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KEOPIMPHA and NHAT NGUYEN
on behalf of the State of California,
and others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JUAN PADILLA, CHARLES
KEOPIMPHA, and NHAT NGUYEN,
individually and on behalf of the State of
California, and others similarly situated and
aggrieved,

Plaintiffs,

v.

SPACE EXPLORATION
TECHNOLOGIES CORP., a Texas
Corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: 23STCV17559

**PLAINTIFFS' SECOND AMENDED
REPRESENTATIVE COMPLAINT FOR
VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT, CAL.
LABOR CODE SECTIONS 2698, et seq.**

1 Plaintiff JUAN PADILLA (“PLAINTIFF PADILLA”), an individual; Plaintiff CHARLES
2 KEOPIMPHA (“PLAINTIFF KEOPIMPHA”), an individual; and Plaintiff NHAT NGUYEN
3 (“PLAINTIFF NGUYEN”), an individual, on behalf of the State of California and all other
4 Aggrieved Employees (as defined below), hereby file this First Amended Complaint against
5 Defendants SPACE EXPLORATION TECHNOLOGIES CORP. (“SPACEX”), a Delaware
6 Corporation; and DOES 1-100, inclusive, (collectively “DEFENDANTS”). PLAINTIFFS are
7 informed and believe and thereon allege as follows:

8 INTRODUCTION

9 1. This is a representative action filed by PLAINTIFFS on behalf of the State of
10 California and other Aggrieved Employees against DEFENDANTS, pursuant to California’s Private
11 Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*, to recover civil penalties for
12 DEFENDANTS’ violations of the California Labor Code as alleged below.

13 2. PLAINTIFFS and DEFENDANTS are parties to an arbitration agreement that
14 requires the arbitration of PLAINTIFFS’ individual claims, and PLAINTIFFS are pursuing their
15 individual claims separately in an arbitration proceeding.

16 3. DEFENDANTS own/owned and operate/operated an industry, business, and
17 establishment within the State of California, including Los Angeles County. As such and based
18 upon all the facts and circumstances incident to DEFENDANTS’ business in California,
19 DEFENDANTS are subject to the California Labor Code, Wage Orders issued by the Industrial
20 Welfare Commission (“IWC”), and the California Business & Professions Code.

21 4. Despite these requirements, throughout the statutory period, DEFENDANTS
22 maintained a systematic, company-wide policy and practice of:

23 a. Failing to pay employees for all hours worked, including all minimum, straight
24 time, and overtime wages in compliance with the California Labor Code and
25 IWC Wage Orders;

26 b. Failing to provide employees with timely and duty-free meal periods in
27 compliance with the California Labor Code and IWC Wage Orders, failing to
28 maintain accurate records of all meal periods taken or missed, and failing to pay

- 1 an additional hour's pay for each workday a meal period violation occurred;
- 2 c. Failing to authorize and permit employees to take timely and duty-free rest
- 3 periods in compliance with the California Labor Code and IWC Wage Orders,
- 4 and failing to pay an additional hour's pay for each workday a rest period
- 5 violation occurred;
- 6 d. Willfully failing to pay employees all minimum, straight time, overtime, meal
- 7 period premium, and rest period premium wages due within the time period
- 8 specified by California law when employment terminates;
- 9 e. Failing to provide employees with accurate, itemized wage statements
- 10 containing all the information required by the California Labor Code and IWC
- 11 Wage Orders; and
- 12 f. Failing to indemnify employees for expenditures incurred in direct discharge of
- 13 duties of employment.

14 5. On information and belief, DEFENDANTS, and each of them were on actual and

15 constructive notice of the improprieties alleged herein and intentionally refused to rectify their

16 unlawful policies. DEFENDANTS' violations, as alleged above, during all relevant times herein

17 were willful and deliberate.

18 6. At all relevant times, DEFENDANTS were and are legally responsible for all of the

19 unlawful conduct, policies, practices, acts and omissions as described in each and all of the

20 foregoing paragraphs as the employers of PLAINTIFFS and Aggrieved Employees. Further,

21 DEFENDANTS are responsible for each of the unlawful acts or omissions complained of herein

22 under the doctrine of "respondeat superior."

23 **JURISDICTION AND VENUE**

24 7. This Court has jurisdiction over PLAINTIFFS' claims for penalties pursuant to

25 California statute, including PAGA, and decisional law and regulations.

26 8. Venue is proper in this judicial district and the County of Los Angeles pursuant to

27 California Code of Civil Procedure § 395.5 because DEFENDANTS transact business in this county

28 and conduct alleged by PLAINTIFFS herein occurred in this county. *See also Crestwood*

1 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
2 proper in any county where the defendants committed Labor Code violations against some of its
3 employees).

4 **THE PARTIES**

5 9. PLAINTIFFS are, and at all relevant times were, individuals domiciled in the State
6 of California and citizens of the State of California.

7 10. PLAINTIFF PADILLA is a resident of Los Angeles County, California who worked
8 for Defendants in Los Angeles County, California as a non-exempt employee from approximately
9 January 2022 to September 2022.

10 11. PLAINTIFF KEOPIMPHA was employed by DEFENDANTS as a non-exempt
11 Structures Technician from approximately March 13, 2023, through August 4, 2023, at
12 DEFENDANTS' Hawthorne, California, location. PLAINTIFF KEOPIMPHA regularly worked
13 eight (8) to twelve (12) hours per day, five (5) to six (6) days per week.

14 12. PLAINTIFF NGUYEN worked for DEFENDANTS as a non-exempt employee with
15 a job title(s) of thermal protection technician and/or a similar title(s) and/or job position(s) from in
16 or around August 2020 through in or around October 2023. PLAINTIFF NGUYEN regularly
17 worked at least approximately eight (8) to twelve (12) hours per day, at least five (5) to six (6) days
18 per week. DEFENDANTS paid PLAINTIFF NGUYEN an hourly rate for time counted by
19 DEFENDANTS as hours worked. PLAINTIFF NGUYEN also earned shift differential pay and/or
20 other non-discretionary compensation.

21 13. PLAINTIFFS reserve the right to seek leave to amend this complaint to add new
22 Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
23 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

24 14. Defendant SPACE EXPLORATION TECHNOLOGIES CORP. ("SPACEX") is,
25 and at all times herein mentioned was:

26 a. A Texas Corporation that, at all relevant times, was authorized to do business
27 within the State of California and is doing business in the State of California;

28 and

1 b. The former employer of PLAINTIFFS because Defendant SPACEX suffered
2 and permitted PLAINTIFFS to work, and/or controlled their wages, hours, or
3 working conditions.

4 15. DEFENDANTS own, operate, manage, and/or staff warehouses, manufacturing
5 centers, offices, and/or other location(s) in California, including facilities in Hawthorne, California.
6 DEFENDANTS, through its various locations, serve the manufacturing industry, specializing in the
7 manufacture of spacecraft and related provisions.

8 16. The true names and capacities of the DOE Defendants sued herein as DOES 1
9 through 100, inclusive, are currently unknown to PLAINTIFFS, who therefore sues each such
10 Defendant by said fictitious names. Each of the Defendants designated as a DOE is legally
11 responsible for the unlawful acts alleged herein. PLAINTIFFS will seek leave of Court to amend
12 this Complaint to reflect the true names and capacities of the DOE Defendants when such identities
13 become known.

14 17. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
15 each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
16 injured PLAINTIFFS and other Aggrieved Employees, as defined below, in the State of California.

17 18. PLAINTIFFS are further informed and believe that, at all relevant times, each
18 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
19 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
20 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
21 the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all
22 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
23 complaint. PLAINTIFFS are further informed and believe and thereon allege that each Defendant
24 acted pursuant to and within the scope of the relationships alleged above, and that, at all relevant
25 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
26 controlled, aided, and abetted the conduct of all other Defendants.

27 19. PLAINTIFFS are informed and believe and thereon allege that at all relevant times
28 each Defendant, directly or indirectly, or through agents or other persons, employed PLAINTIFFS

1 and the other Aggrieved Employees as defined below, and exercised control over their wages, hours,
2 and working conditions. PLAINTIFFS are informed and believe and thereon allege that, at all
3 relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director,
4 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest, and/or
5 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
6 the other Defendants in a joint enterprise, and bore such other relationships to some or all of the
7 other Defendants so as to be liable for their conduct with respect to the matters alleged below.
8 Plaintiffs are informed and believe and thereon allege that each Defendant acted pursuant to and
9 within the scope of the relationships alleged above, that each Defendant knew or should have known
10 about, and authorized, ratified, adopted, approved, controlled, aided, and abetted the conduct of all
11 other Defendants.

12 **JOINT LIABILITY**

13 20. Under California law, the phrase “to employ” is broadly construed under the
14 applicable Wage Order(s) to have three alternative definitions: “(a) to exercise control over the
15 wages, hours or working conditions; (b) to suffer or permit to work; or (c) to engage, thereby
16 creating a common law employment relationship.” *Martinez v. Combs*, 75 Cal. Comp. Cases 430,
17 452 (Cal. May 20, 2010). “Employer” is defined in terms of exercising control to reach situations
18 in which multiple entities control different aspects of the employment relationship, for example,
19 when one entity (such as a temporary employment agency) hires and pays a worker, and the other
20 entity supervises the work.” *Id.* at 463. Supervision of the work by exercising control over how
21 services are performed is as one of the Wage Orders’ “working conditions.” A joint employer
22 relationship may be established where “the employer ‘exercises enough control’ to ‘indirectly
23 dictate the wages, hours, or working conditions of the employee.’” *Mattison v. Loma Linda Univ.*
24 *Med. Ctr.*, No. EDCV 20-2334 JGB (SHKx), 2023 U.S. Dist. LEXIS 61850, at *36 (C.D. Cal. Apr.
25 6, 2023) (quoting *Medina v. Equilon Enterprises, LLC* (2021) 68 Cal. App. 5th 868, 879.).

26 21. As discussed below, and at all relevant times, DEFENDANTS either (1) exercised
27 control over wages, hours and working conditions of Aggrieved Employees; (2) suffered or
28 permitted Aggrieved Employees to work; and/or (3) engaged Aggrieved Employees to work.

1 22. PLAINTIFFS are informed and believe, and thereon allege that DEFENDANTS
2 operated at all relevant times as a single integrated enterprise with common ownership and
3 centralized human resources. DEFENDANTS thus utilized the same policies and practices at all of
4 their locations and all Aggrieved Employees were, and are, subject to these same policies and
5 practices regardless of where they worked in California. Among other things, PLAINTIFFS are
6 informed and believe that: (1) DEFENDANTS share common ownership in, and financial control
7 over, all locations where Aggrieved Employees are employed, (2) DEFENDANTS share
8 management personnel who exercise, or have the right to exercise, control over day-to-day
9 operations and employment matters, including the power to hire and fire, set schedules, issue
10 policies, and determine rates of compensation for all Aggrieved Employees; (3) Aggrieved
11 Employees employed by DEFENDANTS are subject to the same uniform policies and procedures,
12 including the same employee handbooks and other form agreements; (4) DEFENDANTS share
13 Human Resources personnel and legal counsel to oversee matters related to non-exempt employees;
14 and, (6) DEFENDANTS share employees and/or transfer employees between DEFENDANTS'
15 California locations.

16 23. PLAINTIFFS are informed and believe, and thereon allege, that, at all relevant times,
17 DEFENDANTS suffered or permitted PLAINTIFFS and Aggrieved Employees to work and/or
18 exercised control over Aggrieved Employees' wages, hours, and working conditions sufficient to
19 make them joint employers of Aggrieved Employees.

20 24. On information and belief, PLAINTIFFS allege that DEFENDANTS created a
21 uniform set of policies, practices and/or procedures for working conditions, including rates of pay,
22 time-keeping, meal and rest periods, and reimbursement of business expenses, that were distributed
23 and/or applied uniformly to Aggrieved Employees. On further information and belief, PLAINTIFFS
24 allege that DEFENDANTS compensated, and controlled the wages of Aggrieved Employees in a
25 uniform manner, that DEFENDANTS collectively represented to Aggrieved Employees that each
26 was an "at-will" employee of DEFENDANTS, and that DEFENDANTS collectively retained and
27 reserved the right to terminate Aggrieved Employees' employment with or without cause. On
28 information and belief, DEFENDANTS also represented in writing to Aggrieved Employees the

1 details of their compensation and DEFENDANT’S policies and practices related to meal and rest
2 periods, timekeeping, and payroll.

3 25. DEFENDANTS thus exercised, or had the right to exercise, the same right(s) to
4 control the wages, hours, and working conditions of Aggrieved Employees. As such,
5 DEFENDANTS jointly exercised, or held the right to exercise, control over virtually every aspect
6 of Aggrieved Employees’ employment.

7 26. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS are
8 joint employers that either engaged and suffered and/or permitted Aggrieved Employees to perform
9 tasks from which DEFENDANTS benefited or exercised, or had the right to exercise, control over
10 Aggrieved Employees’ wages, hours, and/or working conditions at all relevant times.

11 27. DEFENDANTS are jointly and severally liable for civil penalties as to all Aggrieved
12 Employees.

13 **PAGA ALLEGATIONS**

14 28. PLAINTIFFS bring this representative action under PAGA, on behalf of the State of
15 California and all other Aggrieved Employees for the Labor Code violations alleged herein as to all
16 Aggrieved Employees. Said “Aggrieved Employees” include:

17 All current and former non-exempt employees who worked either
18 directly or via a staffing agency for any one or more of the
19 DEFENDANTS at any location in California at any time from August
20 28, 2022 through the present (“PAGA Period”).

21 29. PLAINTIFFS are each an “aggrieved employee,” as that term is defined by Labor
22 Code § 2699(c), as PLAINTIFFS were employed by DEFENDANTS during the applicable statutory
23 period and suffered the Labor Code violations set forth herein. Accordingly, PLAINTIFFS seek to
24 recover, on behalf of the State of California and all Aggrieved Employees, the civil penalties
25 provided by PAGA, plus reasonable attorney's fees and costs.

26 **COMPLIANCE WITH PAGA’S NOTIFICATION REQUIREMENTS**

27 30. On August 17, 2023, PLAINTIFF KEOPIMPHA, through counsel, provided written
28 notice by online filing to the California Labor and Workforce Development Agency (“LWDA”) and

1 by certified mail to DEFENDANTS of the specific provisions of the California Labor Code alleged
2 to have been violated, including facts and theories to support the alleged violations (“KEOPIMPHA
3 PAGA Notice”), in accordance with Labor Code § 2699.3, Case No. LWDA-CM-975875-23.

4 31. On August 22, 2023, PLAINTIFF PADILLA, through counsel, provided written
5 notice by online filing to the California Labor and Workforce Development Agency (“LWDA”) and
6 by certified mail to DEFENDANTS of the specific provisions of the California Labor Code alleged
7 to have been violated, including facts and theories to support the alleged violations (“PADILLA
8 PAGA Notice”), in accordance with Labor Code § 2699.3, Case No. LWDA-CM-977008-23.

9 32. On September 23, 2024, PLAINTIFF NGUYEN, through counsel, provided written
10 notice by online filing with the LWDA and by certified mail to DEFENDANTS of the specific
11 provisions of the California Labor Code alleged to have been violated, including facts and theories
12 to support the alleged violations (“NGUYEN PAGA Notice”) in accordance with Labor Code §
13 2699.3, Case No. LWDA-CM-1052235-24.

14 33. The KEOPIMPHA PAGA Notice, PADILLA PAGA NOTICE, and NGUYEN
15 PAGA NOTICE outlined PLAINTIFFS’ claims for violations of the California Labor Code and the
16 applicable wage orders on behalf of the State of California and all Aggrieved Employees.

17 34. The LWDA did not provide notice of its intention to investigate within the statutory
18 waiting period, or at any time. In addition, to the extent any of the alleged violations were curable,
19 DEFENDANTS failed to cure within the time allowed under PAGA. PLAINTIFFS have thus
20 exhausted the administrative remedies as required by Labor Code § 2699.3, and PLAINTIFFS’ right
21 to file the instant lawsuit has duly accrued.

22 35. PLAINTIFFS seek to recover the PAGA civil penalties through this representative,
23 and certification of a class of Aggrieved Employees is not required. *Arias v. Superior Court* (2009)
24 46 Cal.4th 969.

25 **FACTUAL ALLEGATIONS**

26 36. At all relevant times, every Aggrieved Employee worked for DEFENDANTS in the
27 State of California, and DEFENDANTS exercised control over and suffered and/or permitted all
28 Aggrieved Employees to work.

1 37. During PLAINTIFF PADILLA's employment for Defendants, Defendants paid
2 PLAINTIFF PADILLA an hourly wage and classified PLAINTIFF PADILLA as non-exempt from
3 overtime. Defendants typically scheduled PLAINTIFF PADILLA to work five days in a workweek,
4 from Monday through Friday, 3:00 p.m. to 1:30 a.m., with PLAINTIFF PADILLA working
5 overtime.

6 38. As noted above, DEFENDANTS employed PLAINTIFF KEOPIMPHA as a non-
7 exempt Structures Technician from approximately March 13, 2023, through August 4, 2023, at
8 DEFENDANTS' Hawthorne, California, location. PLAINTIFF KEOPIMPHA regularly worked
9 eight (8) to twelve (12) hours per day, five (5) to six (6) days per week. PLAINTIFF KEOPIMPHA
10 was paid a base hourly rate of approximately \$27.00, plus a shift differential of approximately \$2.29
11 per hour for the Split Shift / Night Shift.

12 39. PLAINTIFF NGUYEN worked for DEFENDANTS as a non-exempt employee with
13 a job title(s) of thermal protection technician and/or a similar title(s) and/or job position(s) from in
14 or around August 2020 through in or around October 2023. PLAINTIFF NGUYEN regularly
15 worked at least approximately eight (8) to twelve (12) hours per day, at least five (5) to six (6) days
16 per week. DEFENDANTS paid PLAINTIFF NGUYEN an hourly rate for time counted by
17 DEFENDANTS as hours worked. PLAINTIFF NGUYEN also earned shift differential pay and/or
18 other non-discretionary compensation.

19 40. On information and belief, in addition to other forms of compensation, all Aggrieved
20 Employees were entitled to non-discretionary remuneration.

21 41. Throughout PLAINTIFFS' employment, DEFENDANTS failed to pay for all hours
22 worked (including minimum, straight time, and overtime wages), failed to provide PLAINTIFFS
23 with legally compliant meal periods, failed to authorize and permit PLAINTIFFS to take rest
24 periods, failed to timely pay all final wages to PLAINTIFFS when DEFENDANTS terminated their
25 employment, failed to furnish accurate wage statements to PLAINTIFFS, and failed to indemnify
26 PLAINTIFFS for expenditures. As discussed below, PLAINTIFFS' experience working for
27 DEFENDANTS was typical and illustrative.

28 42. **Unpaid Minimum and Overtime Wages.** Throughout the statutory period,
PLS.' 2D AMENDED REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT
174217665.1

1 DEFENDANTS maintained a policy and practice of not paying PLAINTIFFS and Aggrieved
2 Employees for all hours worked, including minimum, straight time, and overtime wages.
3 DEFENDANTS required PLAINTIFFS and Aggrieved Employees to work “off-the-clock,”
4 uncompensated, by, for example, requiring PLAINTIFFS and Aggrieved Employees to perform
5 work before clocking in for the day. Some of this unpaid work should have been paid at the overtime
6 rate. In failing to pay for all hours worked, DEFENDANTS also failed to maintain accurate records
7 of the hours PLAINTIFFS and Aggrieved Employees worked.

8 43. On information and belief, DEFENDANTS failed to compensate Aggrieved
9 Employees for all hours worked because not all hours were recorded, which resulted in the
10 underpayment of minimum and overtime wages earned and owed.

11 44. On information and belief, though DEFENDANTS knew or should have known that
12 Aggrieved Employees were subject to DEFENDANTS’ control during purported meal periods
13 and/or were otherwise not afforded full and complete duty-free meal periods. For example,
14 DEFENDANTS had a policy and/or practice of scheduling non-exempt employees’ meal periods
15 but failing to inform Aggrieved Employees that such meal periods had to be duty-free for a full,
16 consecutive thirty (30) minutes and taken within the employee’s first five (5) hours of work. On
17 information and belief, DEFENDANTS also failed to inform Aggrieved Employees of their right to
18 take a second duty-free 30-minute meal period after ten (10) hours of work.

19 45. DEFENDANTS’ failure to compensate Aggrieved Employees for all hours worked
20 was the result of such DEFENDANTS’ uniform timekeeping policies and practices, and the
21 underpayment included not only minimum wages, but also overtime wages when Aggrieved
22 Employees worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

23 46. On information and belief, DEFENDANTS knew or should have known that their
24 timekeeping policies and practices resulted in the underpayment of minimum and/or overtime wages
25 owed to Aggrieved Employees, in violation of California law.

26 47. Based on information and belief, Aggrieved Employees were not paid for all hours
27 worked due to DEFENDANTS’ policy and/or practice of paying according to scheduled hours
28 worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

1 48. For example, based on information and belief, at times, DEFENDANTS' electronic
2 employee time-keeping system/app malfunctioned such that Aggrieved Employees were required
3 to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or
4 were unable to clock in at all for the start of their shifts and/or clock back in from meal periods,
5 resulting in off-the-clock work and the underpayment of wages owed to Aggrieved Employees.
6 Based on information and belief, Aggrieved Employees experienced the same issues when clocking
7 out for shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was
8 not recorded and not compensated and resulted in unpaid minimum wages owed to Aggrieved
9 Employees.

10 49. Based on information and belief, Aggrieved Employees were also pressured to
11 complete at least some additional work tasks off-the-clock in order to meet DEFENDANTS' goals
12 and expectations.

13 50. For example, based on information and belief, Aggrieved Employees were required
14 to complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-
15 related phone calls and/or messages they received to their phones and/or mobile devices and were
16 required to respond to, including but not limited to, communications from supervisors regarding
17 scheduling and/or other work tasks, resulting in the underpayment of wages owed to Aggrieved
18 Employees.

19 51. Based on information and belief, at times, Aggrieved Employees were required to
20 complete pre-shift off-the-clock work tasks including but not limited to, gathering work-related
21 equipment and/or safety gear, making any necessary adjustments to tools/equipment and/or
22 performing maintenance/cleaning tasks, donning work clothing/uniforms and/or protective
23 equipment, and/or completing other work tasks prior to their scheduled shift and/or prior to clocking
24 in/signing in, thereby resulting in pre-shift off-the-clock work, DEFENDANTS' failure to
25 compensate Aggrieved Employees for all hours worked and the underpayment of wages owed to
26 Aggrieved Employees.

27 52. Based on information and belief, Aggrieved Employees were required to complete
28 other off-the-clock work tasks after clocking out for the end of their shifts and/or during

1 uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum
2 and overtime wages owed to Aggrieved Employees.

3 53. Based on information and belief, at times, DEFENDANTS required Aggrieved
4 Employees to clock out for the end of their shifts but to continue completing work tasks off-the-
5 clock, including but not limited to, returning/maintaining tools, cleaning and/or organizing their
6 work stations/areas, doffing uniforms/work clothing/protective/safety gear, providing shift status
7 updates, debriefings, participating in work meetings, responding to work-related communications
8 and/or performing other work tasks off-the-clock, resulting in DEFENDANTS' failure to
9 compensate Aggrieved Employees for all hours worked and the underpayment of minimum wages
10 and overtime wages owed to Aggrieved Employees.

11 54. Based on information and belief, DEFENDANTS failed to pay Aggrieved
12 Employees for time they were required to spend completing orientation, policy questionnaires,
13 and/or time spent completing the onboarding process including but not limited to reviewing various
14 documents and policies provided by DEFENDANTS. Based on information and belief, this work
15 time was completed off-the-clock and was not compensated. For example, based on information and
16 belief, DEFENDANTS required Aggrieved Employees to review and sign various types of policies
17 and documents, including but not limited to, safety guidelines/safety awareness certifications,
18 among other documents, but they were not paid for all time spent reviewing and/or completing
19 certification(s) as directed by DEFENDANTS, resulting in DEFENDANTS' failure to compensate
20 Aggrieved Employees for all hours worked and the underpayment of wages owed to Aggrieved
21 Employees.

22 55. On information and belief, DEFENDANTS failed correctly to calculate the overtime
23 rate of pay when Aggrieved Employees worked more than eight (8) hours in a workday or forty (40)
24 hours in a workweek, in violation of California law.

25 56. On information and belief, DEFENDANTS failed to incorporate all non-
26 discretionary remuneration in its regular rate calculations, including shift differentials and non-
27 discretionary bonuses, which miscalculation resulted in the underpayment of overtime wages earned
28 and owed.

1 **57. Meal Period Violations.** Throughout the statutory period, DEFENDANTS
2 wrongfully failed to provide PLAINTIFFS and Aggrieved Employees with their legally mandated
3 30-minute, uninterrupted, and duty-free meal periods. DEFENDANTS regularly, but not always,
4 required PLAINTIFFS and Aggrieved Employees to work in excess of five consecutive hours a day
5 without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of
6 work, or without compensating PLAINTIFFS and Aggrieved Employees for meal periods that were
7 not provided by the end of the fifth hour of work or tenth hour of work. Instead, DEFENDANTS
8 continued to assert control over PLAINTIFFS and Aggrieved Employees by requiring, pressuring,
9 or encouraging them to perform work tasks that could not be completed without working in lieu of
10 taking mandatory meal periods, or by denying PLAINTIFFS and Aggrieved Employees permission
11 to take a meal period. Accordingly, DEFENDANTS' policy and practice was not to provide meal
12 periods to PLAINTIFFS and Aggrieved Employees in compliance with California law.

13 **58.** Aggrieved Employees consistently worked shifts longer than five (5) hours, entitling
14 them to at least one 30-minute, duty-free meal period per shift. However, on information and belief,
15 Aggrieved Employees were not always provided the opportunity to take all timely, complete, and
16 duty-free 30-minute, meal periods to which they were entitled due to the need to meet productivity
17 goals and expectations.

18 **59.** On information and belief, Aggrieved Employees were not relieved of all duties
19 and/or DEFENDANTS' control during unpaid meal periods as a result of DEFENDANTS' uniform
20 policies and practices, and Aggrieved Employees were consistently suffered and permitted to take
21 meal periods past the fifth hour of work and/or work through meal periods due to the need to meet
22 productivity goals and expectations.

23 **60.** Based on information and belief, Aggrieved Employees were consistently unable to
24 take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal
25 periods, interrupted meal periods, and/or work through part or all their meal periods due to
26 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
27 pressuring them to take non-compliant meal breaks or skip meal breaks completely.

28 **61.** For example, based on information and belief, at times, Aggrieved Employees were

1 forced to skip their owed meal periods completely, take late meal periods and/or were interrupted
2 during purported meal periods and/or had meal periods cut short and/or restricted to
3 DEFENDANTS' premises and/or were otherwise required to remain on-duty during unpaid meal
4 periods due to the need to continue assigned job duties.

5 62. For example, PLAINTIFF NGUYEN was frequently required to take shortened meal
6 periods, interrupted meal periods and/or take his meal period late (i.e. after working more than five
7 (5) hours), due to the need to complete assigned job duties.

8 63. Also, per DEFENDANTS' unlawful meal period policies and practices,
9 DEFENDANTS only allowed PLAINTIFFS to take a maximum of one meal period per shift even
10 when PLAINTIFFS worked shifts lasting longer than ten (10) and/or twelve (12) hours.

11 64. On information and belief, Aggrieved Employees were sometimes required to wait
12 in line before clocking in for scheduled shifts, which DEFENDANTS failed to take into account
13 when scheduling meal periods and which resulted in meal periods started after the fifth hour of
14 work.

15 65. On information and belief, though DEFENDANTS knew or should have known of
16 the omission, Aggrieved Employees were not provided the opportunity to take a second (2nd) full
17 and complete 30-minute meal period when they worked more than ten (10) hours in a workday.

18 66. On information and belief, DEFENDANTS did not have a compliant written meal
19 period policy and/or a compliant meal period practice.

20 67. On information and belief, DEFENDANTS knew or should have known that, as a
21 result of their policies and practices, Aggrieved Employees were not always provided the
22 opportunity to take the timely, full and complete duty-free meal periods to which they were entitled,
23 in violation of California law.

24 68. DEFENDANTS also failed to pay Aggrieved Employees an additional hour of pay
25 at the employee's regular rate of pay for each workday a lawful meal period was not provided.
26 DEFENDANTS either failed to pay any meal period premium for each such workday or failed to
27 pay the correct premium wage in lieu thereof, including by failing to incorporate all non-
28 discretionary remuneration in the regular rate calculation.

1 **69. Rest Period Violations.** Throughout the statutory period, DEFENDANTS have
2 wrongfully failed to authorize and permit PLAINTIFFS and Aggrieved Employees to take legally
3 compliant rest periods. DEFENDANTS regularly required PLAINTIFFS and Aggrieved Employees
4 to work in excess of four consecutive hours a day without DEFENDANTS authorizing and
5 permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of
6 work (or major fraction of four hours), or without compensating PLAINTIFFS and Aggrieved
7 Employees for rest periods that were not authorized or permitted. Instead, DEFENDANTS
8 continued to assert control over PLAINTIFFS and Aggrieved Employees by requiring, pressuring,
9 or encouraging them to perform work tasks that could not be completed without working in lieu of
10 taking mandatory rest periods, or by denying PLAINTIFFS and Aggrieved Employees permission
11 to take a rest period. Accordingly, DEFENDANTS' policy and practice was to not authorize and
12 permit PLAINTIFFS and Aggrieved Employees to take rest periods in compliance with California
13 law.

14 **70.** Aggrieved Employees were not always provided the opportunity to take a full and
15 complete duty-free 10-minute rest period for every four (4) hours worked or major fraction thereof,
16 as required by California law.

17 **71.** On information and belief, DEFENDANTS did not have a compliant written rest
18 period policy and/or a compliant rest period policy in practice. For example, on information and
19 belief, Aggrieved Employees were usually not provided the opportunity to take a third (3rd) duty-
20 free rest period when he worked over ten (10) hours in a workday due to the need to meet production
21 goals and expectations.

22 **72.** DEFENDANTS did not properly authorize and provide PLAINTIFFS and other
23 Aggrieved Employees with legally compliant rest periods at a rate of every four (4) hours worked
24 or major fraction thereof, that insofar as practicable, are provided in the middle of the work period,
25 as required by law.

26 **73.** PLAINTIFFS and other Aggrieved Employees were not adequately informed,
27 authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California
28 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to

1 the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have
2 a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest
3 period policy in practice.

4 74. Based on information and belief, Aggrieved Employees were at times if not always
5 unable to take compliant rest periods due to their need to complete assigned job duties and/or were
6 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods
7 restricted to DEFENDANTS' premises.

8 75. Based on information and belief, DEFENDANTS failed to authorize net ten-minute,
9 off-duty, rest periods that were insofar as practicable in the middle of the work period as required
10 under California rest period law.

11 76. Also, per DEFENDANTS' unlawful rest period policies and practices, PLAINTIFFS
12 received a maximum of two (2) rest periods per shift even when PLAINTIFFS worked shifts lasting
13 longer than ten (10) hours.

14 77. As such, Aggrieved Employees were rarely, if ever, relieved of all duties and
15 DEFENDANTS' control during any rest periods, resulting in consistently denied rest periods.

16 78. Based on information and belief, DEFENDANTS did not pay PLAINTIFFS any rest
17 period premiums during PLAINTIFFS' employments and/or did not pay PLAINTIFFS a proper rest
18 period premium for each missed and/or otherwise legally non-compliant rest period.

19 79. Based on information and belief, Aggrieved Employees' rest periods were
20 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
21 constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring
22 Aggrieved Employees to skip rest breaks completely or otherwise take non-compliant rest periods.

23 80. DEFENDANTS also either failed to pay a rest period premium wage for each
24 workday Aggrieved Employees were not provided the opportunity to take a lawful rest period or
25 failed to pay the correct premium wages in lieu thereof by failing to incorporate all non-discretionary
26 remuneration in the regular rate calculation, in violation of California law.

27 81. **Failure to Provide Suitable Resting Facilities.** Section 13(B) of all applicable
28 Wage Orders states: "[s]uitable resting facilities shall be provided in an area separate from the toilet

1 rooms and shall be available to employees during work hours.”

2 82. **Inaccurate Wage Statements.** Throughout the statutory period, DEFENDANTS
3 failed to furnish PLAINTIFFS and Aggrieved Employees with accurate, itemized wage statements
4 showing all applicable hourly rates, and all gross and net wages earned (including correct hours
5 worked, correct wages for meal periods that were not provided in accordance with California law,
6 and correct wages for rest periods that were not authorized and permitted to take in accordance with
7 California law).

8 83. At all relevant times, DEFENDANTS failed to provide Aggrieved Employees with
9 itemized wage statements that complied with Labor Code § 226. For example, as a result of
10 DEFENDANTS’ failure to provide Aggrieved Employees the opportunity to take all meal and rest
11 periods to which they’re entitled and/or calculate the regular rate of pay correctly, DEFENDANTS’
12 wage statements failed correctly to set forth gross wages earned, total hours worked, net wages
13 earned, all applicable hourly rates in effect during the pay period, and the corresponding number of
14 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a).

15 84. Based on information and belief, wage statements issued by DEFENDANTS failed
16 to list the inclusive dates of the pay period for which the Aggrieved Employee is being paid. For
17 example, based on information and belief, wage statements issued by DEFENDANTS failed to list
18 the inclusive dates of the pay period for which the Aggrieved Employee is being paid in violation
19 of including but not limited to, Labor Code section 226(a)(2) and/or Labor Code section 226(a)(6).

20 85. For example, based on information and belief, at times, DEFENDANTS issued wage
21 statements to Aggrieved Employees containing payment for hours worked during previous pay
22 periods, yet DEFENDANTS’ wage statements do not include the inclusive dates of the accurate
23 pay period for pay, further failing to list the total hours worked for the pay period, including but not
24 limited to, the total hours worked for the pay period the pay corresponds with.

25 86. Based on information and belief, DEFENDANTS issued wage statements to
26 Aggrieved Employees that fail to accurately list all deductions, in violation of Labor Code section
27 226(a)(4).

28 87. **Unlawful Deductions.** Labor Code § 221 prohibits an employer from “collect[ing]

1 or receiv[ing] from an employee any part of wages theretofore paid by said employer to said
2 employee.” On information and belief, DEFENDANTS made unlawful deductions from Aggrieved
3 Employees paychecks during the relevant period, including the costs of uniforms and/or other
4 business costs and/or deducting wages for purported overpayments from previous pay periods
5 and/or unlawfully deducting wages for negligently damaged property. Such a practice is in violation
6 of, *inter alia*, Labor Code §§ 221 and 222, which subject DEFENDANTS to civil penalties under
7 Labor Code § 2699.

8 88. **Inaccurate Records.** The above-described unlawful policies and practices resulted
9 in DEFENDANTS failure to keep accurate and complete payroll records as required by Labor Code
10 §§ 1174, 1198, and 1199 and section 7 of all applicable Wage Orders. The deficiencies in
11 DEFENDANTS’ records, include: total daily hours worked; applicable rates of pay; and the
12 beginning and end of each work period; and the beginning and end of each meal period.

13 89. **Semimonthly Payment Violations.** Labor Code section 204 requires that all earned
14 wages must be paid to employees twice during each calendar month. DEFENDANTS violated this
15 section by, including but not limited to, failing to pay PLAINTIFFS and other Aggrieved Employees
16 an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by
17 failing to compensate employees for all hours worked, and by failing to pay proper premium wage
18 rates for all hours worked. These violations subject DEFENDANTS to civil penalties under Labor
19 Code section 210. Each violation results in a *separate* civil penalty, for each Aggrieved Employee
20 for each pay period during which the statute’s provisions were violated.

21 90. **Unreimbursed Business Expenses.** Throughout the statutory period,
22 DEFENDANTS have wrongfully required PLAINTIFFS and Aggrieved Employees to pay expenses
23 that they incurred in the direct discharge of their duties for DEFENDANTS. PLAINTIFFS and
24 Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses,
25 including but not limited to cell phone use and parking.

26 91. Throughout the statutory period, PLAINTIFFS and Aggrieved Employees incurred
27 substantial expenses as a direct result of performing their job duties for DEFENDANTS, but
28 DEFENDANTS failed to indemnify PLAINTIFFS and Aggrieved Employees for these

1 employment-related expenses.

2 92. On information and belief, DEFENDANTS required Aggrieved Employees to pay
3 out-of-pocket for business expenses necessary to the performance of their jobs without
4 reimbursement, in violation of Labor Code § 2802. On information and belief, Aggrieved
5 Employees were unlawfully required to provide and maintain work tools that are the employer's
6 responsibility. DEFENDANTS thus shifted the costs of doing business onto Aggrieved Employees

7 93. For example, on information and belief, DEFENDANTS required Aggrieved
8 Employees to pay for business expenses, including uniforms/work clothing/work
9 shoes/boots/personal protective/safety gear and the use of Aggrieved Employees' personal cell
10 phones/mobile devices, internet and/or data usage for work-related purposes, including to receive
11 and respond to work-related messages and/or phone calls, but Aggrieved Employees were not
12 reimbursed for such work-related expenses.

13 94. On information and belief, DEFENDANTS regularly failed to reimburse and
14 indemnify Aggrieved Employees for business expenses. Pursuant to Labor Code § 2802, Aggrieved
15 Employees are entitled to be reimbursed for all necessary expenses associated with carrying out
16 DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

17 95. DEFENDANTS' failure to provide Aggrieved Employees with reimbursement for
18 necessary business expenses required Aggrieved Employees to subsidize and/or carry the burden of
19 DEFENDANTS' business expenses in violation of Labor Code § 2802.

20 96. **Violation of California Day of Rest Law.** Every employee in California is entitled
21 to "one day's rest [from labor] in seven," and, no employer may cause its employees "to work more
22 than six days in seven." Labor Code §§ 551 and 552.

23 97. On information and belief, DEFENDANTS had, and continue to have, a uniform
24 policy and practice of suffering and permitting and/or requiring Aggrieved Employees to work at
25 least seven (7) consecutive days in a workweek, in violation of, *inter alia*, Labor Code § 551.

26 98. **Sick Leave Violations.** On information and belief, DEFENDANTS failed to provide
27 accurate notice of the balance of accrued paid sick leave available to Aggrieved Employees, either
28 on their wage statements or another written statement.

1 99. For example, on information and belief, DEFENDANTS failed accurately to
2 calculate the sick leave accrual and the sick leave rate of pay owed to Aggrieved Employees by,
3 among other things, failing to calculate the accrued sick leave hours based on the correct number of
4 hours worked due to DEFENDANTS' unlawful timekeeping policies and practices described above
5 and by failing to calculate the sick leave pay rate correctly.

6 100. For example, on information and belief, DEFENDANTS' wage statements for
7 Aggrieved Employees show that DEFENDANTS compensated Aggrieved Employees for any
8 accrued paid sick leave at the employee's respective base rate(s) of pay, not the employee's final
9 rate of pay, and failed to record accurately all accrued paid time off, in violation of Labor Code §§
10 245-248.5.

11 101. On information and belief, DEFENDANTS failed to put Aggrieved Employees on
12 notice of their paid sick leave rights, including by putting their entitlement to sick leave in a written
13 notice pursuant to Labor Code § 2810.5. In addition, at all relevant times, DEFENDANTS failed to
14 maintain accurate records of used paid sick leave and/or the balance of paid sick leave left to the
15 Aggrieved Employee. On information and belief, at all relevant times, DEFENDANTS failed to
16 provide notice of the balance of accrued paid sick leave left for Aggrieved Employees, thus affecting
17 their intelligent exercise of such accrued sick leave. But for this failure, Aggrieved Employees
18 would have used their accrued paid sick leave at least before their respective separations.

19 102. On information and belief, DEFENDANTS failed, and continue to fail, to comply
20 with Labor Code § 246 by failing to provide Aggrieved Employees with a Labor Code-compliant
21 wage statement or separate writing containing the amount of accrued paid sick leave, or other paid
22 time off leave an employer provides in lieu of sick leave, at the time DEFENDANTS pay wages.

23 103. DEFENDANTS have thus unlawfully retained, and continue to retain, paid sick
24 leave in violation of Labor Code §§ 245-248.5.

25 104. **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides
26 that all employers with 26 or more employees are required to provide up to 80 hours for covered
27 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves or for a
28 family member or if such leave is vaccine-related. On information and belief, DEFENDANTS

1 violated Labor Code § 248.2 by failing to provide Aggrieved Employees with required 2021
2 COVID-19 Supplemental Paid Sick Leave. On information and belief, DEFENDANTS also failed
3 to provide Supplemental Paid Sick Leave in 2022, in violation of Labor Code § 248.6.

4 **105. Seating Violations.** Section 14(A-B) of all applicable Wage Orders, states that
5 employees shall be provided with suitable seats when the nature of the work reasonably permits the
6 use of seats and when they are not actively engaged in the work duties that would not permit them
7 to be seated.

8 **106.** On information and belief, DEFENDANTS failed to provide Aggrieved Employees
9 with suitable seating, and when such employees were not engaged in duties which required them to
10 stand, no seating was placed in reasonable proximity to their workstations.

11 **107.** Moreover, based on information and belief, the nature of the work reasonably
12 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
13 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
14 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
15 of seats would not interfere with the performance of their duties.

16 **108. Failure to Pay Vested Vacation/Paid Time Off:** On information and belief,
17 DEFENDANTS had, and continue to have, a uniform policy and practice of failing to allow
18 Aggrieved Employees to use their vested, unused vacation/paid time off during their employment
19 and/or failing to pay all vested, unused paid time off, including all owed vacation pay/paid time off
20 paid at the correct rate of pay, to Aggrieved Employees upon separation of employment, in violation
21 of Labor Code § 227.3.

22 **109.** For example, on information and belief, DEFENDANTS paid Aggrieved Employees
23 shift differentials and other non-discretionary remuneration, which DEFENDANTS failed to
24 incorporate into the regular rate(s) of pay calculation for vested, unused paid time off/vacation pay,
25 resulting in the underpayment of paid time off and/or vacation pay owed to Aggrieved Employees,
26 in violation of Labor Code §§ 227.3, 201, and/or 202.

27 **110.** For example, on information and belief, DEFENDANTS cashed out Aggrieved
28 Employees' vested and unused vacation pay at Aggrieved Employees' base rate(s) of pay rather

1 than the correct final wage rate(s), which included, for example, a shift differential for the Split /
2 Night Shift, at the time of separation.

3 **111. Failure to Timely Pay All Wages Upon Separation of Employment.** On
4 information and belief, DEFENDANTS failed timely to pay all wages earned and owed upon
5 termination or resignation and instead provided final wages without regard to the requirements of
6 Labor Code §§ 201-202.

7 **112.** Throughout the statutory period, DEFENDANTS willfully failed and refused to
8 timely pay PLAINTIFFS and Aggrieved Employees all final wages due at their termination of
9 employment. In addition, PLAINTIFFS' final paychecks did not include payment for all
10 expenditures, minimum wages, straight-time wages, overtime wages, meal period premium wages,
11 and rest period premium wages owed to her by DEFENDANTS at the conclusion of their
12 employment. On information and belief, DEFENDANTS' failure to timely pay PLAINTIFFS' final
13 wages when their employment terminated was not a single, isolated incident, but was instead
14 consistent with DEFENDANTS' policy and practice that applied to PLAINTIFFS and Aggrieved
15 Employees.

16 **113.** On separation of employment, Aggrieved Employees' final paychecks did not
17 include all compensation earned and owed, including all minimum, overtime, and/or premium
18 wages and all accrued, unused vacation pay, paid sick leave, and/or paid time off at the correct rates
19 of pay.

20 **114.** These violations subject DEFENDANTS to civil penalties under Labor Code §§ 203,
21 210, and/or 256.

22 **115. Violation of Labor Code Section 208.** Labor Code § 208 provides that "[e]very
23 employee who is discharged shall be paid at the place of discharge, and every employee who quits
24 shall be paid at the office or agency of the employer in the county where the employee has been
25 performing labor. All payments shall be made in the manner provided by law."

26 **116.** On information and belief, DEFENDANTS have a policy and practice of failing to
27 provide Aggrieved Employees whose employment is terminated with their final paychecks at the
28 place of discharge and/or of failing to provide their final paychecks at the office or agency of

1 DEFENDANTS in the county where the work was performed, in violation of Labor Code § 208.

2 117. **Temperature Violations.**

3 118. Section 15 of all applicable IWC Wage Orders, states as follows:

4 119. (A) The temperature maintained in each work area shall provide reasonable comfort
5 consistent with industry-wide standards for the nature of the process and the work performed.

6 120. (B) If excessive heat or humidity is created by the work process, the employer shall
7 take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
8 comfort. Where the nature of the employment requires a temperature of less than 60° F, a heated
9 room shall be provided to which employees may retire for warmth, and such room shall be
10 maintained at not less than 68°.

11 121. (D) Federal and State energy guidelines shall prevail over any conflicting provision
12 of this section.

13 122. Based on information and belief, on various diverse dates during the one-year period
14 preceding the filing of this NOTICE to the present, PLAINTIFFS and/or other Aggrieved
15 Employees were subjected to excessive heat resulting in temperatures exceeding 100° F.

16 123. Based on information and belief, during the relevant period, DEFENDANTS failed
17 to provide PLAINTIFFS and Aggrieved Employees with reasonable comfort by maintaining the
18 indoor temperature within the range of industry standards by providing adequate air conditioning
19 and/or cooling system/proper ventilation.

20 124. For example, based on information and belief, temperatures in DEFENDANTS'
21 facilities where PLAINTIFFS and other Aggrieved Employees worked were excessively hot,
22 including but not limited to, in the summer due to, including but not limited to, DEFENDANTS'
23 practice of failing to provide adequate artificial air conditioning and/or heating and/ or proper
24 ventilation and/or fans within the work facilities and/or other methods/means necessary to provide
25 reasonable comfort consistent with industry-wide standards for the nature of the process and the
26 work PLAINTIFFS and other Aggrieved Employees were required to performed.

27 125. For example, DEFENDANTS failed to provide PLAINTIFFS and other Aggrieved
28 Employees with any artificial air conditioning and/or cooling system in their work area(s) besides

1 one or more fans. As a result of DEFENDANTS failure to take proper measures to provide adequate
2 air conditioning, a cooling system and/or proper ventilation, there were instances where the
3 temperature in DEFENDANTS' facilities would reach as high as 115 degrees, and PLAINTIFFS
4 and other Aggrieved Employees were forced to work in such these temperatures/extreme heat
5 conditions.

6 126. As such, DEFENDANTS failed to maintain temperatures in each work area that
7 provide reasonable comfort consistent with industry-wide standards for the nature of the process
8 and the work performed, in violation of Section 15 of the IWC Wage Orders and the California
9 Labor Code, including but not limited to section 1198.

10 **127. Violation of Labor Code Sections 2100-2112:**

11 128. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
12 more employees at a single warehouse distribution center, or one thousand (1,000) or more
13 employees at one or more warehouse distribution centers in California are required to provide
14 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
15 quantified number of tasks to be performed or materials to be handled) within a defined period of
16 time and any potential adverse employment action that may result from failure to meet the quota.
17 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
18 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
19 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
20 with compliance with California's occupational health and safety laws.

21 **129.** Labor Code Section 2101 provides:

22 **130.** Each employer shall provide to each employee, upon hire, or within 30 days of the
23 effective date of this part, a written description of each quota to which the employee is subject,
24 including the quantified number of tasks to be performed or materials to be produced or handled,
25 within the defined time period, and any potential adverse employment action that could result from
26 failure to meet the quota.

27 **131.** Labor Code Section 2102 provides:

28 **132.** An employee shall not be required to meet a quota that prevents compliance with

1 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
2 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
3 An employer shall not take adverse employment action against an employee for failure to meet a
4 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
5 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
6 disclosed to the employee pursuant to Section 2101.

7 133. Labor Code Section 2104 provides in pertinent part:

8 134. (a)(1) If a current or former employee believes that meeting a quota caused a
9 violation of their right to a meal or rest period or required them to violate any occupational health
10 and safety laws in the Labor Code or division standards, they have the right to request, and the
11 employer shall provide, a written description of each quota to which the employee is subject and a
12 copy of the most recent 90 days of the employee's own personal work speed data.

13 135. (2) If a former employee requests a written description of the quotas to which they
14 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
15 employer shall provide 90 days of the former employee's quotas and personal work speed data for
16 the 90 days prior to the date of the employee's separation from the employer.

17 136. (b) An employer that receives a written or oral request for information pursuant to
18 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
19 days from the date of the request.

20 137. Based on information and belief, during the relevant period, DEFENDANTS
21 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
22 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
23 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
24 relevant period.

25 138. Based on information and belief, DEFENDANTS had/have a policy and practice of
26 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
27 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
28 defined period of time and any potential adverse employment action that may result from failure to

1 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
2 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
3 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
4 compliance of California's occupational health and safety laws.

5 139. Based on further information and belief, DEFENDANTS have/had a policy and
6 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
7 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
8 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
9 Labor Code section 2102.

10 140. Based on information and belief, DEFENDANTS failed and continue to fail to timely
11 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
12 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
13 them to violate any occupational health and safety laws, a written description of each quota to which
14 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
15 personal work speed data.

16 141. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
17 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

18 142. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

19 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

20 143. On information and belief, DEFENDANTS require Aggrieved Employees to agree
21 in writing to unlawful conditions of employment, including criminal and/or financial checks as a
22 condition of obtaining and/or continuing employment, in violation of Labor Code § 432.5.

23 144. On information and belief, DEFENDANTS ordered unlawful financial credit checks
24 on Aggrieved Employees, in violation of Labor Code § 1024.5, and required Aggrieved Employees
25 to provide ongoing written consent to the unlawful credit checks as a condition of employment, in
26 violation of California and Federal law, which results in a further violation of Labor Code § 432.5.

27 145. On information and belief, DEFENDANTS also required Aggrieved Employees to
28 submit, and/or agree to submit, in writing to unlawful criminal background checks as a condition of

1 obtaining and/or holding employment in violation of the Investigative Consumer Reporting
2 Agencies Act (“ICRAA”), Civ. Code § 1786, *et seq.*, and the Fair Credit Reporting Act (“FCRA”),
3 15 U.S.C. §1681, *et seq.* On information and belief, DEFENDANTS failed and continue to fail to
4 comply with the requirements of ICRAA and FCRA when conducting background screenings for
5 applicants, including Aggrieved Employees who were subject to a background check as a condition
6 of employment during the application phase.

7 146. On information and belief, DEFENDANTS required Aggrieved Employees to agree
8 in writing to a background check that failed to comply with the requirements set forth in ICRAA
9 and FCRA, including by failing to provide a clear and conspicuous disclosure and/or any disclosure
10 at all, failing to provide disclosures free of extraneous information, failing to provide a lawful
11 purpose for the background check, failing to provide a summary of rights under ICRAA and/or
12 FRCA, failing to provide a way by which the individual could request a copy of the report, failing
13 to disclose the name, address, and telephone number of the third party preparing the report, and/or
14 failing to properly obtain authorization or consent to such a background check.

15 147. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
16 financial checks, DEFENDANTS violated Labor Code § 432.5.

17 148. On further information and belief, DEFENDANTS also required Aggrieved
18 Employees to agree in writing, as a condition of employment, to provide ongoing consent for
19 DEFENDANTS to conduct background checks throughout the duration of employment, in violation
20 of, *inter alia*, ICRAA and/or FCRA, resulting in a further violation of Labor Code § 432.5.

21 149. On further information and belief, DEFENDANTS knew or should have known that
22 requiring Aggrieved Employees to agree to unlawful criminal and/or financial background checks
23 as a condition of obtaining and/or holding employment was unlawful.

24 150. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
25 condition of employment, DEFENDANTS violated Labor Code § 432.5.

26 Unlawful Inquires into Criminal History

27 151. Labor Code § 432.7 prohibits a California employer from asking applicants about
28 past arrest(s) that did not result in a conviction~~g~~ and, even then, certain limitations apply. On

1 information and belief, DEFENDANTS asked Aggrieved Employees about arrests that did not result
2 in a conviction on their employment application, in violation of California law.

3 152. On information and belief, DEFENDANTS, in violation of, *inter alia*, the Fair
4 Chance Act/the California Fair Employment and Housing Act (“FEHA”), Gov’t Code § 12900, *et*
5 *seq.*, asked Aggrieved Employees about convictions prior to extending an offer of employment
6 and/or otherwise unlawfully inquired into criminal history on their employment application, in
7 violation of Labor Code § 432.5.

8 Unlawful PAGA Waiver

9 153. Additionally, DEFENDANTS violated Labor Code § 432.5 by requiring Aggrieved
10 Employees to agree in writing to other unlawful agreements, including a waiver of PAGA and or
11 representative actions as a condition of employment.

12 154. An action pursuant to PAGA “...is a representative action on behalf of the state”
13 *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that “[where] an
14 employment agreement compels the waiver of representative claims under the PAGA, it is contrary
15 to public policy and unenforceable as a matter of state law.” *Iskanian v CLS Transportation Los*
16 *Angeles, LLC* (2014) 59 Cal. 4th 348, 384

17 155. On information and belief, DEFENDANTS required Aggrieved Employees to agree
18 in writing to waive their right to a trial of representative PAGA claims, in violation of California
19 law. DEFENDANTS’ requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA
20 waiver is a violation of Labor Code § 432.5.

21 **FIRST CAUSE OF ACTION**
22 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
23 **2698, *ET SEQ.***

24 **(On behalf of the State of California and Aggrieved Employees against all Defendants)**

25 156. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

26 157. At all times herein mentioned, DEFENDANTS were subject to the Labor Code of
27 the State of California and the applicable Industrial Welfare Commission Orders.

28 158. California Labor Code § 2699(a) specifically provides for a private right of action to
recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law,

1 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
2 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
3 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
4 civil action brought by an aggrieved employee on behalf of himself or herself and other current or
5 former employees pursuant to the procedures specified in Section 2699.3.”

6 159. PLAINTIFFS have exhausted their administrative remedies pursuant to California
7 Labor Code § 2699.3. They gave written notice by online filing to the LWDA and by certified mail
8 to DEFENDANTS of the specific provisions of the Labor Code that DEFENDANTS violated
9 against PLAINTIFFS and current and former Aggrieved Employees, including the facts and theories
10 to support the violations. PLAINTIFFS each also paid the filing fee.

11 160. The LWDA has not indicated that it intends to investigate DEFENDANTS’ Labor
12 Code violations discussed in PLAINTIFFS’ notices. Accordingly, PLAINTIFFS may commence a
13 civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of
14 the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties
15 under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

16 161. Based on the conduct described in this Complaint, PLAINTIFFS are entitled to an
17 award of civil penalties on behalf of themselves, the State of California, and similarly Aggrieved
18 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
19 be shown according to proof at trial. These penalties are in addition to all other remedies permitted
20 by law.

21 162. In addition, PLAINTIFFS seek an award of reasonable attorney’s fees and costs
22 pursuant to California Labor Code § 2699(g)(1), which states, “Any employee who prevails in any
23 action shall be entitled to an award of reasonable attorney’s fees and costs.”

24 **Failure to Keep Accurate Records**

25 163. California Labor Code § 1174 requires employers to keep “accurate and complete”
26 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
27 Section 7 of all applicable Wage Orders similarly requires employers to keep time records reflecting
28 the times during which all requisite meal periods were provided each day.

1 164. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
2 and complete records as required by law, including the following: total daily hours worked;
3 applicable rates of pay; when Aggrieved Employees began and ended each work period; and when
4 Aggrieved Employees began and ended each meal period.

5 165. DEFENDANTS' failure to keep accurate and complete payroll records for
6 Aggrieved Employees violates Labor Code §§ 1174, 1198, and 1199 and section 7 of all applicable
7 Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code §§
8 558.1, 226.6, 1174.5 and 2699. Moreover, each violation of each Labor Code section and Wage
9 Order provision results in a *separate* civil penalty for each Aggrieved Employee for each pay
10 period.¹

11 **Meal Period Violations**

12 166. Under California law, DEFENDANTS have an affirmative obligation to relieve
13 PLAINTIFFS and Aggrieved Employees of all duty in order to take their first daily meal periods no
14 later than the start of PLAINTIFFS and Aggrieved Employees' sixth hour of work in a workday,
15 and to take their second meal periods no later than the start of the eleventh hour of work in the
16 workday. California Labor Code § 512, and Section 11 of the applicable Wage Orders require that
17 an employer provide unpaid meal periods of at least thirty (30) minutes for each five-hour period
18 worked. It is a violation of California Labor Code § 226.7 for an employer to require any employee
19 to work during any meal period mandated under any Wage Order.

20 167. California employers must provide employees a duty-free, uninterrupted thirty (30)
21 minute meal period within the first five (5) hours the employee works when the employee works
22 more than five (5) hours in a workday. Lab. Code § 512 and section 11(A) and (C) of all applicable
23 Wage Orders; *see also Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004.

24 168. Employers must also provide employees with a second duty-free, uninterrupted 30-

25 ¹ Labor Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Labor
26 Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the
27 employee was underpaid"); All applicable wage orders, § 20 (establishing that "[i]n addition to any other civil
28 penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes
to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each
pay period during which the employee was underpaid") (emphasis added).

1 minute meal period before the end of the 10th hour of work when an employee works more than (10)
2 hours in a workday. *Ibid*.

3 169. Section 7(A)(3) of all applicable Wage Orders provides in pertinent part that meal
4 periods “shall also be recorded.” Furthermore, “[i]f an employer’s records show no meal period for
5 a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of
6 duty and no meal period was provided.” *Brinker, supra*, 53 Cal. 4th at 1052-1053.

7 170. Employers must pay employees an additional hour of pay at the employee’s regular
8 rate of pay for each meal period that was missed or late, short, and/or interrupted). Lab. Code §
9 226.7(c); all applicable Wage Orders, §11(B).

10 171. As described above, Aggrieved Employees were not always provided the timely, off
11 duty, 30-minute meal periods to which they were entitled due to understaffing, the nature and
12 constraints of their job duties, and/or performance goals and expectations.

13 172. Despite these legal requirements, Defendants regularly failed to provide
14 PLAINTIFFS and Aggrieved Employees with both meal periods as required by California law. By
15 their failure to permit and authorize PLAINTIFFS and Aggrieved Employees to take all meal
16 periods as alleged above (or due to the fact that DEFENDANTS made it impossible or impracticable
17 to take these uninterrupted meal periods), DEFENDANTS willfully violated the provisions of
18 California Labor Code § 226.7 and the applicable Wage Orders.

19 173. On information and belief, DEFENDANTS had and continue to have a policy of
20 rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
21 minutes per shift despite having actual and/or constructive knowledge that Aggrieved Employees
22 did not receive compliant meal periods.

23 174. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS had
24 actual and/or constructive knowledge that its timekeeping policies and practices, including time-
25 rounding and auto-deductions, resulted in DEFENDANTS’ failure to provide Aggrieved Employees
26 the opportunity to take all compliant meal periods to which they are entitled, in violation of
27 California laws.

28 175. DEFENDANTS also failed to pay premium wages in lieu of for Code-compliant

1 meal periods, in violation of California law, and/or failed to pay the correct premium wages by
2 failing to incorporate all non-discretionary remuneration into the regular rate calculation.

3 176. DEFENDANTS' unlawful meal period policies and practices result in, *inter alia*,
4 violations of Labor Code sections 226.7, 512, and 1198-1199 and section 11 of all applicable Wage
5 Orders. These violations subject DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1,
6 and 2699 and section 20 of all applicable Wage Orders.

7 **Rest Period Violations**

8 177. DEFENDANTS are required by California law to authorize and permit breaks of ten
9 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than
10 two hours). California Labor Code § 512, the applicable Wage Orders require that the employer
11 permit and authorize all employees to take paid rest periods of ten minutes each for each 4-hour
12 period worked. Thus, for example, if an employee's work time is six hours and ten minutes, the
13 employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself
14 a violation of California's rest break laws. It is a violation of California Labor Code § 226.7 for an
15 employer to require any employee to work during any rest period mandated under any Wage Order.

16 178. Labor Code § 226.7 provides that employees are entitled to a 10-minute paid rest
17 period for shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6
18 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14
19 hours. *See Brinker*, 53 Cal. 4th at 1029. California employers must relieve non-exempt employees
20 of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security*
21 *Services, Inc.* (2016) 5 Cal. 5th 257. If the employer fails to provide any required rest period, the
22 employer must pay the employee one hour of pay at the employee's regular rate of compensation
23 for each workday the employer did not provide at least one legally required rest period, pursuant to
24 Labor Code § 226.7 and section 12(B) of the applicable Wage Order(s).

25 179. Moreover, the employee must be "*free from work* for 10 minutes [and the rest period
26 would not include any time to walk or otherwise travel to a place of rest]," and the employer must
27 clearly communicate what "net" ten minutes means. *Augustus*, 5 Cal. 5th at 267-268 (relying on
28 Dept. of Industrial Relations, DLSE Opn. Letter No. 1986.01.03 (Jan. 3, 1986) p. 1) (emphasis in

original);; *see also* *Bufile v. Dollar Fin. Grp., Inc.* (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to its employees.”).

180. Despite these legal requirements, DEFENDANTS failed to authorize PLAINTIFFS and Aggrieved Employees to take rest breaks, regardless of whether employees worked more than four hours in a workday. By their failure to permit and authorize PLAINTIFFS and Aggrieved Employees to take rest periods as alleged above (or due to the fact that DEFENDANTS made it impossible or impracticable to take these uninterrupted rest periods), DEFENDANTS willfully violated the provisions of California Labor Code § 226.7 and the applicable Wage Orders.

181. On information and belief, DEFENDANTS failed to provide Aggrieved Employees all rest periods to which they are entitled. As described above, purported rest periods were sometimes interrupted, cut short, on duty, and/or otherwise subject to DEFENDANTS’ control due to the nature and constraints of Aggrieved Employees’ job duties, understaffing, and/or performance goals and expectations.

182. On information and belief, DEFENDANTS implemented policies and/or practices that resulted in the failure to relieve Aggrieved Employees of all duties and employer control during rest periods.

183. As a result, Aggrieved Employees did not receive all rest periods to which they are entitled.

184. Moreover, on information and belief, DEFENDANTS failed to pay rest period premium wages to Aggrieved Employees in lieu of lawful rest periods. On further information and belief, when a rest period premium was paid, DEFENDANTS failed to include non-discretionary compensation into the regular rate of pay calculation.

185. As such, DEFENDANTS violated Labor Code §§ 226.7, 1198, and 1199 and section 12 of all applicable Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code §§ 558 and 2699 and section 20 of all applicable Wage Orders.

Minimum and Overtime Wage Violations

1. California employers must pay non-exempt for all hours worked, up to forty (40)

1 hour per week or eight (8) hours per day, at a regular rate that is no less than the mandated
2 minimum wage. Lab. Code §1197. The minimum wage standard applies to each hour employees
3 work for which they are not paid, and the employer's failure to pay for any hour worked by an
4 employee is unlawful even if averaging an employee's total pay over all hours worked, paid or
5 not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135
6 Cal. App. 4th 314, 324. "Hours worked" is the time during which an employee is subject to the
7 control of an employer, and includes all the time the employee is suffered or permitted to work,
8 whether or not required to do so.

9 186. California Labor Code § 510 provides that employees in California shall not be
10 employed more than eight hours in any workday or forty (40) hours in a workweek unless they
11 receive additional compensation beyond their regular wages in amounts specified by law. California
12 Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more
13 than eight hours in any workday unless they receive additional compensation beyond their regular
14 wages in amounts specified by law. Additionally, California Labor Code § 1198 states that the
15 employment of an employee for longer hours than those fixed by the IWC is unlawful.

16 187. California employers must pay employees overtime premium wages, equal to 1.5
17 times the employee's regular rate of pay for all hours worked in excess of eight (8) hours per
18 workday and/or forty (40) hours per workweek. Lab. Code § 510 and section 3 of the applicable
19 Wage Orders. Employers must pay overtime premium wages equal to double the regular hourly rate
20 of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in
21 excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

22 188. At all times relevant hereto, PLAINTIFFS and Aggrieved Employees have worked
23 more than eight hours in a workday and/or more than forty (40) hours in a workweek, as employees
24 of DEFENDANTS. At all times relevant hereto, DEFENDANTS failed to pay PLAINTIFFS and
25 Aggrieved Employees overtime compensation for the hours they have worked in excess of the
26 maximum hours permissible by law as required by California Labor Code §§ 510 and 1198.

27 189. At all relevant times herein mentioned, DEFENDANTS knowingly failed to pay to
28 PLAINTIFFS and Aggrieved Employees compensation for all hours they worked. By their failure

1 to pay compensation for each hour worked as alleged above, DEFENDANTS willfully violated the
2 provisions of California Labor Code § 1194, and any additional applicable Wage Orders, which
3 require such compensation to non-exempt employees.

4 190. As described above, DEFENDANTS fail to compensate Aggrieved Employees for
5 all hours worked because not all hours are recorded by virtue of, among other things,
6 DEFENDANTS' timekeeping policies and practices (and/or other unlawful policies and/or practices
7 described above that resulted in underpayment.

8 191. On information and belief, DEFENDANTS had actual or constructive knowledge
9 that its timekeeping practices, including rounding and auto-deduction, resulted in the underpayment
10 of minimum and overtime wages owed to Aggrieved Employees.

11 192. On information and belief, DEFENDANTS failed to pay twice Aggrieved
12 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
13 time worked beyond eight (8) hours on the seventh consecutive day of work in a workweek, in
14 violation of California's overtime laws.

15 193. On information and belief, DEFENDANTS further violated California's overtime
16 wage laws by failing to incorporate all non-discretionary compensation into the regular rate of pay
17 calculation. Failing to include non-discretionary compensation into the regular rate of pay resulted
18 in a miscalculation of the overtime rate of pay and the underpayment of overtime wages owed to
19 Aggrieved Employees.

20 194. DEFENDANTS' conduct as alleged herein results in violations of Labor Code
21 §§218.5, 510, 558, 558.1, 1194, 1197, 1198, and 1199 and all applicable Wage Orders. These
22 violations subject DEFENDANTS to civil penalties under Labor Code §§ 218.5, 558, 558.1, 1197.1,
23 and 2699 and section 20 of all applicable Wage Orders.

24 **Semimonthly Payment Violations**

25 195. Labor Code section 204 requires that all earned wages must be paid to employees
26 twice during each calendar month. Throughout the statute of limitations period applicable to this
27 cause of action, PLAINTIFFS and Aggrieved Employees were entitled to be paid twice a month at
28 rates required by law, including minimum and straight time wages. However, during all such times,

1 DEFENDANTS systematically failed and refused to pay PLAINTIFFS and Aggrieved Employees
2 all such wages due and failed to pay those wages twice a month.

3 196. DEFENDANTS violated section 204 by, including but not limited to, failing to pay
4 PLAINTIFFS and other Aggrieved Employees an additional hour of pay for meal and rest periods
5 not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked,
6 and by failing to pay proper premium wage rates for all hours worked. These violations subject
7 DEFENDANTS to civil penalties under Labor Code section 210. Each violation results in a *separate*
8 civil penalty, for each Aggrieved Employee for each pay period during which the statute's
9 provisions were violated.

10 **Statutory Wage Violations**

11 197. California Labor Code § 223 prohibits the secret payment of wages lower than
12 required by statute while purporting to pay legal wages. As described above, DEFENDANTS
13 willfully and systematically denied Aggrieved Employees of all earned minimum and overtime
14 wages for all hours worked, which resulted in the payment of less than statutorily required wages.
15 DEFENDANTS acted with the intent to deprive Aggrieved Employees of statutory wages, including
16 minimum and overtime wages, to which they are entitled under California law. Thus,
17 DEFENDANTS paid Aggrieved Employees wages lower than those to which they were entitled
18 while purporting that Aggrieved Employees were paid pursuant to statute. As a result, Aggrieved
19 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
20 Labor Code § 2699(f)-(g).

21 **Refusal to Make Payment**

22 198. Labor Code § 216 declares unlawful an employer's refusal to pay wages due and
23 payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated and
24 continue to violate this section by failing to pay Aggrieved Employees for all hours worked at the
25 correct rate(s) of pay and by failing to pay an additional hour of pay for each meal/rest period not
26 provided or otherwise unlawful. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal. App. 4th
27 1137, 1154-1155. These violations subject DEFENDANTS to civil penalties under Labor Code §
28 225.5. Each violation results in a *separate* civil penalty for each Aggrieved Employee for each pay

1 period.²

2 **Standard Conditions of Labor Violations**

3 199. Together, Labor Code §§ 1198 and 1199 make unlawful the employment of any
4 employee under conditions prohibited by the Wage Orders and any violation, refusal, or failure to
5 comply with all applicable provisions, orders, and/or ruling of the commission. Therefore,
6 DEFENDANTS' violations as alleged herein subject DEFENDANTS to civil penalties under Labor
7 Code §§ 1197.1 and 2699.

8 **Business Expense Violations**

9 200. Section 2802 of the Labor Code and Section 9(b) of all applicable Wage Orders
10 require employers to indemnify and/or reimburse their employees for all costs necessarily incurred
11 by the employee in direct consequence of the discharge of their duties or of their obedience to the
12 directions of the employer. Lab. Code § 2802(c).

13 201. For example, when employees are required to use their personal cellphones for work,
14 the employer must reimburse a reasonable percentage of the employee's cell phone bill. *See*
15 *Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal. App. 4th 1137, 1145.

16 202. As set forth above, PLAINTIFFS and Aggrieved Employees were required to incur
17 substantial necessary expenditures and losses in direct consequence of the discharge of their duties
18 or of their obedience to the directions of DEFENDANTS.

19 203. DEFENDANTS' failure to reimburse Aggrieved Employees for all necessarily-
20 incurred business expenses required Aggrieved Employees to subsidize and/or carry the burden of
21 DEFENDANTS' business expenses.

22 204. Despite being aware of these expenditures, DEFENDANTS failed to reimburse
23 Aggrieved Employees for such expenses in violation of Labor Code § 2802.

24 **Wage Statement Violations**

25 205. California employers must furnish employees, at the time of each payment of wages,

27 ² Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
28 provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212,
216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

1 with an accurate itemized wage statement that contains the following information: (1) gross wages
2 earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any
3 applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages
4 earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the
5 employee and only the last four digits of his or her social security number or an employee
6 identification number other than a social security number; (8) the name and address of the legal
7 entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the
8 corresponding number of hours worked at each hourly rate. Lab. Code § 226.

9 206. DEFENDANTS have intentionally and willfully failed to provide employees with
10 complete and accurate wage statements. The deficiencies include, among other things, the failure
11 to correctly identify the gross wages earned by PLAINTIFFS and Aggrieved Employees, the failure
12 to list the true “total hours worked by the employee,” and the failure to list the true net wages earned.

13 207. DEFENDANTS failed to provide Aggrieved Employees with meal and rest periods
14 that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to
15 Aggrieved Employees failed and continue to fail to correctly set forth (a) the gross wages earned,
16 in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation
17 of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section
18 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding
19 number of hours worked at each hourly rate by the employee, in violation of Labor Code section
20 226(a)(9).

21 208. Moreover, due to violations detailed above, including but not limited to,
22 DEFENDANTS’ failure to pay regular and overtime wages for all hours worked, failure to provide
23 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
24 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish Aggrieved
25 Employees with accurate, itemized wage statements that listed the gross and net wages earned and
26 the correct applicable rates of pay for all hours worked. On information and belief, DEFENDANTS
27 failed to incorporate all forms of non-discretionary compensation earned during the pay period into
28 the regular rate of pay for purposes of calculating the owed overtime rate, and as such, failed to

1 display the proper overtime rate(s) for each hour of overtime worked by Aggrieved Employees.

2 209. As explained above, wage statements issued by DEFENDANTS failed to list the
3 “total hours worked” by Aggrieved Employees (by virtue of rounded time entries, automatic
4 deduction for meal periods/failure to relieve Aggrieved Employees of all duties and employer
5 control during unpaid meal periods, and/or other off-the-clock work policies and practices described
6 above), which results in a violation of Labor Code §226(a). Failure to list all hours worked on a
7 wage statement, gives rise to an inference of injury under Labor Code § 226. *Maldonado v. Epsilon*
8 *Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337.

9 210. On information and belief, wage statements issued by DEFENDANTS failed to list
10 all applicable hourly rates in effect during the pay period and the corresponding number of hours
11 worked at each hourly rate by the employee, in violation of, including but not limited to, Labor Code
12 section 226(a)(9).

13 211. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
14 caused and continues to cause confusion to Aggrieved Employees over whether they received all
15 wages owed to them.

16 212. As a result, Aggrieved Employees have suffered injury as they could not easily
17 determine whether they received all wages owed to them and whether they were paid for all hours
18 worked.

19 213. Moreover, as a result of DEFENDANTS’ failure to list the correct name and/or
20 address of the legal entity that is the employer, Aggrieved Employees have suffered injury as they
21 could not contact their employer regarding any question(s) they had about wages paid.

22 214. DEFENDANTS’ knowingly and intentionally failed to provide Aggrieved
23 Employees with accurate, itemized wage statements.

24 215. As a result of DEFENDANTS’ unlawful conduct, Aggrieved Employees have
25 suffered injury. The absence of accurate information on their wage statements has prevented earlier
26 challenges to DEFENDANTS’ unlawful pay practices, will require discovery and mathematical
27 computations to determine the amount of wages owed, and will cause difficulty and expense in
28 attempting to reconstruct time and pay records. DEFENDANTS’ conduct led to the submission of

1 inaccurate information about wages and amounts deducted from wages to state and federal
2 government agencies. As a result, Aggrieved Employees are required to participate in this lawsuit
3 and create more difficulty and expense from having to reconstruct time and pay records than if
4 DEFENDANT had complied with its legal obligations.

5 216. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
6 Each violation results in a *separate* civil penalty for each Aggrieved Employee for each pay period.
7 Lab. Code § 226.3.

8 **Unlawful Deductions**

9 217. Labor Code § 221 prohibits an employer from “collect[ing] or receiv[ing] from an
10 employee any part of wages theretofore paid by said employer to said employee.” On information
11 and belief, DEFENDANTS made unlawful deductions from Aggrieved Employees paychecks
12 during the relevant period. Such a practice is in violation of Labor Code §§ 221 and 222, which
13 subjects DEFENDANTS to civil penalties under Labor Code § 2699.

14 218. Labor Code § 225.5 provides further that “[i]n addition to, and entirely independent
15 and apart from, any other penalty provided in this article, every person who unlawfully withholds
16 wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil
17 penalty...for each failure to pay each employee”.

18 **Reporting Time Pay Violations**

19 219. Section 5 of all applicable IWC Wage Orders, provides as follows:

20 (A) Each workday an employee is required to report for work and does report, but is not put
21 to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee
22 shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours
23 nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the
24 minimum wage. (B) If an employee is required to report for work a second time in any one workday
25 and is furnished less than two (2) hours of work on the second reporting said employee shall be paid
26 for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

27 220. Aggrieved Employees were not paid reporting time wages in accordance with the
28 applicable Wage Order(s). For example, on 4/1/2019, information and belief, Aggrieved Employees

1 sometimes reported to work for a scheduled shift but were sent home and/or were not put to work
2 and were not paid all owed reporting time pay to which they were entitled.

3 221. On information and belief, DEFENDANTS have a policy and practice of failing to
4 pay all reporting time wages to Aggrieved Employees, in violation of Section 5 of the applicable
5 Wage Order. DEFENDANTS' failure to pay all reporting time wages to Aggrieved Employees
6 violated and continues to violate the applicable Wage Order and, *inter alia*, Labor Code § 1198.

7 **Violation of California Day of Rest Law**

8 222. Sections 551 and 552 of the Labor Code provide that every employee in California
9 is entitled to "one day's rest [from labor] in seven," and, no employer may cause its employees "to
10 work more than six days in seven."

11 223. On information and belief, DEFENDANTS had and continue to have a uniform
12 policy and practice of requiring Aggrieved Employees to work at least seven (7) consecutive days
13 in a workweek, in violation of Labor Code § 551. On information and belief, Aggrieved Employees
14 were suffered and permitted and/or required to work at least seven (7) consecutive days in a
15 workweek, in violation of Labor Code § 551.

16 **Temperature Violations**

17 224. Section 15 of all applicable IWC Wage Orders, states as follows:

18 225. (A) The temperature maintained in each work area shall provide reasonable comfort
19 consistent with industry-wide standards for the nature of the process and the work performed.

20 226. (B) If excessive heat or humidity is created by the work process, the employer shall
21 take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
22 comfort. Where the nature of the employment requires a temperature of less than 60° F, a heated
23 room shall be provided to which employees may retire for warmth, and such room shall be
24 maintained at not less than 68°.

25 227. (D) Federal and State energy guidelines shall prevail over any conflicting provision
26 of this section.

27 228. Based on information and belief, on various diverse dates during relevant period,
28 Aggrieved Employees were subjected to excessive heat resulting in temperatures exceeding 100° F.

1 229. Based on information and belief, during the relevant period, DEFENDANTS failed
2 to provide Aggrieved Employees with reasonable comfort by maintaining the indoor temperature
3 within the range of industry standards by providing adequate air conditioning and/or cooling
4 system/proper ventilation.

5 230. For example, based on information and belief, temperatures in DEFENDANTS'
6 facilities where Aggrieved Employees worked were excessively hot, including but not limited to, in
7 the summer due to, including but not limited to, DEFENDANTS' practice of failing to provide
8 adequate artificial air conditioning and/ or proper ventilation and/or fans within the work facilities
9 and/or other methods/means necessary to provide reasonable comfort consistent with industry-wide
10 standards for the nature of the process and the work PLAINTIFFS and other Aggrieved Employees
11 were required to performed.

12 231. For example, DEFENDANTS failed to provide Aggrieved Employees with any
13 artificial air conditioning and/or cooling system in their work area(s) besides one or more fans. As
14 a result of DEFENDANTS failure to take proper measures to provide adequate air conditioning, a
15 cooling system and/or proper ventilation, there were instances where the temperature in
16 DEFENDANTS' facilities would reach as high as 115 degrees, and PLAINTIFFS and other
17 Aggrieved Employees were forced to work in such these temperatures/extreme heat conditions.

18 232. As such, DEFENDANTS failed to maintain temperatures in each work area that
19 provide reasonable comfort consistent with industry-wide standards for the nature of the process
20 and the work performed, in violation of Section 15 of the IWC Wage Orders and the California
21 Labor Code, including but not limited to section 1198.

22 **Violation of Labor Code Sections 2100-2112**

23 233. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
24 more employees at a single warehouse distribution center, or one thousand (1,000) or more
25 employees at one or more warehouse distribution centers in California are required to provide
26 nonexempt employees, upon hire, with a written description of each quota they are subject to (e.g.,
27 quantified number of tasks to be performed or materials to be handled) within a defined period of
28 time and any potential adverse employment action that may result from failure to meet the quota.

1 Labor Code Section 2102 (see below) prohibits adverse employment actions against employees who
2 fail to meet their quota if the quota was not properly disclosed to the employee and prohibits quotas
3 that prevent an employee from taking his or her meal or rest breaks, use of restrooms, or that interfere
4 with compliance with California's occupational health and safety laws.

5 234. Labor Code Section 2101 provides:

6 235. Each employer shall provide to each employee, upon hire, or within 30 days of the
7 effective date of this part, a written description of each quota to which the employee is subject,
8 including the quantified number of tasks to be performed or materials to be produced or handled,
9 within the defined time period, and any potential adverse employment action that could result from
10 failure to meet the quota.

11 236. Labor Code Section 2102 provides:

12 237. An employee shall not be required to meet a quota that prevents compliance with
13 meal or rest periods, use of bathroom facilities, including reasonable travel time to and from
14 bathroom facilities, or occupational health and safety laws in the Labor Code or division standards.
15 An employer shall not take adverse employment action against an employee for failure to meet a
16 quota that does not allow a worker to comply with meal and rest periods, or occupational health and
17 safety laws in the Labor Code or division standards, or for failure to meet a quota that has not been
18 disclosed to the employee pursuant to Section 2101.

19 238. Labor Code Section 2104 provides in pertinent part:

20 239. (a)(1) If a current or former employee believes that meeting a quota caused a
21 violation of their right to a meal or rest period or required them to violate any occupational health
22 and safety laws in the Labor Code or division standards, they have the right to request, and the
23 employer shall provide, a written description of each quota to which the employee is subject and a
24 copy of the most recent 90 days of the employee's own personal work speed data.

25 240. (2) If a former employee requests a written description of the quotas to which they
26 were subject and a copy of their own personal work speed data pursuant to paragraph (1), the
27 employer shall provide 90 days of the former employee's quotas and personal work speed data for
28 the 90 days prior to the date of the employee's separation from the employer.

1 241. (b) An employer that receives a written or oral request for information pursuant to
2 subdivision (a) shall comply with the request as soon as practicable, but no later than 21 calendar
3 days from the date of the request.

4 242. Based on information and belief, during the relevant period, DEFENDANTS
5 employed 100 or more Aggrieved Employees at a single warehouse distribution center and/or
6 employed 1,000 or more Aggrieved Employees at one or more distribution centers in California
7 rendering DEFENDANTS subject to the provisions of Labor Code Sections 2100-2112, during the
8 relevant period.

9 243. Based on information and belief, DEFENDANTS had/have a policy and practice of
10 failing to provide Aggrieved Employees, upon hire, with a written description of each quota they
11 are subject to (e.g., quantified number of tasks to be performed or materials to be handled) within a
12 defined period of time and any potential adverse employment action that may result from failure to
13 meet the quota. Based on further information and belief, DEFENDANTS had/have a policy and
14 practice of subjecting Aggrieved Employees to quotas that prevented those Aggrieved Employees
15 from taking their meal and rest periods and/or using bathroom facilities and/or interfered with
16 compliance of California's occupational health and safety laws.

17 244. Based on further information and belief, DEFENDANTS have/had a policy and
18 practice of subjecting Aggrieved Employees to adverse employment actions for failure to meet a
19 quota that was not disclosed pursuant to Labor Code Section 2101 and/or did not allow them to
20 comply with meal and rest period laws and/or occupational health and safety laws, in violation of
21 Labor Code section 2102.

22 245. Based on information and belief, DEFENDANTS failed and continue to fail to timely
23 produce upon written and/or oral request by current and/or former Aggrieved Employees of the
24 belief that meeting a quota caused a violation of their right to a meal or rest period and/or required
25 them to violate any occupational health and safety laws, a written description of each quota to which
26 the employee is subject and/or a copy of the most recent 90 days of the Aggrieved Employee's own
27 personal work speed data.

28 246. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
PLS.' 2D AMENDED REPRESENTATIVE COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT
174217665.1

1 Code section 2100-2112 as to Aggrieved Employees and are subject to civil penalties.

2 **Seating Violations**

3 247. Section 14(A-B) of all applicable Wage Orders provides:

4 (A) All working employees shall be provided with suitable seats when the nature of the
5 work reasonably permits the use of seats.

6 (B) When employees are not engaged in the active duties of their employment and the
7 nature of the work requires standing, an adequate number of suitable seats shall be placed in
8 reasonable proximity to the work area and employees shall be permitted to use such seats when it
9 does not interfere with the performance of their duties.

10 248. On information and belief, DEFENDANTS failed to provide Aggrieved Employees
11 with suitable seating in accordance with the applicable Wage Order(s).

12 249. Moreover, on information and belief, the nature of Aggrieved Employees' work
13 reasonably permitted the use of seats for at least part of the time that Aggrieved Employees were
14 working. In addition, there were periods of time when Aggrieved Employees were not actively
15 engaged in work, and use of seats would not interfere with the performance of their duties, yet there
16 were no suitable seats in reasonable proximity to the work area.

17 250. DEFENDANTS failed to provide suitable seating in reasonable proximity to
18 Aggrieved Employees' work areas in violation of section 14(A-B) of all applicable Wage Orders,
19 and Labor Code § 1198, subjecting DEFENDANTS to civil penalties under Labor Code § 2699.
20 Each violation of each Labor Code section and Wage Order provision, for each Aggrieved
21 Employee, results in a separate civil penalty.

22 **Sick Leave Violations**

23 251. DEFENDANTS violated California's Healthy Workplaces, Healthy Families Act of
24 2014 ("HWHFA"), Lab. Code § 245, *et seq.* DEFENDANTS either failed to provide paid sick leave
25 to Aggrieved Employees or failed accurately to record the accrual of such paid sick leave due to
26 DEFENDANTS' failing to record all hours worked (as explained above), and/or failing to calculate
27 the paid sick leave rate(s) of pay correctly.

28 252. DEFENDANTS also failed to give Aggrieved Employees notice of their paid sick

1 leave rights, including by putting their entitlement to paid sick leave in a written notice pursuant to
2 Labor Code § 2810.5. In addition, DEFENDANTS failed to maintain accurate records of used paid
3 sick leave and/or the balance of paid sick leave left to the employee, which affected Aggrieved
4 Employees' intelligent exercise of their paid sick leave.

5 253. But for this failure, Aggrieved Employees would have used their paid sick leave at
6 least prior to their respective separations.

7 254. In violation of Labor Code § 247.5, DEFENDANTS failed to maintain records
8 documenting the hours worked and paid sick days accrued and used by Aggrieved Employees,
9 giving rise to a presumption that Aggrieved Employees were entitled to the maximum number of
10 hours accruable.

11 255. On information and belief, DEFENDANTS failed and continue to provide Aggrieved
12 Employees with a Labor Code-compliant wage statement or separate writing containing the balance
13 of paid sick leave, or paid time off leave an employer provides in lieu of sick leave, available at the
14 time DEFENDANTS pay wages, in violation of Labor Code § 246(i).

15 256. On information and belief, PLAINTIFFS allege that all of these practices were
16 experienced and continue to be experienced by other Aggrieved Employees.

17 257. Accordingly, on behalf of the State of California and all other Aggrieved Employees,
18 PLAINTIFFS seek all appropriate relief under PAGA, including injunctive relief, attorney's fees,
19 declaratory relief, and penalties as permitted by law.

20 **Failure To Provide Supplemental Paid Sick Leave**

21 258. Labor Code § 248.2 provides that all employers with 26 or more employees are
22 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
23 Paid Sick Leave to care for themselves or for a family member or if the leave is vaccine-related.
24 DEFENDANTS violated Labor Code § 248.2 by failing to provide Aggrieved Employees with
25 required 2021 COVID-19 Supplemental Paid Sick Leave. On information and belief,
26 DEFENDANTS also failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor
27 Code § 248.6.

28 **Failure to Pay Vested Vacation/Paid Time Off**

1 259. California Labor Code § 227.3 provides that when “an employer policy provides for
2 paid vacations, and an employee is terminated without having taken off his vested vacation time, all
3 vested vacation shall be paid to him as wages at his final rate in accordance with...employer policy
4 respecting eligibility or time served...[but such policy] shall not provide for forfeiture of vested
5 vacation time upon termination.”

6 260. On information and belief, DEFENDANTS had and continue to have a uniform
7 policy and practice of failing to pay all vested, unused vacation pay and/or other paid time off at the
8 correct final rate of pay, including non-discretionary compensation, to Aggrieved Employees upon
9 separation of employment, in violation of Labor Code § 227.3.

10 **Untimely Payment of Final Wages**

11 261. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if
12 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due
13 and payable immediately, and that if an employee voluntarily leaves his or her employment, his or
14 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the
15 employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which
16 case the employee is entitled to his or her wages at the time of quitting.

17 262. Section 201(a) of the Labor Code provides in pertinent part that “wages earned and
18 unpaid at the time of discharge are due and payable immediately.” Section 202(a) of the Labor Code
19 provides in pertinent part that “wages shall become due and payable not later than 72 hours [after
20 the at-will employee quits], unless the employee has given 72 hours previous notice of his or her
21 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

22 263. Section 203 of the Labor Code provides in pertinent part that “[i]f an employer
23 willfully fails to pay...any wages of an employee who is discharged or who quits, [such wages]
24 shall continue as a penalty from the due date thereof at the same rate until paid or until an action
25 therefor is commenced; but the wages shall not continue for more than 30 days.” This 30-day
26 waiting time penalty may be recoverable as a civil penalty pursuant to Labor Code § 256.

27 264. On information and belief, DEFENDANTS failed and continue to fail timely to pay
28 final wages to Aggrieved Employees upon separation of employment, in violation of Labor Code

1 §§ 201 and 202. Moreover, final paychecks, once provided to Aggrieved Employees, did not include
2 all wages earned and owed, as alleged herein.

3 265. Within the applicable statute of limitations, the employment of PLAINTIFFS and
4 many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the
5 employment of others will be. However, during the relevant time period, DEFENDANTS failed,
6 and continue to fail to pay terminated Aggrieved Employees, without abatement, all wages required
7 to be paid by California Labor Code §§ 201 and 202 either at the time of discharge, or within
8 seventy-two (72) hours of their leaving Defendants' employ.

9 266. As a result, DEFENDANTS violated Labor Code §§ 201, 202, and 203, which
10 violations subject DEFENDANTS to civil penalties under Labor Code §§ 203, 210, and/or 256.

11 **Violation of Labor Code Section 208**

12 267. Section 208 of the Labor Code provides that every discharged employee "shall be
13 paid at the place of discharge," and every quitting employee "shall be paid at the office or agency
14 of the employer in the county where the employee has been performing labor," All such payments
15 "shall be made in the manner provided by law." Lab. Code § 208.

16 268. On information and belief, DEFENDANTS have a policy and practice of failing to
17 provide terminated Aggrieved Employees with their final paychecks at the place of discharge and/or
18 of failing to provide quitting Aggrieved Employees with their final paychecks at the office or agency
19 in the county where they performed work, in violation of Labor Code § 208.

20 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

21 269. *Unlawful Agreements.* Labor Code § 432.5 provides that "no employer...shall
22 require any employee or applicant for employment to agree, in writing, to any term or condition
23 which is known by such employer...to be prohibited by law." DEFENDANTS required and
24 continue to require Aggrieved Employees to agree in writing to unlawful criminal and/or financial
25 checks as a condition of obtaining and/or continuing employment, in violation of Labor Code §
26 432.5.

27 270. Labor Code § 1024.5 states that certain employers may order a credit check only for
28 certain employees and/or positions. Additionally, the Investigative Consumer Reporting Agencies

1 Act (“ICRAA”), Civ. Code § 1786, *et seq.*, and the Fair Credit Reporting Act (“FCRA”), 15 U.S.C.
2 § 1681, *et seq.*, impose limits on permissible employee background checks, including identifying
3 an appropriate reason for the background check, a separate consent form with certain disclosures,
4 and a way by which to request a copy of the report.

5 271. On information and belief, DEFENDANTS ordered unlawful financial credit checks
6 on Aggrieved Employees, in violation of Labor Code § 1024.5, and required ongoing written
7 consent as a condition of employment, in violation of Labor Code § 432.5.

8 272. On information and belief, DEFENDANTS also required Aggrieved Employees to
9 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
10 obtaining and/or holding employment.

11 273. On further information and belief, DEFENDANTS required Aggrieved Employees,
12 as a condition of employment, to agree in writing to provide DEFENDANTS with ongoing consent
13 to conduct background checks throughout the duration of employment, in further violation of Labor
14 Code § 432.5.

15 274. On further information and belief, DEFENDANTS knew or should have known that
16 requiring Aggrieved Employees to agree to unlawful criminal and/or financial background checks
17 as a condition of obtaining and/or holding employment was unlawful.

18 Unlawful Inquires into Criminal History

19 275. Labor Code § 432.7 prohibits an employer from asking applicants about past arrest(s)
20 unless they resulted in a conviction, and, even then, certain limitations apply. On information and
21 belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in a conviction on
22 its employment application, in violation of California law.

23 276. On information and belief, DEFENDANTS, in violation of California’s Fair Chance
24 Act/the California Fair Employment and Housing Act (“FEHA”), Gov’t Code § 12900, *et seq.*,
25 asked Aggrieved Employees about convictions prior to extending an offer of employment and/or
26 otherwise unlawfully inquired into criminal history on their employment application in violation of
27 Labor Code § 432.5.

28 Unlawful PAGA Waiver

277. DEFENDANTS violated Labor Code § 432.5 by requiring Aggrieved Employees to agree in writing to an unlawful waiver of PAGA enforcement and/or representative actions as a condition of employment.

278. An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that where “an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.” See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384

279. On information and belief, DEFENDANTS required Aggrieved Employees to agree in writing to waive their right to a trial of representative PAGA claims as a condition of employment, in violation of Labor Code § 432.5.

280. Under PAGA and the above-mentioned Labor Code sections, including 201-203, 204, 208, 210, 216, 221-223, 225.5, 226, 226.7, 227.3, 245-248.6, 256, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2699, 2699.3, 2100-2112, 2802, and 2810.5, and all applicable Wage Orders, DEFENDANTS are liable for civil penalties under Labor Code §§ 2699(a), 2699(f), and 2699(g), in addition to costs, and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for relief and judgment as follows on behalf of the State of California, and all other Aggrieved Employees:

1. For civil penalties under PAGA, Lab. Code § 2698;
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. That the Court declare, adjudge and decree that DEFENDANTS violated the California Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and overtime wages), failing to provide meal periods and pay the correct amount of meal period premium wages, failing to authorize and permit rest periods and pay the correct amount of rest

1 period premium wages, failing to authorize and permit rest periods and pay
2 the correct amount of rest period premium wages, failing to pay all final
3 wages to terminated employees, failing to furnish accurate wage statements,
4 and failing to reimburse employees for all necessary business expenses;

5 5. For reasonable attorney's fees and costs of suit; and

6 6. For such other and further relief that the Court deems just and proper.

7
8 Dated: August 22, 2025

WILSHIRE LAW FIRM

9
10 By: /s/ Tyler Woods
11 Tyler Woods, Esq.
12 Attorneys for Plaintiff
JUAN PADILLA

13 Dated: August 22, 2025

CROSNER LEGAL, PC

14
15 By: /s/ Raymond Wendell
16 Brandon Brouillette, Esq.
17 Raymond Wendell, Esq.
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