees' two distinct work periods during the
6 same workday were separated by more than a one-hour break during which time
7 Defendants regularly and systematically, as a policy and practice, failed to pay split-
8 shift pay for one hour of pay at no less than minimum wage for the time between the
9 shifts in violation of California law, including but not limited to § 4(C) of IWC Wage
10 Order 4.

11 35. This claim is also premised on Plaintiffs' right to pursue all Labor Code
12 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA,*
13 *Inc.* (2018) 23 Cal.App.5th 745.

14 **Meal and Rest Break Claims.**

15 36. From at least one year before the filing of this action and continuing to the
16 present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are
17 informed and believe and based thereupon allege that Defendants deprived Aggrieved
18 Employees and other nonexempt employees from taking lawful meal and rest periods
19 (i.e., untimely, short, or interrupted) and did not pay and refused to pay premium pay
20 to workers.

21 37. Based on Defendants' policies, Defendants prohibited its workers who
22 manned stations alone, normally at kiosks or similar retail stations, to leave their work
23 station due to Defendants' concerns over the theft of unmonitored property.

24 38. Aggrieved Employees' meal and rest breaks were interrupted for other
25 reasons, including but not limited to exigencies of the workplace, scheduling demands,
26 and holiday shoppers.

27 39. On those occasions, the exact amount to be proven at trial, Defendants
28 failed to pay all meal/rest break premiums to Aggrieved Employees.

40. This claim is premised on Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Failure to Reimburse.

41. From at least one year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe and based thereupon allege that Defendants failed to reimburse its Aggrieved Employees for work related expenses.

42. During all relevant times, and pursuant to company policy and/or practice and/or direction, Defendants required Aggrieved Employees to sometimes work from home as a condition of their employment and required Aggrieved Employees to use their personal computers, cell phones, home internet, and incur various other expenses associated with their work for the Defendants.

43. During all relevant times, and pursuant to company policy and/or practice and/or direction, Defendants also required Aggrieved Employees to have and maintain cell phones and internet service to communicate with Defendants.

44. Aggrieved Employees also stored Defendants' products that Defendants shipped to their home and/or Aggrieved Employees obtained at the workplace, many of which were in big parcels that occupied large spaces in Aggrieved Employees' homes, vehicle (e.g., closet, trunk of vehicle) or both.

45. When Aggrieved Employees drove their personal vehicles for work purposes, Defendants regularly and systematically, as a policy and practice, did not reimburse Aggrieved Employees for mileage and automobile expenses when required to do so per California law, e.g., when travelling from one work station to another and travelling from home to a work station and back home or in the case of leaving from home with company equipment (i.e., perfume and similar sundries Defendants shipped to their homes) to the first job assignment.

46. Aggrieved Employees worked at retail locations and businesses where

1 they had no access to work phones, other than their personal cell phones.

2 47. Defendants regularly and systematically, as a policy and practice, did not
3 did not reimburse Aggrieved Employees when they used their cell phones and/or
4 internet to record their hours worked and communicate with Defendants regarding their
5 jobs.

6 48. Defendants passed the cost of doing business onto its employees by
7 requiring, without reimbursement, Aggrieved Employees to purchase equipment, tools,
8 and services necessary to perform work for Defendants. *See Aguilar v. Zep, Inc.*, 2014
9 US Dist. LEXIS 120315, *54 (N.D. Cal. Aug. 27, 2014) (Hon. Edward Chen) (where
10 outside sales reps used home internet and computers for work, and even admitted that
11 they would have incurred the same expenses without work duties, the court
12 nevertheless held that the employer was obligated to reimburse some reasonable
13 portion of these expenses); *see also Ritchie v. Blue Shield of California*, 2014 WL
14 6982943, at *21 (N.D. Cal. Dec. 9, 2014) (Hon. Edward Chen) (certifying class of
15 home office claims processors with 2802 phone reimbursement claims for landline
16 reimbursements where company required claims processors working from home to
17 have a landline, but rejecting certification of claims for home office supplies as
18 individualized); *See Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137
19 (2014) ("We hold that when employees must use their personal cell phones for work-
20 related calls, Labor Code section 2802 requires the employer to reimburse them.
21 Whether the employees have cell phone plans with unlimited minutes or limited
22 minutes, the reimbursement owed is a reasonable percentage of their cell phone bills.")

23 49. Based on this misconduct, Plaintiffs and other Aggrieved Employees
24 suffered from unreimbursed expenses in violation of Labor Code §§ 2802 and 1198.

25 50. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor
26 Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
27 *USA, Inc.* (2018) 23 Cal.App.5th 745.

28

Erroneous Wage Statements in Violation of Labor Code § 226.

51. From at least one year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege that Defendants issued the named Plaintiff and other Aggrieved Employees erroneous wage and earning statements.

52. As a standalone claim, Plaintiffs are informed and believe Defendants issued confusing and inaccurate wage and earning statements.

53. In addition, Plaintiffs' paystubs and those of similarly situated employees of Defendants were inaccurate because Defendants failed to pay them all wages, as alleged above, supporting a derivative claim under Labor Code § 226.

54. The wage statements did not contain the correct number of hours worked, the correct number of hours of work at each rate of pay, and the correct gross and net wages, among other things.

55. For example, the gross and net wages earned, the number of hours worked and number of hours worked at each rate of pay were incorrect, as noted above, because Defendants did not pay Aggrieved Employees for all time spent driving between two or more client locations in the same workday, among other reasons.

56. This claim is also premised, in part, on Plaintiffs' right to pursue all Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

Facts Relating to Derivative Claims, such as Labor Code §§ 201.3, 203, 204, 204b, etc.

57. From at least one year before the filing of this action and continuing to the present, and pursuant to company policy and/or practice and/or direction, Plaintiffs are informed and believe, and therefore allege that Defendants paid Aggrieved Employees untimely in violation of California law.

58. For example, when Defendant terminated the named Plaintiff's employment, DEFENDANT EMPLOYER did not furnish the named Plaintiff's final

1 paycheck with all wages due and payable in violation of California law.

2 59. Plaintiffs are informed and believe and based thereon allege that, to date,
3 DEFENDANT EMPLOYER has not paid Aggrieved Employees' wages due and
4 payable, in an amount to be proven at trial.

5 60. Derivative claims also premised, in part, on Plaintiffs' right to pursue all
6 Labor Code claims on behalf of Aggrieved Employees per *Huff v. Securitas Security*
7 *Services USA, Inc.* (2018) 23 Cal.App.5th 745.

8 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

9 61. This is a wage and hour representative action filed pursuant to the
10 PAGA, Labor Code §§ 2698, 2699 generally consists of the following group:

11 **All persons Defendants employed in California from August**
12 **23, 2022 to the present.**

13 62. All members of the Aggrieved groups will be referred to as the
14 "Aggrieved Employees."

15 63. The "PAGA Period" means from **August 23, 2022** to the present, the
16 timeframe where the scope of statute allows Plaintiffs to recover wages and penalties.

17 64. California law provides that an employee may file an action against an
18 employer to recover penalties for violations of the Labor Code and Wage Orders
19 provided the aggrieved employee files an action on behalf of him or himself and
20 similarly-situated current and former employees.

21 65. At all material times, DEFENDANT EMPLOYER and DOES 1 through
22 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
23 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
24 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
25 Labor Code or any provision regulating hours and days of work in any Order of the
26 Industrial Welfare Commission and, as such, are subject to penalties for each
27 underpaid employee as set for in Labor Code § 558.

28 66. As set forth in further detail below, because of the analysis and

1 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent correspondence to the
2 California Labor and Workforce Development Agency (LWDA) and to DEFENDANT
3 EMPLOYER informing DEFENDANT EMPLOYER of their claims and their intent to
4 pursue litigation.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 67. As to penalty claims under the Labor Code Private Attorney General
7 Act, on or about **August 23, 2022**, Plaintiffs began to exhaust his/her administrative
8 remedies by sending correspondence to the LWDA (*see* LWDA Case No. LWDA-
9 CM-977199-23) and via certified mail to DEFENDANT EMPLOYER indicating
10 Plaintiffs are pursuing the claims alleged in this Complaint.

11 68. The statutory waiting period expired based on the date of the letter
12 alleged above and the LWDA did not serve Plaintiffs with notice of intent to assume
13 jurisdiction over the applicable penalty claims and did not provide notice as set forth
14 in Labor Code § 2699.3(a)(2)(A) within the statutory period.

15 69. Therefore, Plaintiffs have exhausted all applicable administrative
16 remedies and this amended complaint is proof thereof.

17 **FIRST CAUSE OF ACTION**

18 **Representative Claim under the PAGA for**
19 **Failure to Pay State/Local Minimum/Regular Wages in Violation of**
20 **California Labor Code §§ 216, 218, 218.5, 223, 1182.12, 1194,**
21 **1194.2, 1197, 1198, and the applicable**
22 **Industrial Welfare Commission ("IWC") Wage Order**
23 **(Against all Defendants)**

24 70. Plaintiffs re-allege and incorporate by reference the foregoing allegations
25 as though set forth herein.

26 71. Pursuant to Labor Code §§ 216, 223, 218, 218.5, 1182.12, 1194, 1194.2,
27 and 1197 it is unlawful for a California employer to suffer or permit an employee to
28 work without paying wages for all hours worked, as required by the applicable IWC

1 Wage Order.

2 72. During all times relevant, the applicable IWC Wage Order, including but
3 not limited to Wage Order 4, applied to Aggrieved Employees' employment with
4 Defendants.

5 73. Pursuant to the applicable IWC Wage Order, "hours worked" include the
6 time during which an employee is "suffered or permitted to work, whether or not
7 required to do so."

8 74. Every employer must pay each employee minimum wage as required
9 under state law and, where applicable and if higher, local law.

10 75. During all times relevant, Plaintiffs are informed and believe, and based
11 thereupon allege, that Aggrieved Employees were not paid minimum/regular wages for
12 all hours suffered or permitted to work in violation of state and, where applicable, local
13 law and/or their agreement with DEFENDANT EMPLOYER.

14 76. Labor Code § 1194.2, subdivision (a) provides that, in an action to recover
15 wages because of the payment of a wage less than the minimum wage fixed by IWC
16 Wage Orders, an employee may recover liquidated damages in an amount equal to the
17 wages unlawfully unpaid and interest thereon.

18 77. At all material times, DEFENDANT EMPLOYER and DOES 1 through
19 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
20 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
21 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
22 Labor Code or any provision regulating hours and days of work in any Order of the
23 Industrial Welfare Commission and, as such, are subject to penalties for each
24 underpaid employee as set for in Labor Code § 558.

25 78. In committing the violations of state law as herein alleged, Plaintiffs are
26 informed and believe based there upon allege that Defendants have knowingly and
27 willfully refused to perform their obligations to compensate Aggrieved Employees for
28 all wages earned and all hours worked.

7 80. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a
8 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
9 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
10 pay period for each subsequent violation in which DEFENDANT EMPLOYER
11 violated the minimum wage and/or regular wage provisions of the Labor Code,
12 including but not limited to §§ 216, 218, 218.5, 223, 1182.12, 1194, 1194.2, and 1197,
13 the exact amount of the applicable penalty is all in an amount to be shown according to
14 proof at trial.

81. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to the PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

19 **Representative Claim under the PAGA for**
20 **Failure to Pay State Overtime and/or Double-Time**
21 **Compensation in Violation of California Labor Code §§ 510, 1194, 1198,**
22 **and the Applicable Wage Order**
23 **(Against all Defendants)**

82. Plaintiffs re-allege and incorporate by reference the foregoing
allegations as though set forth herein.

83. During all times relevant, the applicable Wage Order, including but not limited to Wage Order 4, applied to Plaintiffs' employment with Defendants.

28 84. Pursuant to the applicable Wage Order, “hours worked” include the

1 time during which an employee is “suffered or permitted to work, whether or not
2 required to do so.”

3 85. For each hour (or fraction thereof) an employee works over forty (40)
4 hours in a week or more than eight (8) hours in a workday the employer must pay the
5 rate of one and a half times the employee’s regular hourly wage.

6 86. For each hour (or fraction thereof) an employee works more than twelve
7 (12) hours in one day or more than eight (8) hours a day on the seventh consecutive
8 day of work, the employee must be compensated at the rate of no less than twice the
9 regular rate of pay for that employee.

10 87. As alleged in this Complaint, Plaintiffs are informed and believe, and
11 based thereupon allege, that DEFENDANT EMPLOYER failed to pay all overtime
12 compensation to the Aggrieved Employees.

13 88. Additionally, during all times relevant and continuing to the present, and
14 pursuant to company policy and/or practice and/or direction, Plaintiffs are informed
15 and believe, and therefore allege, that Defendants failed to pay its employees the
16 correct rate of minimum/regular wages and, as a result, the amount of overtime paid
17 was too low.

18 89. At all material times, DEFENDANT EMPLOYER and DOES 1 through
19 50 were and/or are Aggrieved Employees’ employers or persons acting on behalf of
20 Aggrieved Employees’ employer, within the meaning of California Labor Code § 558,
21 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
22 Labor Code or any provision regulating hours and days of work in any Order of the
23 Industrial Welfare Commission and, as such, are subject to penalties for each
24 underpaid employee as set for in Labor Code § 558.

25 90. In committing the violations of state law as herein alleged, Defendants
26 have knowingly and willfully refused to perform their obligations to compensate
27 Aggrieved Employees for all wages earned and all hours worked.

28 91. As a direct result, Aggrieved Employees have suffered and continue to

1 suffer, substantial losses related to the use and enjoyment of such compensation,
2 wages, lost interest on such monies and expenses and attorney's fees in seeking to
3 compel Defendants to full perform their obligation under state law, all to their
4 respective damage in amounts according to proof at trial and within the jurisdictional
5 limitations of this Court.

6 92. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
7 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
8 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
9 pay period for each subsequent violation in which DEFENDANT EMPLOYER
10 violated the overtime provisions of the Labor Code, including but not limited to §§ 510
11 at 1194, the exact amount of the penalties sought is in an amount to be shown
12 according to proof at trial.

13 93. For the reasons alleged herein, Plaintiffs seek all available remedies
14 pursuant to the PAGA in an amount to be proven at trial including but not limited to
15 penalties, attorneys' fees, costs, and interest pursuant to law.

16 **THIRD CAUSE OF ACTION**

17 **Representative Claim under the PAGA for** 18 **Failure to Comply with the Meal Break Requirements of Labor Code §§ 226.7,** 19 **512, 1198, and the applicable IWC Wage Order**

20 (Against all Defendants)

21 94. Plaintiffs re-allege and incorporate by reference the foregoing allegations
22 as though set forth herein.

23 95. Plaintiffs are informed and believe, and based thereon allege, that by
24 failing to provide duty-free meal periods of at least thirty (30) minutes for shifts of five
25 hours or more, which began before the end of the fifth hour of work, and failing to pay
26 such employees premium wages of one (1) hour of pay at their regular rate of
27 compensation for each workday the meal period was not provided, Defendants
28 willfully violated the provisions of Labor Code § 226.7, and the applicable IWC Wage

1 Order.

2 96. Based on the misconduct alleged in this Complaint, Plaintiffs are
3 informed and believe, and based thereon allege, that Defendants failed to pay all
4 premium wages owed.

5 97. At all material times, DEFENDANT EMPLOYER and DOES 1 through
6 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
7 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
8 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
9 Labor Code or any provision regulating hours and days of work in any Order of the
10 Industrial Welfare Commission and, as such, are subject to penalties for each
11 underpaid employee as set for in Labor Code § 558.

12 98. In committing the violations of state law as herein alleged, Plaintiffs are
13 informed and believe and based thereon allege that Defendants have knowingly and
14 willfully refused to perform their obligations to compensate Aggrieved Employees for
15 all wages earned and all hours worked.

16 99. As a direct result, Aggrieved Employees have suffered and continue to
17 suffer, substantial losses related to the use and enjoyment of such compensation,
18 wages, lost interest on such monies and expenses and attorneys' fees in seeking to
19 compel Defendants to fully perform their obligations under state law, all to their
20 respective damage in amounts according to proof at trial and within the jurisdictional
21 limitations of this Court.

22 100. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
23 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
24 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
25 pay period for each subsequent violation in which all culpable Defendants violated Cal.
26 Labor Code § 226.7, the exact amount of the applicable penalty is all in an amount to
27 be shown according to proof at trial.

28 101. For the reasons alleged herein, Plaintiffs seek all available remedies

pursuant to the PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

FOURTH CAUSE OF ACTION

Representative Claim under the PAGA for

Failure to Comply with the Rest Break Requirements of Labor Code §§ 226.7, 512, 1198, and the applicable IWC Wage Order

(Against all Defendants)

102. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

103. Plaintiffs are informed and believe, and based thereon allege, that based on the misconduct alleged in this Complaint, Defendants failed to authorize and permit Plaintiffs to receive a rest period of at least 10 minutes on a separate hourly basis when paid commissions or otherwise to provide paid ten-minute rest periods for every four (4) hours or major fraction thereof worked per day, and by failing to provide premium wages at the regular rate of pay when these periods were not permitted or authorized, Defendants willfully violated the provisions of Labor Code § 226.7, and the applicable IWC Wage Order.

104. Plaintiffs are informed and believe, and based thereon allege, that based on the misconduct alleged in this Complaint, Defendants failed to pay premium pay for Plaintiffs' missed meal breaks DEFENDANT EMPLOYER failed to provide or authorize.

105. At all material times, DEFENDANT EMPLOYER and DOES 1 through 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of Aggrieved Employees' employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any Order of the Industrial Welfare Commission and, as such, are subject to penalties for each underpaid employee as set for in Labor Code § 558.

106. In committing the violations of state law as herein alleged, Plaintiffs are informed and believe and based thereon allege that Defendants have knowingly and willfully refused to perform their obligations to compensate Aggrieved Employees for all wages earned and all hours worked.

107. As a direct result, Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such monies and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court.

108. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which all culpable Defendants violated Cal. Labor Code § 226.7, the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

109. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to the PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

FIFTH CAUSE OF ACTION

Representative Claim under the PAGA for Failure to Indemnify/Reimburse Business Expenses in Violation of California Labor Code § 1198, 2802, and the applicable Wage Order (Against all Defendants)

110. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

111. California Labor Code § 2802 requires employers to indemnify their employees for expenses and losses incurred while discharging their duties or

1 obedience to the directions of their employer.

2 112. California Labor Code § 2804 mandates that this statutory right cannot be
3 waived.

4 113. The Plaintiffs incurred losses in obedience to the directions of
5 Defendants in the form of purchase of work-related expenses described in this
6 Complaint.

7 114. As a direct result of Defendants' violation of California Labor Code §
8 2802, the Aggrieved Employees suffered and continue to suffer substantial losses
9 related to unpaid expenses, the use and enjoyment of monies owed, lost interest on
10 monies owed, and attorneys' fees in an amount to be proven at the time of trial.

11 115. Defendants derive an unjust and inequitable economic benefit in failing
12 to comply with the law regarding indemnification and reimbursement of employees.

13 116. For the reasons alleged herein, Plaintiffs seek all available remedies
14 pursuant to the PAGA in an amount to be proven at trial including but not limited to
15 penalties, attorneys' fees, costs, and interest pursuant to law.

16 **SIXTH CAUSE OF ACTION**

17 **Representative Claim under the PAGA for**
18 **Violations of California Labor Code §§ 226 and 1198**
19 **(Against all Defendants)**

20 117. Plaintiffs re-allege and incorporate by reference the foregoing allegations
21 as though set forth herein.

22 118. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in
23 pertinent part, that every employer shall, "semimonthly or at the time of each
24 payment of wages, shall furnish to his or her employees, either as a detachable part of
25 the check, draft, or voucher paying the employee's wages, or separately if wages are
26 paid by personal check or cash, an accurate itemized statement in writing showing (1)
27 gross wages earned, (2) total hours worked by the employee. . . (3) the number of
28 piece-rate units earned and any applicable piece rate if the employee is paid on a

1 piece-rate basis, (4) all deductions, provided that all deductions made on written
2 orders of the employee may be aggregated and shown as one item, (5) net wages
3 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
4 name of the employee and only the last four digits of his or her social security
5 number..., (8) the name and address of the legal entity that is the employer. . . , and
6 (9) all applicable hourly rates in effect during the pay period and the corresponding
7 number of hours worked at each hourly rate by the employee and, beginning July 1,
8 2013, if the employer is a temporary services employer as defined in Section 201.3,
9 the rate of pay and the total hours worked for each temporary services assignment. . .”
10 (Labor Code § 226 subdivision (a).)

11 119. Likewise, California Labor Code § 226, subdivisions (b) and (c), require
12 employers doing business in the State of California to provide current and former
13 employees access to their payroll records.

14 120. Upon information and belief, during all times relevant to this action,
15 Defendants did not provide accurate wage statements throughout the PAGA Period.

16 121. Plaintiffs allege that on numerous occasions, an exact amount by which
17 will be proven at trial, Defendants violated various provisions of § 226, including but
18 not limited to subdivisions (a)(1), (a)(2), (a)(4), (a)(5), (a)(6), (a)(8), and (a)(9) by
19 failing to provide Plaintiffs accurate itemized statement in writing accurately showing
20 gross wages earned, total hours worked by the employee, net wages earned, among
21 other things.

22 122. At all material times DEFENDANT EMPLOYER and DOES 1 through
23 50 were and/or are Aggrieved Employees’ employers or persons acting on behalf of
24 Aggrieved Employees’ employer, within the meaning of California Labor Code § 558,
25 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
26 Labor Code or any provision regulating business hours and days of work in any Order
27 of the Industrial Welfare Commission and, as such, are subject to penalties for each
28 underpaid employee as set forth in Labor Code § 558.

123. In committing the violations of state law as herein alleged, Defendants have knowingly and willfully refused to perform their obligations to compensate Aggrieved Employees for all wages earned and all hours worked.

124. As a direct result, Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such compensation, wages, lost interest on such monies and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court.

125. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred (\$200.00) for each aggrieved employee per pay period for each subsequent violation in which DEFENDANT EMPLOYER violated Labor Code § 226, the exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

126. For the reasons alleged herein, Plaintiffs seek all available remedies pursuant to the PAGA in an amount to be proven at trial including but not limited to penalties, attorneys' fees, costs, and interest pursuant to law.

SEVENTH CAUSE OF ACTION

Representative Claim under the PAGA for Failure to Pay Timely Earned Wages during Employment and Upon Separation of Employment in Violation of California Labor Code §§ 201, 201.3, 202, 203, 204 and/or 204b, 218.5, and 218.6

(Against all Defendants)

127. Plaintiffs re-allege and incorporate by reference the foregoing allegations as though set forth herein.

128. Pursuant to Labor Code § 201, "If an employer discharges an employee,

1 the wages earned and unpaid at the time of discharge are due and payable
2 immediately.”

3 129. Pursuant to Cal. Labor Code Labor Code § 201.3, a “Temporary services
4 employer” must pay its employees weekly “due and payable not later than the regular
5 payday of the following calendar week.” (Cal. Labor Code § 201.3(b)(1)(A).)

6 130. Pursuant to Labor Code § 202, “If an employee not having a written
7 contract for a definite period quits his or her employment, his or her wages shall
8 become due and payable not later than 72 hours thereafter, unless the employee has
9 given 72 hours previous notice of his or her intention to quit, in which case the
10 employee is entitled to his or her wages at the time of quitting.”

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

16 132. Pursuant to Labor Code § 204, “all wages ... earned by any person in any
17 employment are due and payable twice during each calendar month, on days
18 designated in advance by the employer as the regular paydays.”

19 133. Alternatively, pursuant to Labor Code § 204b, employers must pay its
20 employees on a weekly basis on a regular day determined by the employer as the
21 regular payday.

22 134. Pursuant to Labor Code §§ 218.5 and 218.6, an action may be brought for
23 the nonpayment of wages and fringe benefits.

24 135. Plaintiffs were not properly paid pursuant to the requirements of Labor
25 Code §§ 201, 201.3, 202, and 204/204b and thereby seek all remedies available to
26 them.

27 136. To date, for example, Defendants have not paid Plaintiffs all earned wages
28 as required by law.

1 137. Plaintiffs are informed and believe and based thereon allege that
2 Defendants willfully failed to pay Plaintiffs' wages pursuant to the requirements of
3 Labor Code §§ 201, 202, and 204/204b, after Plaintiffs' demand and, therefore,
4 Plaintiffs may recover the associated unpaid wages and waiting time penalties.

5 138. Plaintiffs are informed and believe and based thereon allege that
6 Defendants did this with the intent to secure for himself, herself, and itself a discount
7 on its indebtedness and/or with intent to annoy harass, oppress, hinder, delay and/or
8 defraud Plaintiffs.

9 139. At all material times, DEFENDANT EMPLOYER and DOES 1 through
10 50 were and/or are Aggrieved Employees' employers or persons acting on behalf of
11 Aggrieved Employees' employer, within the meaning of California Labor Code § 558,
12 who violated or caused to be violated, a section of Part 2, Chapter 1 of the California
13 Labor Code or any provision regulating hours and days of work in any Order of the
14 Industrial Welfare Commission and, as such, are subject to penalties for each
15 underpaid employee as set for in Labor Code § 558.

16 140. In committing the violations of state law as herein alleged, Defendants
17 have knowingly and willfully refused to perform their obligations to compensate
18 Aggrieved Employees for all wages earned and all hours worked.

19 141. As a direct result, Aggrieved Employees have suffered and continue to
20 suffer, substantial losses related to the use and enjoyment of such compensation,
21 wages, lost interest on such monies and expenses and attorney's fees in seeking to
22 compel Defendants to full perform their obligation under state law, all to their
23 respective damage in amounts according to proof at trial and within the jurisdictional
24 limitations of this Court.

25 142. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them, a
26 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
27 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
28 pay period for each subsequent violation in which DEFENDANT EMPLOYER

1 violated Labor Code §§ 201, 202, 203, and 204/204b. The exact amount of the
2 applicable penalty is all in an amount to be shown according to proof at trial.

3 143. For the reasons alleged herein, Plaintiffs seek all available remedies
4 pursuant to the PAGA in an amount to be proven at trial including but not limited to
5 penalties, attorneys' fees, costs, and interest pursuant to law.

6 **EIGHTH CAUSE OF ACTION**

7 **Representative Claim for PAGA Penalties**

8 **For Failure to Maintain and Provide Required Records in Violation of**
9 **California Labor Code §§ 226, 432, 1174, 1198.5, 2810.5,**
10 **and the Applicable Wage Order and/or § 1198**

11 (Against all Defendants)

12 144. Plaintiffs re-allege and incorporate by reference the foregoing allegations
13 as though set forth herein.

14 145. California Labor Code § 226, subdivision (b), requires employers doing
15 business in the State of California to "afford current and former employees the right
16 to inspect or copy records pertaining to their employment, upon a reasonable request
17 to the employer..." and subdivision (c), requires employers to produce such records
18 within "21 calendar days from the date of the request."

19 146. Plaintiff maintains the records requested fall within the meaning of
20 Labor Code § 226 because, among other reasons, the requested documents are
21 "records pertaining to [his] employment."

22 147. California Labor Code § 432, subdivision (b), requires employers doing
23 business in the State of California to provide current, former employees, and
24 applicants copies of all written instruments they sign upon request.

25 148. Plaintiff maintains the records requested fall within the meaning of
26 Labor Code § 432 because some of the records requested constitute written
27 instruments the Plaintiff signed.

28 149. California Labor Code § 1198.5, *et seq.*, similarly provides current and

1 former employees the right to inspect their employee personnel records and requires
2 the employer to provide the employee access to such records no later than 30 calendar
3 days from the date the employer receives a written request.

4 150. Plaintiff maintains the records requested fall within the meaning of
5 Labor Code § 1198.5, *et seq.* because they were part of and/or related to Plaintiff's
6 personnel file within the meaning of Labor Code § 1198.5.

7 151. California Labor Code § 2810.5 requires employers to furnish
8 employees with written notice provided at the time of hire that complies with all
9 aspects of the statute, namely, providing the employee with written notice of their rate
10 of pay, the name of their employer, etc.

11 152. Section 7 of the typical Wage Order requires every employer to
12 maintain time and payroll records.

13 153. As alleged above, Defendants did not provide Plaintiff access to the full
14 contents of Plaintiff's employee personnel file and/or the records to which Plaintiff
15 has the right to obtain within the meaning of the foregoing statutes in violation of the
16 abovementioned statutes and/or Defendants did not comply with the abovementioned
17 statutes.

18 154. Further, Plaintiffs are informed and believe and based thereon alleges
19 that during all times relevant, Defendants failed to comply with § 7 of the applicable
20 IWC Orders and with Labor Code § 1174 by failing to maintain certain records which
21 employers are required to maintain, including but not limited to, an accurate record
22 indicating the number hours worked by the Plaintiffs, evidenced in part by
23 Defendants failure to provide the named Plaintiff's time records despite his request.

24 155. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a
25 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period
26 for the initial violation and two hundred (\$200.00) for each aggrieved employee per
27 pay period for each subsequent violation in which all culpable Defendants violated
28 the applicable Cal. Labor Code provisions alleged in this Complaint, the exact amount

1 of the applicable penalty is in an amount to be shown according to proof at trial.

2 156. For the reasons alleged herein, Plaintiffs seek all available remedies
3 pursuant to the PAGA in an amount to be proven at trial including but not limited to
4 penalties, attorneys' fees, costs, and interest pursuant to law.

5 **NINTH CAUSE OF ACTION**

6 **Representative Claim for Penalties via the PAGA**

7 **Under California Labor Code §§ 2698, 2699, *et seq.* for**

8 **Individual and Representative Claim for PAGA Penalties and Wage**

9 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**

10 **Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5, 201.7, 203.1,**
11 **203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d)**
12 **of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230, 230.1, 230.2,**
13 **230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c)**
14 **of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403, subdivision (b) of**
15 **Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602,**
16 **603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021,**
17 **1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the appliable Wage**
18 **Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293,**
19 **1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309,**
20 **1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section**
21 **1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6,**
22 **1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651,**
23 **and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2751, 2800, 2801,**
24 **2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311,**
25 **and 6399.7 and the Applicable Wage Order**

26 **(Against all Defendants)**

27 157. Plaintiffs re-allege and incorporate by reference the foregoing allegations
28 as though set forth herein.

1 158. This claim is premised on Plaintiffs' right to pursue all Labor Code
2 claims on behalf of Aggrieved Employees per *Huff v. Securitas Security Services*
3 *USA, Inc.* (2018) 23 Cal.App.5th 745.

4 159. Pursuant to Labor Code § 2699, any provision of the Labor Code that
5 provides for a civil penalty to be assessed and collected by the LWDA or any of its
6 departments, divisions, commissions, boards, agencies or employees for violation of
7 the code may, as an alternative, be recovered through a civil action brought by an
8 aggrieved employee on behalf of himself or herself and other current or former
9 employees pursuant to the procedures specified in Labor Code § 2699.3.

10 160. Plaintiffs are informed and believe, and based thereon allege, that
11 because of the acts alleged above and Defendants' violations of the Labor Code
12 provisions alleged herein, Plaintiffs are entitled to penalties under Labor Code §§
13 2698 and 2699.

14 161. Plaintiffs are "aggrieved employees" because Plaintiffs were employed
15 by the alleged violator and had one or more of the alleged violations committed
16 against Plaintiffs, and therefore are properly suited to represent the interests of other
17 current and former Represented Employees.

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

23 163. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,
24 penalties for violating Labor Code subdivision (k) of Section 96, Sections 98.6, 201.5,
25 201.7, 203.1, 203.5, 204a, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212,
26 subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 227, 227.3, 230,
27 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232,
28 subdivision (c) of Section 232.5, Sections 233, 234, 245-249, 351, 353, and 403,

subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, 1197.5, 1198 via the applicable Wage Order, subdivision (b) of Section 1198.3, Sections 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, 1735, 1777.5, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7.

164. Labor Code § 558 establishes a civil penalty as follows: Any 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 (including the “Hours and Days of Work” section of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) wages recovered pursuant to this section shall be paid to the affected employee.

165. Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs seek to recover attorneys’ fees, costs, civil penalties, and wages on behalf of Plaintiff and other current and former Represented Employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 1 1. That Defendants be found liable to the Plaintiffs;
- 2 2. For all remedies available to the Plaintiffs under the applicable
- 3 provisions of the Labor Code via the PAGA, i.e., Labor Code § 2698, *et seq.*
- 4 including an award of attorneys' fees, costs, interest, liquidated damages, damages,
- 5 penalties and waiting time penalties according to proof to the extent permitted by law;
- 6 3. For maximum civil penalties available under the Labor Code and
- 7 applicable Wage Order as described more particularly in this Complaint,
- 8 representative PAGA claims including the payment of wages as set forth in Labor
- 9 Code § 558;
- 10 4. That Plaintiffs be awarded reasonable attorneys' fees where available by
- 11 law, including but not limited to pursuant to Labor Code §§ 2698, *et seq.*, Code of
- 12 Civil Procedure § 1021.5, and/or other applicable laws; and
- 13 5. Such other and further relief as this Court may deem proper and just.

14 Dated: November 8, 2023

Law Office of
Thomas D. Rutledge

15 By: Thomas D. Rutledge
16 /s/Thomas D. Rutledge
17 Attorneys for Plaintiffs
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PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

I, THOMAS D. RUTLEDGE, the undersigned, am employed in the County of San Diego, State of California; I am over the age of 18 and not a party to the within action; my business address is 16956 Via de Santa Fe, Suite 1847, Rancho Santa Fe, California 92091-4606.

On November 8, 2023, I served the foregoing document(s) described as:

PLAINTIFFS' FIRST AMENDED COMPLAINT

on the interested parties to this action by placing a copy thereof enclosed in a sealed envelope addressed as follows: **See Attached List.**

☒ **(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence was deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in San Diego, California.

☒ **(BY E-MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for emailing. This correspondence was sent via email to the recipients' business email addresses identified above.

☐ **(BY OVERNIGHT DELIVERY SERVICE)** I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

Executed November 8, 2023, at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

THOMAS D. RUTLEDGE
/s/THOMAS D. RUTLEDGE

SERVICE LIST

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