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

AHMED IDRIS, individually, and on
behalf of other members of the general
public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

SPEARHEAD MOBILITY INC, a Texas
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 23CV003917

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

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11070 Subdivision 5(A) (Failure to Provide Reporting Time Pay);
- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);

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

Jury Trial Demanded

1 Plaintiff Ahmed Idris, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court, because Defendants filed Statement of
5 Information forms with the California Secretary of State designating a principal place of
6 business in Sacramento, County of Sacramento, in accordance with California Corporations
7 Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court
8 because Defendants employ persons in this county, and thus a substantial portion of the
9 transactions and occurrences related to this action occurred in this county.

10 **THE PARTIES**

11 4. Plaintiff Ahmed Idris is a resident of Garden Grove, in Orange County,
12 California. Defendants employed Plaintiff as an hourly paid, non-exempt Customer Advocate
13 from approximately August 2022 to April 2023. During his employment, Plaintiff typically
14 worked eight (8) hours or more per day and five (5) days or more per week. Plaintiff's
15 primary job duties included, without limitation, opening and closing the store, assisting
16 customers, selling products, and setting up new devices for customers.

17 5. SPEARHEAD MOBILITY INC was and is, upon information and belief, a
18 Texas corporation, and at all times hereinafter mentioned, an employer whose employees are
19 engaged throughout this county and the State of California.

20 6. Plaintiff is unaware of the true names or capacities of the Defendants sued
21 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
22 amend the complaint and serve such fictitiously named Defendants once their names and
23 capacities become known.

24 7. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
25 were the partners, agents, owners, or managers of SPEARHEAD MOBILITY INC at all
26 relevant times.

27 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the
28 acts and omissions alleged herein was performed by, or is attributable to, SPEARHEAD

1 MOBILITY INC and/or DOES 1 through 10 (collectively, “Defendants” or “SPEARHEAD
2 MOBILITY”), each acting as the agent, employee, alter ego, and/or joint venturer of, or
3 working in concert with, each of the other co-Defendants and was acting within the course and
4 scope of such agency, employment, joint venture, or concerted activity with legal authority to
5 act on the others’ behalf. The acts of any and all Defendants were in accordance with, and
6 represent, the official policy of Defendants.

7 9. At all relevant times, Defendants, and each of them, ratified each and every act
8 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
9 and abetted the acts and omissions of each and all the other Defendants in proximately causing
10 the damages herein alleged.

11 10. Plaintiff is informed and believes, and thereon alleges, that each of said
12 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
13 omissions, occurrences, and transactions alleged herein.

14 **GENERAL ALLEGATIONS**

15 11. Defendants are an authorized AT&T retailer operating over 82 stores across
16 multiple states, including at least 17 stores in California. Upon information and belief,
17 Defendants maintain a single, centralized Human Resources (“HR”) department at their
18 company headquarters in Sacramento, California, which is responsible for the recruiting and
19 hiring of new employees, and communicating and implementing Defendants’ company-wide
20 policies, including timekeeping policies and meal and rest period policies, to employees
21 throughout California.

22 12. In particular, Plaintiff and class members, on information and belief, received
23 the same standardized documents and/or written policies. Upon information and belief, the
24 usage of standardized documents and/or written policies, including new-hire documents,
25 indicate that Defendants dictated policies at the corporate level and implemented them
26 company-wide, regardless of their employees’ assigned locations or positions. Upon
27 information and belief, Defendants set forth uniform policies and procedures in several
28 documents provided at an employee’s time of hire.

1 13. Upon information and belief, Defendants maintain a centralized Payroll
2 department at their company headquarters in Sacramento, California, which processes payroll
3 for all non-exempt, hourly paid employees working for Defendants at their various locations
4 in California, including Plaintiff and class members. Based upon information and belief,
5 Defendants issue the same formatted wage statements to all non-exempt, hourly paid
6 employees in California, irrespective of their work locations. Upon information and belief,
7 Defendants process payroll for departing employees in the same manner throughout the State
8 of California, regardless of the manner in which each employee's employment ends.

9 14. Defendants continue to employ non-exempt or hourly paid employees in
10 California.

11 15. Plaintiff is informed and believes, and thereon alleges, that at all times herein
12 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
13 and advisors knowledgeable about California labor and wage law, employment and personnel
14 practices, and about the requirements of California law.

15 16. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
16 members were not paid for all hours worked because all hours worked were not recorded.

17 17. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and class members were entitled to receive certain wages for
19 overtime compensation and that they were not receiving certain wages for overtime
20 compensation.

21 18. Plaintiff is informed and believes, and thereon allege, that Defendants knew or
22 should have known that Plaintiff and class members were entitled to be paid at a regular rate
23 of pay, and corresponding rates of pay for overtime wages and/or meal and rest period
24 premiums that included as eligible income all remuneration required by law, including but not
25 limited to, all income derived from commissions, incentive pay, nondiscretionary bonuses,
26 and/or other forms of compensation, but failed to include all forms of remuneration in
27 calculating the regular rate of pay for Plaintiff and class members.

28 19. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive at least minimum
2 wages for compensation and that they were not receiving at least minimum wages for work
3 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
4 and class members were not paid at least minimum wages for work done off-the-clock.

5 20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to meal periods in
7 accordance with the California Labor Code and applicable Industrial Welfare Commission
8 (“IWC”) Wage Order or payment of one (1) additional hour of pay at their regular rates of pay
9 when they were not provided with timely, uninterrupted, thirty (30) minute meal periods and
10 that Plaintiff and class members were not provided with all meal periods or payment of one
11 (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
12 uninterrupted, thirty (30) minute meal period.

13 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and class members were entitled to rest periods in
15 accordance with the California Labor Code and applicable IWC Wage Order or payment of
16 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
17 permitted to take a compliant rest period and that Plaintiff and class members were not
18 authorized and permitted to take compliant rest periods or provided payment of one (1)
19 additional hour of pay at their regular rates of pay when they were not authorized and
20 permitted to take a compliant rest period.

21 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that they were obligated to separately compensate Plaintiff and/or class
23 members for rest periods and/or other nonproductive time when paying them on a piece-rate
24 basis at their regular rate of pay. In violation of the California Labor Code, Defendants failed
25 to separately compensate Plaintiff and/or class members for rest periods and/or other
26 nonproductive time.

27 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to receive complete and

1 accurate wage statements in accordance with California law. In violation of the California
2 Labor Code, Plaintiff and class members were not provided complete and accurate wage
3 statements.

4 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that they had a duty to maintain accurate and complete payroll records in
6 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
7 knowingly, and intentionally failed to do so.

8 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and class members were entitled to timely payment of all
10 wages earned upon termination of employment. In violation of the California Labor Code,
11 Plaintiff and class members did not receive payment of all wages due, including, but not
12 limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting
13 time pay, within permissible time periods.

14 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to timely payment of wages
16 during their employment. In violation of the California Labor Code, Plaintiff and class
17 members did not receive payment of all wages, including, but not limited to, overtime wages,
18 minimum wages, meal and rest period premiums, and/or reporting time pay, within
19 permissible time periods.

20 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and/or class members were entitled to receive sick leave
22 benefits to be paid at a regular rate of pay, that included, as eligible income, all income
23 derived from incentive pay, nondiscretionary bonuses, and/or other forms of compensation,
24 and to receive itemized wage statements or separate written statements showing the amount of
25 paid sick leave available, or paid time off provided in lieu of sick leave. In violation of the
26 California Labor Code, Defendants failed to include all forms of remuneration in calculating
27 the regular rate of pay for sick leave pay and failed to provide Plaintiff and/or class members
28 with written itemized wage statements or separate written statements showing this

1 information.

2 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and/or class members were entitled to one day's rest in
4 seven. In violation of the California Labor Code, Defendants required Plaintiff and/or class
5 members to work more than six consecutive days without a day of rest, where the total hours
6 worked exceeded 30 hours in any week or six hours in any one day thereof.

7 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to receive all reporting time
9 pay when Plaintiff and class members were required to report to work but were put to work
10 for less than half of their usual or scheduled shift. In violation of the California Labor Code
11 and applicable IWC Wage Order, Plaintiff and class members were not paid all reporting time
12 pay.

13 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and class members were entitled to receive full
15 reimbursement for all business-related expenses and costs they incurred during the course and
16 scope of their employment and that they did not receive full reimbursement of applicable
17 business-related expenses and costs incurred.

18 31. Plaintiff is informed and believes, and thereon alleges, that at all times herein
19 mentioned, Defendants knew or should have known that Defendants had a duty to provide
20 Plaintiff and class members with written notice of the material terms of their employment with
21 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

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

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1 **PAGA REPRESENTATIVE ALLEGATIONS**

2 33. At all times herein set forth, PAGA provides that any provision of law under
3 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
4 assessed and collected by the LWDA for violations of the California Labor Code and
5 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
6 civil action brought on behalf of themselves and other current or former employees pursuant
7 to procedures outlined in California Labor Code section 2699.3.

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

11 35. Plaintiff and other current and former employees of Defendants are “aggrieved
12 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
13 or former employees and one or more of the alleged violations were committed against them.

14 36. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
15 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
16 following requirements have been met:

- 17 (a) The aggrieved employee or representative shall give written notice by
18 online filing with the LWDA and by certified mail to the employer of
19 the specific provisions of the California Labor Code alleged to have
20 been violated, including the facts and theories to support the alleged
21 violation.
- 22 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
23 2699.3(a) and any employer response to that notice shall be
24 accompanied by a filing fee of seventy-five dollars (\$75).
- 25 (c) The LWDA shall notify the employer and the aggrieved employee or
26 representative by certified mail that it does not intend to investigate the
27 alleged violation (“LWDA Notice”) within sixty (60) calendar days of
28 the postmark date of the aggrieved employee’s notice. Upon receipt of

1 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
2 (65) calendar days of the postmark date of the aggrieved employee's
3 notice, the aggrieved employee may commence a civil action pursuant
4 to California Labor Code section 2699 to recover civil penalties.

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

- 9 (a) The aggrieved employee or representative shall give written notice by
10 online filing with the LWDA and by certified mail to the employer of
11 the specific provisions of the California Labor Code alleged to have
12 been violated (other than those listed in Section 2699.5), including the
13 facts and theories to support the alleged violation.
- 14 (b) An aggrieved employee's notice filed with the LWDA pursuant to
15 2699.3(c) and any employer response to that notice shall be
16 accompanied by a filing fee of seventy-five dollars (\$75).
- 17 (c) The employer may cure the alleged violation within thirty-three (33)
18 calendar days of the postmark date of the notice sent by the aggrieved
19 employee or representative. The employer shall give written notice
20 within that period of time by certified mail to the aggrieved employee or
21 representative and by online filing with the LWDA if the alleged
22 violation is cured, including a description of actions taken, and no civil
23 action pursuant to Section 2699 may commence. If the alleged violation
24 is not cured within the 33-day period, the aggrieved employee may
25 commence a civil action pursuant to Section 2699.

26 38. On August 21, 2023, Plaintiff provided written notice by online filing to the
27 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
28 Code alleged to have been violated, including facts and theories to support the alleged

1 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
2 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
3 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
4 Plaintiff PAGA Case Number LWDA-CM-976750-23. A true and correct copy of Plaintiff's
5 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

6 39. As of the filing date of this complaint, over 65 days have passed since Plaintiff
7 sent the notice described above to the LWDA, and the LWDA has not responded that it
8 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

9 40. Thus, Plaintiff has satisfied the administrative prerequisites under California
10 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
11 violations of California Labor Code sections 201, 202, 204, 226(a), 226.2, 226.7, 246, 510,
12 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

13 41. Labor Code section 558(a) provides "[a]ny employer or other person acting on
14 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
15 provision regulating hours and days of work in any order of the Industrial Welfare
16 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
17 dollars (\$50) for each underpaid employee for each pay period for which the employee was
18 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
19 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
20 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
21 to any other civil or criminal penalty provided by law."

22 42. Defendants, at all times relevant to this complaint, were employers or persons
23 acting on behalf of an employer(s) who violated Plaintiff's and other aggrieved employees'
24 rights by violating various sections of the California Labor Code as set forth above.

25 43. As set forth below, Defendants have violated numerous provisions of both the
26 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
27 Order.

28 44. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),

2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.2, 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

CLASS ACTION ALLEGATIONS

45. Plaintiff brings this action on his own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

46. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

47. Plaintiff's proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt employees paid on an hourly and/or piece-rate basis in California, within four years prior to the filing of the initial complaint until the date of trial ("Class").

48. Plaintiff's proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial ("Subclass").

49. Members of the Class and Subclass are referred to herein as "class members."

50. Plaintiff reserves the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

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

- (a) Whether Defendants required Plaintiff and class members to work over eight (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to pay all legally required overtime

- 1 compensation to Plaintiff and class members;
- 2 (b) Whether Defendants failed to include all forms of remuneration in the
- 3 “regular rate” of pay as required by law for purposes of paying overtime
- 4 wages and/or meal and rest period premiums to Plaintiff and class
- 5 members;
- 6 (c) Whether Defendants failed to pay Plaintiff and class members at least
- 7 minimum wages for all hours worked;
- 8 (d) Whether Defendants failed to provide Plaintiff and class members with
- 9 meal periods;
- 10 (e) Whether Defendants failed to authorize and permit Plaintiff and class
- 11 members to take rest periods;
- 12 (f) Whether Defendants failed to separately compensate Plaintiff and/or
- 13 class members for rest periods and/or other nonproductive time when
- 14 paying them on a piece-rate basis;
- 15 (g) Whether Defendants provided Plaintiff and class members with
- 16 complete and accurate wage statements as required by California Labor
- 17 Code section 226(a);
- 18 (h) Whether Defendants maintained accurate payroll records as required by
- 19 California Labor Code section 1174(d);
- 20 (i) Whether Defendants failed to pay earned overtime wages, minimum
- 21 wages, meal and rest period premiums, and/or reporting time pay due to
- 22 Plaintiff and class members upon their discharge;
- 23 (j) Whether Defendants failed to timely pay overtime wages, minimum
- 24 wages, meal and rest period premiums, and/or reporting time pay to
- 25 Plaintiff and class members during their employment;
- 26 (k) Whether Defendants failed to properly calculate the regular rate of pay
- 27 upon which Plaintiff’s and/or class members’ sick leave rate of pay was
- 28 based, and failed to provide Plaintiff and class members with written

notice of paid sick leave available, or paid time off, as required by California Labor Code section 246;

- (l) Whether Defendants failed to provide Plaintiff and/or class members one day's rest in seven;
- (m) Whether Defendants required Plaintiff and class members to report to work, but failed to provide them with work or provided them with less than half their usual or scheduled day's work, without properly compensating them as required by California Code of Regulations, Title 8, section 11070, subsection 5;
- (n) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (o) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;
- (p) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (q) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

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

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately

1 protect the interests of each class member with whom he has a well-
2 defined community of interest, and Plaintiff's claims (or defenses, if
3 any) are typical of all class members as demonstrated herein.

4 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
5 protect the interests of each class member with whom he has a well-
6 defined community of interest and typicality of claims, as demonstrated
7 herein. Plaintiff acknowledges that he has an obligation to make known
8 to the Court any relationship, conflicts or differences with any class
9 member. Plaintiff's attorneys, the proposed class counsel, are versed in
10 the rules governing class action discovery, certification, and settlement.
11 Plaintiff has incurred, and throughout the duration of this action, will
12 continue to incur costs and attorneys' fees that have been, are, and will
13 be necessarily expended for the prosecution of this action for the
14 substantial benefit of each class member.

15 (d) Superiority: The nature of this action makes the use of class action
16 adjudication superior to other methods. A class action will achieve
17 economies of time, effort, and expense as compared with separate
18 lawsuits, and will avoid inconsistent outcomes because the same issues
19 can be adjudicated in the same manner and at the same time for the
20 entire class.

21 (e) Public Policy Considerations: Employers in the State of California
22 violate employment and labor laws every day. Current employees are
23 often afraid to assert their rights out of fear of direct or indirect
24 retaliation. Former employees are fearful of bringing actions because
25 they believe their former employers might damage their future
26 endeavors through negative references and/or other means. Class
27 actions provide the class members who are not named in the complaint
28 with a type of anonymity that allows for the vindication of their rights

1 while simultaneously protecting their privacy.

2 **FIRST CAUSE OF ACTION**

3 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

4 **(Against all Defendants)**

5 53. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 54. Labor Code section 1198 makes it illegal to employ an employee under
8 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
9 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
10 shall be the . . . standard conditions of labor for employees. The employment of any employee
11 . . . under conditions of labor prohibited by the order is unlawful.”

12 55. California Labor Code section 1198 and the applicable IWC Wage Order
13 provide that it is unlawful to employ persons without compensating them at a rate of pay
14 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
15 number of hours worked by the person on a daily or weekly basis.

16 56. Specifically, the applicable IWC Wage Order provides that Defendants are and
17 were required to pay Plaintiff and class members working more than eight (8) hours in a day
18 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
19 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
20 workweek.

21 57. The applicable IWC Wage Order further provides that Defendants are and were
22 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
23 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
24 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
25 employee, including nondiscretionary bonuses and incentive pay.

26 58. California Labor Code section 510 codifies the right to overtime compensation
27 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
28 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the

seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day of work.

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

60. First, during the relevant period, Defendants had, and continue to have, a company-wide policy of requiring Plaintiff and class members to work off-the-clock before and/or after their scheduled shifts and on their days off. For example, towards the end of Plaintiff's employment, after he clocked out from his shifts, Plaintiff was sometimes required to stay to discuss any work-related issues that had occurred during his shift with Defendants' management. As a further example, Defendants required Plaintiff to complete a training session online which involved watching training videos, reading relevant material, and answering quizzes and questions. Due to the heavy workload and understaffing at Defendants' stores (*see infra*) during his shifts, Plaintiff was forced to complete this training at home and was not compensated for this time. Thus, Defendants failed to track this time spent working before and/or after scheduled shifts and on days off, and Plaintiff and class members received no compensation for this time.

61. Second, Defendants had, and continue to have, company-wide policies and/or practices of understaffing their locations while assigning heavy workloads and/or sales quotas, thereby failing to provide adequate meal period coverage to permit those employees to take compliant meal periods. As a result of this lack of meal period coverage, Plaintiff and class members were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Defendants also had a practice of failing to schedule meal periods which further caused Plaintiff and class members to not be relieved of their duties for compliant meal periods. For example, Plaintiff would sometimes cut his meal

1 periods short and return to work because the store was busy. Defendants did not compensate
2 Plaintiff and class members for the time they spent working off the clock during unpaid meal
3 periods.

4 62. Defendants knew or should have known that, as a result of these company-wide
5 practices and/or policies, Plaintiff and class members were performing their assigned duties
6 off-the-clock after their shifts, on their days off, and during meal periods, and were suffered or
7 permitted to perform work for which they were not paid. Because Plaintiff and class members
8 worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of
9 this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and class
10 members were not paid overtime wages for all of the overtime hours they actually worked.

11 63. Moreover, in addition to an hourly wage, Defendants paid Plaintiff and class
12 members commissions, incentive pay, nondiscretionary bonuses, and/or other forms of
13 remuneration. However, in violation of the California Labor Code, Defendants failed to
14 incorporate all compensation, including commissions, incentive pay, nondiscretionary
15 bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for
16 purposes of calculating the overtime wage rate. Therefore, during times when Plaintiff and
17 class members worked overtime and received these other forms of pay, Defendants failed to
18 pay all overtime wages by paying a lower overtime rate than required.

19 64. For example, Defendants paid Plaintiff and class members a nondiscretionary
20 bonus which was listed on Plaintiff's and class members' wage statements as "SignOn
21 Bonus." As a further example, Defendants paid Plaintiff and class members commission
22 payments which were listed on Plaintiff's and class members' wage statements as
23 "Commission" and "Comm." During pay periods that Plaintiff and class members were paid
24 overtime wages, Defendants did not incorporate the nondiscretionary bonuses and
25 commissions into Plaintiff's and class members' regular rate of pay and, as a result, paid them
26 at incorrect and lower rates of pay for overtime hours worked. Specifically, Defendants paid
27 Plaintiff and class members 1.5 times their hourly rate of pay instead of 1.5 times their regular
28 rate of pay. Defendants' failure to properly calculate the overtime rates of pay based on all

1 remuneration paid has resulted in an underpayment of overtime wages to Plaintiff and class
2 members on a company-wide basis.

3 65. Defendants' failure to pay Plaintiff and class members the balance of overtime
4 compensation, as required by California law, violates the provisions of California Labor Code
5 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
6 members are entitled to recover from Defendants their unpaid overtime compensation, as well
7 as interest, costs, and attorneys' fees.

8 **SECOND CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 10 **Minimum Wages** 11 **(Against all Defendants)**

12 66. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 67. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
15 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
16 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
17 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as "the
18 time during which an employee is subject to the control of an employer, and includes all the
19 time the employee is suffered or permitted to work, whether or not required to do so." Cal.
20 Code Regs. Tit. 8, § 11070(2)(G) (defining "Hours Worked").

21 68. As stated, during the relevant time period, Defendants had a company-wide
22 practice and/or policy of requiring Plaintiff and class members to work off-the-clock, but
23 failed to compensate them for this time spent working. Further, as also stated above, due to
24 Defendants' policies and/or practices of understaffing their locations, assigning heavy
25 workloads and/or sales quotas, and failing to schedule meal periods, Plaintiff and class
26 members were impeded from taking all uninterrupted meal periods to which they were entitled
27 and were required to work off-the-clock during meal periods and/or were otherwise not
28 relieved of all duties during unpaid meal periods.

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

70. As result, Defendants regularly failed to pay at least minimum wages to Plaintiff and class members for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

THIRD CAUSE OF ACTION

Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period

Violations

(Against all Defendants)

71. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

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

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

74. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of

1 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
2 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
3 hours worked is no more than twelve (12) hours, the second meal period may be waived by
4 mutual consent of the employer and the employee only if the first meal period was not waived.

5 75. As stated, during the relevant time period, Defendants had, and continue to
6 have company-wide policies and/or practices of understaffing their stores and assigning heavy
7 workloads and/or sales quotas, which resulted in a lack of meal period coverage and prevented
8 Plaintiff and class members from taking all timely, uninterrupted meal periods to which they
9 were entitled. Further, as also stated, Defendants had a company-wide practice and/or policy
10 of failing to schedule meal periods, which further caused Plaintiff and class members to not be
11 relieved of their duties for compliant meal periods.

12 76. As a result, Plaintiff and class members have had to work through all or part of
13 their meal periods, had their meal periods interrupted, and/or had to wait extended periods of
14 time before taking meal periods. For example, approximately 3-6 times per month, Plaintiff
15 would have to forego his meal periods or take his meal periods late, after having worked in
16 excess of five (5) hours into his shift, because the store was busy or there was no one available
17 to relieve him to take a meal period. Further, as stated, Plaintiff sometimes had his meal
18 periods interrupted and/or cut short due to store being busy and customers needing assistance.

19 77. At all times mentioned herein, Defendants knew or should have known that as a
20 result of their policies, Plaintiff and class members were not actually relieved of all duties to
21 take timely, uninterrupted meal periods. Defendants further knew or should have known that
22 they did not pay Plaintiff and class members all meal period premiums when meal periods
23 were late, interrupted, shortened, and/or missed.

24 78. Furthermore, Defendants engaged in a company-wide practice and/or policy of
25 not paying all meal period premiums owed when compliant meal periods are not provided.
26 Because of this practice and/or policy, Plaintiff and class members have not received premium
27 pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that
28 Defendants did pay Plaintiff and class members premium pay for missed, late, and interrupted

1 meal periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
2 premiums because Defendants systematically failed to include all forms of compensation,
3 such as commissions, incentive pay, nondiscretionary bonuses, and/or other forms of
4 remuneration in the regular rate of pay. As a result, Defendants failed to provide Plaintiff and
5 class members compliant meal periods in violation of California Labor Code sections 226.7,
6 512(a), and 516 and failed to pay the full meal period premiums due.

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

11 **FOURTH CAUSE OF ACTION**

12 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 13 **(Against all Defendants)**

14 80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
15 and every allegation set forth above.

16 81. At all relevant times herein set forth, the applicable IWC Wage Order and
17 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
18 members' employment by Defendants.

19 82. At all relevant times, the applicable IWC Wage Order provides that "[e]very
20 employer shall authorize and permit all employees to take rest periods, which insofar as
21 practicable shall be in the middle of each work period" and that the "rest period time shall be
22 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
23 hours or major fraction thereof" unless the total daily work time is less than three and one-half
24 (3 ½) hours.

25 83. At all relevant times, California Labor Code section 226.7 provides that no
26 employer shall require an employee to work during any rest period mandated by an applicable
27 order of the California IWC. To comply with its obligation to authorize and permit rest
28 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an

1 employer must “relinquish any control over how employees spend their break time, and
2 relieve their employees of all duties—including the obligation that an employee remain on
3 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
4 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
5 Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from
6 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
7 required rest period was not authorized and permitted.

8 84. During the relevant time period, Defendants regularly failed to authorize and
9 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
10 period worked or major fraction thereof. As with meal periods, Defendants’ company-wide
11 policies and/or practices of understaffing and assigning heavy workloads and/or sales quotas
12 resulted in a lack of rest period coverage and prevented Plaintiff and class members from
13 being relieved of all duty to take rest periods. Defendants also failed to schedule rest periods,
14 which further led to Plaintiff and class members not being authorized and permitted to take
15 rest periods.

16 85. Moreover, upon information and belief, Defendants maintained a company-
17 wide on-premises rest period policy, which effectively required that Plaintiff and/or class
18 members remain on Defendants’ premises during their rest periods. Because Plaintiff and/or
19 class members were restricted from leaving the premises during rest periods, they were denied
20 the ability to use their rest periods freely for their own purposes, such as running personal
21 errands. Thus, Defendants effectively maintained control over Plaintiff and/or class members
22 during rest periods.

23 86. As a result of Defendants’ practices and policies, Plaintiff and class members
24 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
25 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
26 Plaintiff had to forego his rest periods entirely for the first six (6) months of his employment
27 and subsequently had his rest periods interrupted during the last (2) months of his
28 employment.

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

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

FIFTH CAUSE OF ACTION

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

89. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

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

91. At all relevant times, Defendants have knowingly and intentionally provided

1 Plaintiff and class members with uniform, incomplete, and inaccurate wage statements. For
2 example, Defendants issued uniform wage statements to Plaintiff and class members that fail
3 to correctly list: gross wages earned; total hours worked; net wages earned; the address of the
4 legal entity that is the employer; and all applicable hourly rates in effect during the pay period,
5 including rates of pay for overtime wages, and the corresponding number of hours worked at
6 each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5),
7 226(a)(8), and 226(a)(9).

8 92. First, Defendants did not accurately record the time Plaintiff and Subclass
9 members spent working off-the-clock, Defendants did not list the correct amount of gross
10 wages and net wages earned by Plaintiff and Subclass members in compliance with sections
11 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total
12 number of hours worked by Plaintiff and Subclass members in violation of section 226(a)(2),
13 and failed to list the applicable hourly rates of pay in effect during the pay period and
14 corresponding accurate number of work hours worked at each hourly rate in violation of
15 section 226(a)(9).

16 93. Second, because Defendants did not calculate Plaintiff's and Subclass
17 members' regular rate of pay correctly for purposes of paying overtime wages and/or meal and
18 rest period premiums, Defendants did not list the correct amount of gross wages in compliance
19 with section 226(a)(1). For the same reason, Defendants failed to list the correct amount of
20 net wages in violation of section 226(a)(5). Defendants also failed to correctly list all
21 applicable hourly rates in effect during the pay period, namely, correct rates of pay for
22 overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

23 94. Third, and separately from these violations, Defendants issued uniform wage
24 statements to Plaintiff and Subclass members that failed to list the address of the legal entity
25 of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to
26 provide California employees with transparency as to the true identity of their employer, to
27 allow the employee to contact their employer during employment or in the future for various
28 reasons, including filing an administrative claim, judicial claim, or other action to seek relief

1 against their employer, to obtain unemployment benefits, etc. During the relevant time period,
2 Defendants systematically, and on a company-wide basis, issued wage statements to Plaintiff
3 and class members that fail to list the employing entity's correct address. Plaintiff's and class
4 members' wage statements incorrectly list the employer's address as "1700 PACIFIC AVE
5 STE 3640, DALLAS, TX 75201-4854," but according to the California Secretary of State's
6 website, SPEARHEAD MOBILITY INC's entity address should be "2108 N ST. STE N,
7 SACRAMENTO, CA 95816."

8 95. The wage statement deficiencies also include, without limitation, failing to list
9 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
10 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
11 for which employees were paid; failing to list the name of the employee and only the last four
12 digits of his or her social security number or an employee identification number other than a
13 social security number; failing to list the name of the legal entity that is the employer; and/or
14 failing to state all hours worked as a result of not recording or stating hours worked off-the-
15 clock.

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

26 97. California Labor Code section 1198 provides that the maximum hours of work
27 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
28 set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he

1 employment of any employees for longer hours than those fixed by the order or under
2 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
3 Wage Order, employers are required to keep accurate time records showing when the
4 employee begins and ends each work period. During the relevant time period, Defendants
5 engaged in company-wide practices and/or policies of failing to record actual hours worked,
6 and thereby failed to keep accurate records of work period and meal period start and stop
7 times for Plaintiff and Subclass members, in violation of section 1198.

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

12 **SIXTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 14 **Termination** 15 **(Against all Defendants)**

16 99. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

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

25 101. On information and belief, Defendants have a company-wide practice and/or
26 policy of paying departing employees their final wages on the next regular pay cycle, instead
27 of adhering to the time requirements set forth in Labor Code sections 201 and 202. For
28 example, Defendants terminated Plaintiff on or about April 18, 2023; however, Defendants

1 did not provide Plaintiff with his final paycheck until about April 21, 2023. Thus, Defendants
2 failed to pay Plaintiff his final wages immediately, in violation of California Labor Code
3 section 201.

4 102. Additionally, Defendants willfully failed to pay Plaintiff and class members
5 who are no longer employed by Defendants the earned and unpaid wages set forth above,
6 including but not limited to, overtime wages, minimum wages, meal and rest period
7 premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two
8 (72) hours of their leaving Defendants' employ.

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

15 SEVENTH CAUSE OF ACTION

16 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 17 **Employment** 18 **(Against all Defendants)**

19 104. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 105. This cause of action is dependent upon, and wholly derivative of, the overtime
22 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
23 not timely paid to Plaintiff and class members during their employment.

24 106. At all times relevant herein set forth, Labor Code section 204 provides that all
25 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
26 days, inclusive, of any calendar month, other than those wages due upon termination of an
27 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
28 the month during which the labor was performed.

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

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

12 109. During the relevant time period, Defendants willfully failed to pay Plaintiff and
13 class members all wages due including, but not limited to, overtime wages, minimum wages,
14 meal and rest period premiums, and/or reporting time pay, within the time periods specified
15 by California Labor Code section 204.

16 110. Defendants' failure to timely pay Plaintiff and class members all wages due
17 violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover
18 from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

19 **EIGHTH CAUSE OF ACTION**

20 **Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section** 21 **11070 Subdivision 5(A)—Failure to Provide Reporting Time Pay** 22 **(Against all Defendants)**

23 111. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
24 and every allegation set forth above.

25 112. California Labor Code section 1198 dictates that no employer may employ an
26 employee under conditions of labor that are prohibited by the applicable IWC wage order.
27 California Labor Code section 1198 further requires that “. . . the standard conditions of labor
28 fixed by the commission shall be the . . . standard conditions of labor for employees. The

1 employment of any employee . . . under conditions of labor prohibited by the order is
2 unlawful.”

3 113. The applicable IWC wage order, California Code of Regulations, Title 8,
4 section 11070(5)(A), provides that “[e]ach workday an employee is required to report for
5 work and does report, but is not put to work or is furnished less than half said employee’s
6 usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled
7 day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the
8 employee’s regular rate of pay, which shall not be less than the minimum wage.” The
9 “primary purpose of the reporting time regulation” is “to guarantee at least partial
10 compensation for employees who report to work expecting to work a specified number of
11 hours, and who are deprived of that amount because of inadequate scheduling or lack of
12 proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

13 114. During the relevant time period, Defendants violated California Labor Code
14 section 1198 and California Code of Regulations, Title 8, section 11070(5)(A), because
15 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
16 work for their usual or scheduled shift but were put to work for less than half of their usual or
17 scheduled day’s work.

18 115. Defendants had a company-wide practice and/or policy of sending Plaintiff and
19 class members home early from their shifts, including before they had worked at least half of
20 their usual or scheduled shift, but would not pay Plaintiff and class members for half of their
21 scheduled shift. For example, when scheduled to work an eight (8) hour shift, Defendants’
22 managers sent Plaintiff home before he had an opportunity to work at least half of his
23 scheduled shift, but on information and belief, Plaintiff was only paid for the time he had
24 worked. Although Plaintiff and class members reported to work based on the schedule that
25 was provided to them, Defendants would send them home before they worked at least half of
26 their usual or scheduled shifts. When this occurred, Defendants did not pay Plaintiff and class
27 members for at least half of their scheduled day’s work or the minimum reporting time pay.

28 116. Accordingly, Plaintiff and class members were not properly compensated with

1 reporting time pay in violation of California Labor Code section 1198 and California Code of
2 Regulations, Title 8, section 11070(5)(A). Plaintiff and class members are therefore entitled
3 to recover from Defendants unpaid wages and interest.

4 **NINTH CAUSE OF ACTION**

5 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 6 **(Against all Defendants)**

7 117. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
8 and every allegation set forth above.

9 118. At all times herein set forth, California Labor Code section 2802 provides that
10 an employer must reimburse employees for all necessary expenditures and losses incurred by
11 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
12 to prevent employers from passing off their cost of doing business and operating expenses on
13 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
14 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen the
15 employer requires the use of tools or equipment or they are necessary to the performance of a
16 job, such tools and equipment shall be provided and maintained by the employer, except that
17 an employee whose wages are at least two (2) times the minimum wage may provide and
18 maintain hand tools and equipment customarily required by the particular trade or craft.”

19 119. During the relevant time period, Defendants, on a company-wide basis,
20 required Plaintiff and class members to use their personal mobile devices, including, but not
21 limited to, cellular phones, and/or mobile data to carry out their job duties but failed to
22 reimburse them for the costs of their work-related mobile device and/or mobile data expenses.
23 For example, Plaintiff was required to download a mobile application, “ADP Mobile
24 Solutions,” on his personal cellular phone and to regularly use his mobile data to clock in and
25 out for his shifts and meal periods. Further, Plaintiff and class members used their personal
26 cellular phones to communicate with management and coworkers via text messages and phone
27 calls regarding work-related matters. In addition, Plaintiff and class members were required
28 to download the “WhatsApp” mobile application, which they sometimes used to facilitate

1 these work-related communications. Plaintiff and class members were not compensated for
2 the cost of the mobile data used to download and access the applications. Although
3 Defendants required Plaintiff and class members to use their personal mobile devices and/or
4 mobile data to carry out their work-related duties, Defendants failed to reimburse them for
5 their costs incurred.

6 120. Defendants could have provided Plaintiff and class members with company
7 mobile devices, or, Defendants could have reimbursed employees for the costs of their mobile
8 device usage. Instead, Defendants passed these operating costs off onto Plaintiff and class
9 members. At all relevant times, Plaintiff did not earn at least two (2) times the minimum
10 wage.

11 121. Defendants' company-wide policy and/or practice of passing on their operating
12 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
13 have intentionally and willfully failed to reimburse Plaintiff and class members for necessary
14 business-related expenses and costs.

15 122. Plaintiff and class members are entitled to recover from Defendants their
16 business-related expenses incurred during the course and scope of their employment, plus
17 interest.

18 **TENTH CAUSE OF ACTION**

19 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

20 **(Against all Defendants)**

21 123. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 124. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
24 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
25 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.2,
26 226.7, 246, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code
27 section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties
28 for violations of those Labor Code sections not found in section 2699.5, including sections

1 516, 1182.12, and 2810.5.

2 125. Defendants' conduct, as alleged herein, violates numerous sections of the
3 California Labor Code, including, but not limited to, the following:

- 4 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
5 Wage Order for Defendants' failure to compensate Plaintiff and other
6 aggrieved employees with all required overtime pay, as alleged herein
7 and as alleged herein;
- 8 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the
9 applicable IWC Wage Order for Defendants' failure to include all forms
10 of remuneration in the "regular rate" of pay as required by law for
11 purposes of paying overtime wages and/or meal and rest period
12 premiums to Plaintiff and other aggrieved employees, as set forth
13 below;
- 14 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
15 1198, and the applicable IWC Wage Order for Defendants' failure to
16 compensate Plaintiff and other aggrieved employees with at least
17 minimum wages for all hours worked, as alleged herein;
- 18 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
19 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
20 and other aggrieved employees with meal periods, as alleged herein;
- 21 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
22 applicable IWC Wage Order for Defendants' failure to authorize and
23 permit other aggrieved employees to take rest periods, as alleged herein;
- 24 (f) Violation of Labor Code section 226.2 and the applicable IWC wage
25 order for Defendants' failure to compensate other aggrieved employees
26 for rest periods and/or other non-productive time, as set forth below;
- 27 (g) Violation of Labor Code sections 226(a) and 1198, and the applicable
28 IWC Wage Order for failure to provide accurate and complete wage

- 1 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 2 (h) Violation of Labor Code sections 1174(d) and 1198, and the applicable
- 3 IWC Wage Order for failure to maintain payroll records, as alleged
- 4 herein;
- 5 (i) Violation of Labor Code sections 201 and 202 for failure to pay all
- 6 earned wages upon termination, as alleged herein;
- 7 (j) Violation of Labor Code section 204 for failure to pay all earned wages
- 8 during employment, as alleged herein;
- 9 (k) Violation of Labor Code section 246 for failure to properly calculate the
- 10 sick leave paid to other aggrieved employees and for failure to provide
- 11 written notice of paid sick leave to Plaintiff and other aggrieved
- 12 employees as set forth below;
- 13 (l) Violation of Labor Code section 551 and 552 for failure to provide other
- 14 aggrieved employees one day's rest in seven, as set forth below;
- 15 (m) Violation of Labor Code section 1198 and the applicable IWC Wage
- 16 Order for failing to pay reporting time pay to Plaintiff and other
- 17 aggrieved employees, as alleged herein;
- 18 (n) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
- 19 and other aggrieved employees for all business expenses necessarily
- 20 incurred, as alleged herein; and
- 21 (o) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
- 22 provide written notice of information material to Plaintiff's and other
- 23 aggrieved employees' employment with Defendants, as set forth below.

24 126. California Labor Code section 226.2 requires employers that utilize a piece-rate

25 compensation plan to separately compensate employees for rest and recovery periods and

26 other nonproductive time at or above specified minimum hourly rates. Labor Code section

27 226.2 further requires that employers provide employees compensated on a piece-rate basis

28 with itemized statements stating the total hours of compensable rest and recovery periods, the

1 rate of compensation, and the gross wages paid for those periods during the pay period, and
2 the total hours of other nonproductive time, as specified, the rate of compensation, and the
3 gross wages paid for that time during the pay period.

4 127. During the relevant time period, Defendants adopted a company-wide
5 compensation plan whereby they paid other aggrieved employees on a piece-rate basis for the
6 performance of certain activities and assignments, including making sales. However, on
7 information and belief, Defendants failed to record or track the time other aggrieved
8 employees spent performing non-sales activities and did not separately compensate other
9 aggrieved employees for all of this nonproductive time.

10 128. In addition, Defendants had, and continue to have, a company-wide policy of
11 failing to separately pay other aggrieved employees compensated on a piece-rate basis for rest
12 periods as required by law. During the relevant time period, Defendants did not separately
13 pay other aggrieved employees paid on a piece-rate basis for rest periods. Alternatively, to
14 the extent that Defendants did pay other aggrieved employees for rest periods, Defendants did
15 not pay other aggrieved employees at the correct rate of pay because Defendants
16 systematically failed to include all forms of compensation, such as commissions, incentive
17 pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

18 129. Defendants also failed to provide other aggrieved employees with itemized
19 statements listing the total hours of all nonproductive time and/or total hours of compensable
20 rest periods, and other required details regarding payment for nonproductive time and/or rest
21 periods. Defendants further did not provide other aggrieved employees with itemized
22 statements showing the rates at which they were paid for all nonproductive time and/or rest
23 periods.

24 130. Defendants' failure to separately compensate other aggrieved employees for all
25 rest periods and other nonproductive time at or above specified minimum hourly rates, as well
26 as Defendants' failure to provide other aggrieved employees with the requisite itemized
27 statements, violates California Labor Code section 226.2. Other aggrieved employees are
28 therefore entitled to recover civil penalties pursuant to Labor Code sections 226.3 and/or

1 2699(a), (f), and (g).

2 131. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
3 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
4 days from the commencement of employment with paid sick days, to be accrued at least one
5 hour for every 30 hours worked. Labor Code section 246(i) provides that an employer must
6 provide an employee with written notice that sets forth the amount of paid sick leave
7 available, or paid time off that an employer provides in lieu of sick leave, for use on either the
8 employee's itemized wage statement or in a separate written statement provided on the
9 designated pay date with the employee's wages. Further, Labor Code section 246(l) provides
10 that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid
11 sick time for nonexempt employees shall be calculated in the same manner as the regular rate
12 of pay for the workweek in which the employee uses paid sick time, whether or not the
13 employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt
14 employees shall be calculated by dividing the employee's total wages, not including overtime
15 premium pay, by the employee's total hours worked in the full pay periods of the prior 90
16 days of employment."

17 132. During the relevant time period, Defendants did not pay other aggrieved
18 employees the correct sick leave rates of pay. In addition to an hourly wage, Defendants paid
19 other aggrieved employees commissions, incentive pay, nondiscretionary bonuses, and/or
20 other forms of remuneration. However, in violation of the California Labor Code, Defendants
21 failed to incorporate all remunerations, including commissions, incentive pay, and/or
22 nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of
23 calculating the sick leave pay rate. Therefore, during times when other aggrieved employees
24 took sick leave and received these other forms of pay, Defendants failed to pay all sick leave
25 benefits by paying a lower sick leave rate than required. Specifically, Defendants paid other
26 aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate
27 of pay. Defendants' failure to properly calculate the sick leave rates of pay based on all
28 remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved

employees on a company-wide basis, in violation of Labor Code sections 246(l).

133. Moreover, during the relevant time period, Defendants failed to provide Plaintiff and other aggrieved employees written notice on wage statements and/or other separate written statements that listed the amount of paid sick leave (or equivalent paid leave or paid time off) available to them. Defendants' systematic failure to provide written notice of sick leave benefits to Plaintiff and other aggrieved employees is in violation of Labor Code section 246(i).

134. Plaintiff and/or other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

135. At all relevant times herein, California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. Additionally, California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest.

136. At all relevant times herein set forth, California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

137. During the relevant period, Defendants required other aggrieved employees to work approximately six (6) or more hours per day and seven (7) consecutive days in a workweek. Because other aggrieved employees worked over thirty (30) hours per week and over six (6) hours in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that other aggrieved employees signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

138. Thus, during the relevant time period, and in violation of Labor Code sections 551 and 552, Defendants caused other aggrieved employees to work more than six days in seven. Other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

139. At all relevant times herein, California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their

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

10 140. At all relevant times, on information and belief, Defendants failed, on a
11 company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that
12 lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
13 Defendants' failure to provide Plaintiff and other aggrieved employees with written notice of
14 basic information regarding their employment with Defendants is in violation of Labor Code
15 section 2810.5. Plaintiff and other aggrieved employees are therefore entitled to recover civil
16 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

17 **ELEVENTH CAUSE OF ACTION**

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

19 **Unlawful Business Practices**

20 **(Against all Defendants)**

21 141. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 142. Defendants are "persons" as defined by California Business & Professions
24 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
25 and/or associations.

26 143. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
27 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
28 suffered injury in fact and has lost money as a result of Defendants' unlawful business

1 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
2 meaning of Code of Civil Procedure section 1021.5.

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

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

- 9 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
10 class members, to work overtime without paying them proper
11 compensation in violation of California Labor Code sections 510 and
12 1198, and the applicable IWC Wage Order, as alleged herein;
- 13 (b) Failing to include all forms of remuneration in the "regular rate" of pay
14 as required by law for purposes of paying overtime wages and/or meal
15 and rest period premiums to Plaintiff and class members, in violation of
16 California Labor Code sections 226.7, 510, and 1198, and the applicable
17 IWC Wage Order, as alleged herein;
- 18 (c) Failing to pay at least minimum wage to Plaintiff and class members in
19 violation of California Labor Code sections 1182.12, 1194, 1197,
20 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
21 herein;
- 22 (d) Failing to provide all meal periods to Plaintiff and class members in
23 violation of California Labor Code sections 226.7, 512(a), 516, and
24 1198, and the applicable IWC Wage Order, as alleged herein;
- 25 (e) Failing to authorize and permit Plaintiff and class members to take all
26 rest periods in violation of California Labor Code sections 226.7, 516,
27 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 28 (f) Failing to provide Plaintiff and class members with accurate wage

1 statements and failing to maintain accurate payroll records in violation
2 of California Labor Code sections 226(a), 1174(d), and 1198, and the
3 applicable IWC Wage Order, as alleged herein;

4 (g) Failing to timely pay all earned wages to Plaintiff and class members in
5 violation of California Labor Code section 204, as alleged herein;

6 (h) Failing to provide written notice of paid sick leave benefits available in
7 violation of California Labor Code section 246, as set forth below;

8 (i) Failing to pay reporting time pay in violation of California Labor Code
9 section 1198 and the applicable IWC Wage Order, as alleged herein;

10 (j) Failing to reimburse Plaintiff and class members for all business
11 expenses necessarily incurred in violation of California Labor Code
12 section 2802, as alleged herein; and

13 (k) Failing to provide written notice of information material to Plaintiff's
14 and class members' employment with Defendants in violation of
15 California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

16 146. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
17 provide employees who have worked in California for 30 or more days from the
18 commencement of employment with paid sick days, to be accrued at least one hour for every
19 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must
20 provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or
21 paid time off) in each year of the employee's employment. Codified at California Labor Code
22 sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an
23 employer must provide an employee with written notice that sets forth the amount of paid sick
24 leave available, or paid time off that an employer provides in lieu of sick leave, for use on
25 either the employee's itemized wage statement or in a separate written statement provided on
26 the designated pay date with the employee's wages. The penalties described in this article for
27 a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

28 147. During the relevant time period, Defendants failed, on a company-wide basis,

1 to provide Plaintiff and class members written notice on wage statements and/or other separate
2 written statements that listed the requisite information set forth in Labor Code section 246(i).
3 Defendants' ongoing and systematic failure to provide written notice of sick leave benefits to
4 Plaintiffs and class members violates California Labor Code section 246(i).

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

16 149. At all relevant times, Defendants failed, on a company-wide basis, to provide
17 written notice to Plaintiff and class members that lists the requisite information set forth in
18 Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiff and class
19 members with written notice of basic information regarding their employment with
20 Defendants is in violation of California Labor Code section 2810.5.

21 150. As a result of the violations of California law herein described, Defendants
22 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
23 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
24 herein.

25 151. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
26 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
27 Defendants during a period that commences four years prior to the filing of this complaint; a
28 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and

1 class members; and an award of attorneys' fees pursuant to California Code of Civil
2 Procedure section 1021.5 and other applicable laws; and an award of costs.

3 **TWELFTH CAUSE OF ACTION**

4 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**
5 **Unfair Business Practices**
6 **(Against all Defendants)**

7 152. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
8 and every allegation set forth above.

9 153. Defendants are "persons" as defined by California Business & Professions
10 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
11 and/or associations.

12 154. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
13 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
14 injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff
15 seeks to enforce important rights affecting the public interest within the meaning of Code of
16 Civil Procedure section 1021.5.

17 155. Defendants' activities, namely Defendants' company-wide practice and/or
18 policy of not paying Plaintiff and class members all meal and rest period premiums due to
19 them under California Labor Code section 226.7, deprived Plaintiff and class members of the
20 compensation guarantee and enhanced enforcement implemented by section 226.7. The
21 statutory remedy provided by section 226.7 is a "'dual-purpose' remedy intended primarily to
22 compensate employees, and secondarily to shape employer conduct." *Safeway, Inc. v.*
23 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
24 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
25 and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an
26 unfair business practice in violation of California Business & Professions Code sections
27 17200, *et seq.* (*Id.*)

28 156. A violation of California Business & Professions Code sections 17200, *et seq.*

1 may be predicated on any unfair business practice. In the instant case, Defendants' policies
2 and practices have violated the spirit of California's meal and rest period laws and constitute
3 acts against the public policy behind these laws.

4 157. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
5 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
6 benefits implemented by section 226.7 withheld and retained by Defendants during a period
7 that commences four years prior to the filing of this complaint; a permanent injunction
8 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
9 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
10 Procedure section 1021.5 and other applicable laws; and an award of costs.

11 **REQUEST FOR JURY TRIAL**

12 Plaintiff requests a trial by jury.

13 **PRAYER FOR RELIEF**

14 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
15 against Defendants, jointly and severally, as follows:

16 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
17 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
18 reserves the right to amend his prayer for relief to seek a different amount.

19 **Class Certification**

- 20 2. That this case be certified as a class action;
21 3. That Plaintiff be appointed as the representative of the Class and Subclass;
22 4. That counsel for Plaintiff be appointed as class counsel.

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

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

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

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

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

5 9. For such other and further relief as the Court may deem equitable and
6 appropriate.

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

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

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

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

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

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

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

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

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

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

27 18. For all actual, consequential, and incidental losses and damages, according to
28 proof;

- 1 19. For premiums pursuant to California Labor Code section 226.7(c);
2 20. For pre-judgment interest on any unpaid meal period premiums from the date
3 such amounts were due, or as otherwise provided by law;
4 21. For attorneys' fees pursuant to California Code of Civil Procedure section
5 1021.5, or as otherwise provided by law; and
6 22. For such other and further relief as the Court may deem equitable and
7 appropriate.

8 **As to the Fourth Cause of Action**

- 9 23. That the Court declare, adjudge and decree that Defendants violated California
10 Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully
11 failing to authorize and permit Plaintiff and class members to take all rest periods;
12 24. That the Court make an award to the Plaintiff and class members of one (1) hour
13 of pay at each employee's regular rate of pay for each workday that a rest period was not
14 authorized and permitted;
15 25. For all actual, consequential, and incidental losses and damages, according to
16 proof;
17 26. For premiums pursuant to California Labor Code section 226.7(c);
18 27. For pre-judgment interest on any unpaid rest period premiums from the date
19 such amounts were due, or as otherwise provided by law;
20 28. For attorneys' fees pursuant to California Code of Civil Procedure section
21 1021.5, or as otherwise provided by law; and
22 29. For such other and further relief as the Court may deem equitable and
23 appropriate.

24 **As to the Fifth Cause of Action**

- 25 30. That the Court declare, adjudge and decree that Defendants violated the
26 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
27 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate
28 itemized wage statements thereto;

1 31. For all actual, consequential, and incidental losses and damages, according to
2 proof;

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

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

5 34. For attorneys' fees and costs pursuant to California Labor Code section
6 226(e)(1); and

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

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

10 36. That the Court declare, adjudge and decree that Defendants violated California
11 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
12 meal and rest period premiums, and/or reporting time pay owed at the time of termination of
13 the employment of Plaintiff and other terminated class members;

14 37. For all actual, consequential and incidental losses and damages, according to
15 proof;

16 38. For waiting time penalties according to proof pursuant to California Labor
17 Code section 203 for all employees who have left Defendants' employ;

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

20 40. For attorneys' fees pursuant to California Code of Civil Procedure section
21 1021.5, or as otherwise provided by law; and

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

24 **As to the Seventh Cause of Action**

25 42. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
27 overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay
28 during their employment;

1 43. For all actual, consequential and incidental losses and damages, according to
2 proof;

3 44. For statutory penalties according to proof pursuant to California Labor Code
4 section 210;

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

7 46. For attorneys' fees pursuant to California Code of Civil Procedure section
8 1021.5, or as otherwise provided by law; and

9 47. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 **As to the Eighth Cause of Action**

12 48. That the Court declare, adjudge and decree that Defendants violated California
13 Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A) by
14 failing to provide Plaintiff and class members with reporting time pay;

15 49. For all actual, consequential and incidental losses and damages, according to
16 proof;

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

19 51. For such other and further relief as the Court may deem equitable and
20 appropriate.

21 **As to the Ninth Cause of Action**

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

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

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

1 55. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 56. For attorneys' fees and costs pursuant to California Labor Code section
4 2802(c), or as otherwise provided by law; and

5 57. For such other and further relief as the Court may deem equitable and
6 appropriate.

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

8 58. That the Court declare, adjudge and decree that Defendants violated the
9 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
10 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
11 to include all forms of remuneration in the "regular rate" of pay for purposes of paying
12 overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and
13 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
14 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
15 permit all rest periods); 226.2 (by failing to compensate for rest and recovery periods and/or
16 other non-productive time); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
17 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
18 earned wages upon termination); 204 (by failing to timely pay all earned wages during
19 employment); 246 (by failing to properly calculate sick leave pay and by failing to provide
20 written notice of paid sick leave or paid time off available); 551 and 552 (by failing to provide
21 one day's rest in seven); 2802 (by failing to reimburse business expenses); and 2810.5 (by
22 failing to provide notice of material terms of employment);

23 59. For civil penalties pursuant to the California Labor Code, including sections
24 210, 225.5, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California
25 Labor Code sections 201, 202, 204, 226(a), 226.2, 226.7, 246, 510, 512(a), 516, 551, 552,
26 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

27 60. For attorneys' fees and costs pursuant to California Labor Code section
28 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California

1 Labor Code sections 201, 202, 204, 226(a), 226.2, 226.7, 246, 510, 512(a), 516, 551, 552,
2 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

3 61. For pre-judgment and post-judgment interest as provided by law; and

4 62. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Eleventh Cause of Action**

7 63. That the Court declare, adjudge and decree that Defendants' conduct of failing
8 to provide Plaintiff and class members all overtime wages due to them, failing to include all
9 forms of remuneration in the "regular rate" of pay for purposes of paying overtime wages
10 and/or meal and rest period premiums to Plaintiff and class members, failing to provide
11 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
12 class members all meal periods, failing to authorize and permit Plaintiff and class members to
13 take all rest periods, failing to provide Plaintiff and class members accurate and complete
14 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,
15 failing to timely pay Plaintiff and class members all earned wages during employment, failing
16 to provide written notice of paid sick leave, failing to pay Plaintiff and class members
17 reporting time pay, failing to reimburse Plaintiff and class members for business-related
18 expenses, and failing to provide written notice of material terms of employment, constitutes an
19 unlawful business practice in violation of California Business and Professions Code sections
20 17200, *et seq.*;

21 64. For restitution of unpaid wages to Plaintiff and all class members and
22 prejudgment interest from the day such amounts were due and payable;

23 65. For the appointment of a receiver to receive, manage and distribute any and all
24 funds disgorged from Defendants and determined to have been wrongfully acquired by
25 Defendants as a result of violations of California Business & Professions Code sections
26 17200, *et seq.*;

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

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

As to the Twelfth Cause of Action

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

69. For restitution of the statutory benefits under California Labor Code section 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the day such amounts were due and payable;

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

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

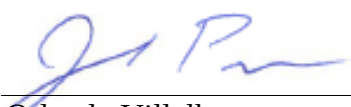
72. For pre-judgment and post-judgment interest as provided by law; and

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

Dated: November 8, 2023

Respectfully submitted,

Capstone Law APC

By: 

Orlando Villalba
Helga Hakimi
Joseph D. Parsons

Attorneys for Plaintiff Ahmed Idris

EXHIBIT “1”



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August 21, 2023

VIA ONLINE SUBMISSION

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

Subject: *Ahmed Idris v. Spearhead Mobility Inc*

Dear PAGA Administrator:

This office represents Ahmed Idris in connection with his claims under the California Labor Code. Mr. Idris was an employee of SPEARHEAD MOBILITY INC ("SPEARHEAD").

The employer may be contacted directly at the address below:

SPEARHEAD MOBILITY INC
2108 N ST. STE N
SACRAMENTO, CA 95816

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

SPEARHEAD employed Mr. Idris as an hourly paid, non-exempt Customer Advocate from approximately August 2022 to April 2023. During his employment, Mr. Idris typically worked eight (8) or more hours per day and five (5) or more days per week. At the time his employment ended, Mr. Idris was compensated approximately \$16.00 per hour. His primary job duties included, without limitation, opening and closing the store, assisting customers, selling products, and setting up new devices for customers.

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

SPEARHEAD’s Company-Wide and Uniform Payroll and HR Practices

SPEARHEAD MOBILITY INC is a Texas corporation and an authorized AT&T retailer operating over 82 stores across multiple states, including at least 17 stores in California. Upon information and belief, SPEARHEAD maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Sacramento, California, for all non-exempt, hourly paid employees working for SPEARHEAD in California, including Mr. Idris and other aggrieved employees. At all relevant times, SPEARHEAD issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Idris and other aggrieved employees, regardless of their location or position.

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

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

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay. Moreover, when an employee is paid two or more rates by the same employer during the workweek, the regular rate is the “weighted average” determined by dividing the employee’s total earnings for the workweek, including earnings during overtime hours, by the total hours worked during the workweek, including the overtime hours.

SPEARHEAD willfully failed to pay all overtime wages owed to Mr. Idris and other aggrieved employees. During the relevant time period, Mr. Idris and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of

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

twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, SPEARHEAD had, and continues to have, a company-wide policy of requiring Mr. Idris and other aggrieved employees to work off-the-clock before and/or after their scheduled shifts and on their days off. For example, towards the end of Mr. Idris's employment, after he clocked out from his shifts, Mr. Idris was sometimes required to stay to discuss any work-related issues that had occurred during his shift with SPEARHEAD's management. As a further example, SPEARHEAD required Mr. Idris to complete a training session online which involved watching training videos, reading relevant material, and answering quizzes and questions. Due to the heavy workload and understaffing at SPEARHEAD's stores (*see infra*) during his shifts, Mr. Idris was forced to complete this training at home and was not compensated for this time. Thus, SPEARHEAD failed to track this time spent working before and/or after scheduled shifts and on days off, and Mr. Idris and other aggrieved employees received no compensation for this time.

Second, SPEARHEAD had, and continues to have, company-wide policies and/or practices of understaffing its locations while assigning heavy workloads and/or sales quotas, thereby failing to provide adequate meal period coverage to permit those employees to take compliant meal periods. As a result of this lack of meal period coverage, Mr. Idris and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. SPEARHEAD also had a practice of failing to schedule meal periods which further caused Mr. Idris and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Idris would sometimes cut his meal periods short and return to work because the store was busy. SPEARHEAD did not compensate Mr. Idris and other aggrieved employees for the time they spent working off the clock during unpaid meal periods.

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

Moreover, in addition to an hourly wage, SPEARHEAD paid Mr. Idris and other aggrieved employees commissions, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SPEARHEAD failed to incorporate all compensation, including commissions, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Mr. Idris and other aggrieved employees worked overtime and received these other forms of pay, SPEARHEAD failed to pay all overtime wages by paying a lower overtime rate than required.

For example, SPEARHEAD paid Mr. Idris and other aggrieved employees a nondiscretionary bonus which was listed on Mr. Idris's and other aggrieved employees' wage statements as "SignOn Bonus." As a further example, SPEARHEAD paid Mr. Idris and other aggrieved employees commission payments which were listed on Mr. Idris's and other aggrieved employees' wage statements as "Commission" and "Comm." During pay periods that Mr. Idris and other aggrieved employees were paid overtime wages, SPEARHEAD did not incorporate the nondiscretionary bonuses and commissions into Mr. Idris's and other aggrieved employees' regular rate of pay and, as a result, paid

them at incorrect and lower rates of pay for overtime hours worked. Specifically, SPEARHEAD paid Mr. Idris and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. SPEARHEAD's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Idris and other aggrieved employees on a company-wide basis.

SPEARHEAD's failure to pay Mr. Idris and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Idris and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

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

As stated, during the relevant time period, SPEARHEAD had a company-wide practice and/or policy of requiring Mr. Idris and other aggrieved employees to work off-the-clock, but failed to compensate them for this time spent working. Further, as also stated above, due to SPEARHEAD's policies and/or practices of understaffing its locations, assigning heavy workloads and/or sales quotas, and failing to schedule meal periods, Mr. Idris and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods and/or were otherwise not relieved of all duties during unpaid meal periods.

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

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

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

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except

that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, during the relevant time period, SPEARHEAD had, and continues to have company-wide policies and/or practices of understaffing its stores and assigning heavy workloads and/or sales quotas, which resulted in a lack of meal period coverage and prevented Mr. Idris and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as also stated, SPEARHEAD had a company-wide practice and/or policy of failing to schedule meal periods, which further caused Mr. Idris and other aggrieved employees to not be relieved of their duties for compliant meal periods.

As a result, Mr. Idris and other aggrieved employees have had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, approximately 3-6 times per month, Mr. Idris would have to forego his meal periods or take his meal periods late, after having worked in excess of five (5) hours into his shift, because the store was busy or there was no one available to relieve him to take a meal period. Further, as stated, Mr. Idris sometimes had his meal periods interrupted and/or cut short due to store being busy and customers needing assistance.

Moreover, SPEARHEAD did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Idris and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, SPEARHEAD knew or should have known that as a result of its policies, Mr. Idris and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. SPEARHEAD further knew or should have known that they did not pay Mr. Idris and other aggrieved employees all meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

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

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

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

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

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

During the relevant time period, SPEARHEAD regularly failed to authorize and permit Mr. Idris and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, SPEARHEAD's company-wide policies and/or practices of understaffing and assigning heavy workloads and/or sales quotas resulted in a lack of rest period coverage and prevented Mr. Idris and other aggrieved employees from being relieved of all duty to take rest periods. SPEARHEAD also failed to schedule rest periods, which further led to Mr. Idris and other aggrieved employees not being authorized and permitted to take rest periods.

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

As a result of SPEARHEAD's practices and policies, Mr. Idris and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Mr. Idris had to forego his rest periods entirely for the first six (6) months of his employment and subsequently had his rest periods interrupted during the last (2) months of his employment.

SPEARHEAD has also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Idris and other aggrieved employees have not received premium pay for

all missed rest periods. Alternatively, to the extent that SPEARHEAD did pay Mr. Idris and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, SPEARHEAD did not pay Mr. Idris and other aggrieved employees at the correct rate of pay for premiums because SPEARHEAD failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration in the regular rate of pay. As a result, SPEARHEAD denied Mr. Idris and other aggrieved employees rest periods and failed to pay them rest period premiums due, in violation of Labor Code sections 226.7 and 516, and the applicable IWC Wage Order.

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

Violation of California Labor Code § 226.2 – Failure to Separately Compensate for Rest Periods and/or Other Nonproductive Time

California Labor Code section 226.2 requires employers that utilize a piece-rate compensation plan to separately compensate employees for rest and recovery periods and other nonproductive time at or above specified minimum hourly rates. Labor Code section 226.2 further requires that employers provide employees compensated on a piece-rate basis with itemized statements stating the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period, and the total hours of other nonproductive time, as specified, the rate of compensation, and the gross wages paid for that time during the pay period.

During the relevant time period, SPEARHEAD adopted a company-wide compensation plan whereby it paid other aggrieved employees on a piece-rate basis for the performance of certain activities and assignments, including making sales. However, on information and belief, SPEARHEAD failed to record or track the time other aggrieved employees spent performing non-sales activities and did not separately compensate other aggrieved employees for all of this nonproductive time.

In addition, SPEARHEAD had, and continues to have, a company-wide policy of failing to separately pay other aggrieved employees compensated on a piece-rate basis for rest periods as required by law. During the relevant time period, SPEARHEAD did not separately pay other aggrieved employees paid on a piece-rate basis for rest periods. Alternatively, to the extent that SPEARHEAD did pay other aggrieved employees for rest periods, SPEARHEAD did not pay other aggrieved employees at the correct rate of pay because SPEARHEAD systematically failed to include all forms of compensation, such as commissions, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

SPEARHEAD also failed to provide other aggrieved employees with itemized statements listing the total hours of all nonproductive time and/or total hours of compensable rest periods, and other required details regarding payment for nonproductive time and/or rest periods. SPEARHEAD further did not provide other aggrieved employees with itemized statements showing the rates at which they were paid for all nonproductive time and/or rest periods.

SPEARHEAD's failure to separately compensate other aggrieved employees for all rest periods and other nonproductive time at or above specified minimum hourly rates, as well as SPEARHEAD's failure to provide other aggrieved employees with the requisite itemized statements, violates

California Labor Code section 226.2. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 226.3 and/or 2699(a), (f)-(g).

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

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

During the relevant time period, SPEARHEAD has knowingly and intentionally provided Mr. Idris and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, SPEARHEAD issued uniform wage statements to Mr. Idris and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; the number of piece-rate units earned and any applicable piece rate; net wages earned; the address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, SPEARHEAD violated sections 226(a)(1), 226(a)(2), 226(a)(3), 226(a)(5), 226(a)(8), and 226(a)(9).

First, SPEARHEAD did not accurately record the time Mr. Idris and other aggrieved employees spent working off-the-clock, and/or failed to provide itemized statements listing the total hours of all rest periods and/or other nonproductive time and other required details regarding payment for rest periods and/or other nonproductive time, SPEARHEAD did not list the correct amount of gross wages and net wages earned by Mr. Idris and other aggrieved employees in compliance with sections 226(a)(1) and 226(a)(5). For the same reason, SPEARHEAD failed to accurately list the total number of hours worked by Mr. Idris and other aggrieved employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding accurate number of work hours worked at each hourly rate in violation of section 226(a)(9).

Second, because SPEARHEAD did not calculate Mr. Idris's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, SPEARHEAD did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, SPEARHEAD failed to list the correct amount of net wages in violation of section 226(a)(5). SPEARHEAD also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9). Moreover, on information and belief, SPEARHEAD failed to list the number of piece rate units earned and any applicable piece rate for other aggrieved employees who were paid on a piece rate basis in violation of section 226(a)(3).

Third, and separately from these violations, SPEARHEAD issued uniform wage statements to Mr. Idris and other aggrieved employees that failed to list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. During the relevant time period, SPEARHEAD systematically, and on a company-wide basis, issued wage statements to Mr. Idris and other aggrieved employees that fail to list the employing entity's correct address. Mr. Idris's and other aggrieved employees' wage statements incorrectly list the employer's address as "1700 PACIFIC AVE STE 3640, DALLAS, TX 75201-4854," but according to the California Secretary of State's website, SPEARHEAD MOBILITY INC's entity address should be "2108 N ST. STE N, SACRAMENTO, CA 95816."

The wage statement deficiencies also include, without limitation, failing to list all deductions; failing to list the inclusive dates of the period for which employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). At all relevant times, and in violation of Labor Code section 1174(d), SPEARHEAD willfully failed to maintain accurate payroll records for Mr. Idris and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

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

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

whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

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

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

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

During the relevant time period, SPEARHEAD failed to pay Mr. Idris and other aggrieved employees all wages due to them, including, but not limited to, overtime wages; minimum wages; compensation for rest periods and/or other nonproductive time; meal and rest period premiums; sick leave pay; and/or reporting time pay, within any time period specified by California Labor Code section 204.

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

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

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

On information and belief, SPEARHEAD has a company-wide practice and/or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, SPEARHEAD terminated Mr. Idris on or about April 18, 2023; however, SPEARHEAD did not provide Mr. Idris with his final paycheck until about April 21, 2023. Thus, SPEARHEAD failed to pay Mr. Idris his final wages immediately, in violation of California Labor Code section 201.

Additionally, SPEARHEAD willfully failed to pay Mr. Idris and other aggrieved employees who are no longer employed by SPEARHEAD the earned and unpaid wages set forth above, including but not limited to, overtime wages; minimum wages; compensation for rest periods and/or other

nonproductive time; meal and rest period premiums; sick leave pay; and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving SPEARHEAD's employ.

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

Violation of California Labor Code § 246 – Failure to Properly Calculate Paid Sick Leave and Provide Written Notice of Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Labor Code section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[.]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

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

Moreover, during the relevant time period, SPEARHEAD has failed to provide Mr. Idris and other aggrieved employees written notice on wage statements and/or other separate written statements that listed the amount of paid sick leave (or equivalent paid leave or paid time off) available to them.

SPEARHEAD's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l). Moreover, SPEARHEAD's systematic failure to provide written notice of sick leave benefits to Mr. Idris and other aggrieved employees is in violation of Labor Code section 246(i).

Mr. Idris and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day’s Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day’s rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six (6) hours in any one day thereof.

During the relevant period, SPEARHEAD required Mr. Idris and/or other aggrieved employees to work approximately six (6) or more hours per day and seven (7) consecutive days in a workweek. Because Mr. Idris and/or other aggrieved employees worked over thirty (30) hours per week and over six (6) hours in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Mr. Idris and/or other aggrieved employees signed purported waivers of their right to a day’s rest in seven, such waivers are invalid.

Thus, SPEARHEAD caused Mr. Idris and/or other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Mr. Idris and/or other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11070 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11070(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, SPEARHEAD violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A), because SPEARHEAD failed to pay Mr. Idris and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the usual or scheduled day’s work.

SPEARHEAD had a company-wide practice and/or policy of sending Mr. Idris and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Idris and other aggrieved employees for half of their scheduled shift. For example, when scheduled to work an eight (8) hour shift, SPEARHEAD’s managers sent Mr. Idris home before he had an opportunity to work at least half of his scheduled

shift, but on information and belief, Mr. Idris was only paid for the time he had worked. Although Mr. Idris and other aggrieved employees reported to work based on the schedule that was provided to them, SPEARHEAD would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, SPEARHEAD did not pay Mr. Idris and other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay.

Accordingly, Mr. Idris and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5)(A). Mr. Idris and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

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

First, during the relevant time period, SPEARHEAD, on a company-wide basis, required Mr. Idris and other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. For example, Mr. Idris was required to download a mobile application, "ADP Mobile Solutions," on his personal cellular phone and to regularly use his mobile data to clock in and out for his shifts and meal periods. Further, Mr. Idris and other aggrieved employees used their personal cellular phones to communicate with management and coworkers via text messages and phone calls regarding work-related matters. In addition, Mr. Idris and other aggrieved employees were required to download the "WhatsApp" mobile application, which they sometimes used to facilitate these work-related communications. Mr. Idris and other aggrieved employees were not compensated for the cost of the mobile data used to download and access the applications. Although SPEARHEAD required Mr. Idris and other aggrieved employees to use their personal mobile devices and/or mobile data to carry out their work-related duties, SPEARHEAD failed to reimburse them for their costs incurred.

Second, during the relevant time period, SPEARHEAD, on a company-wide basis, expected employees to report to work in clean and presentable uniform shirts bearing the AT&T company logo, but did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, SPEARHEAD only provided other aggrieved employees with two (2) to three (3) shirts at the time of hire. Because SPEARHEAD failed to provide other aggrieved employees with an adequate number of uniform items in relation to their scheduled shifts, on information and belief, other aggrieved employees had to wash their uniforms more frequently than they otherwise do laundry, and incur expenses in doing so. Thus, SPEARHEAD failed to maintain

uniforms they required other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

SPEARHEAD could have provided Mr. Idris and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices, and an adequate number of uniforms or access to laundering services. Or, SPEARHEAD could have reimbursed employees for their mobile device usage and laundering expenses or provided a uniform maintenance allowance. Instead, SPEARHEAD passed these operating costs off onto Mr. Idris and other aggrieved employees. At all relevant times, Mr. Idris did not earn at least two (2) times the minimum wage.

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

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

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

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

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

California Labor Code § 558(a)

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

SPEARHEAD, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Idris's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Idris seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Idris, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against SPEARHEAD for violations of California Labor Code sections 201, 202, 204, 226(a), 226.2, 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

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

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

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

Best Regards,



Ninel Kocharyan

Copy: SPEARHEAD MOBILITY INC (via U.S. Certified Mail)

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



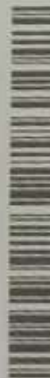
7022 2410 0000 2405 9266

SPEARHEAD MOBILITY INC
2108 N ST. STE N
SACRAMENTO, CA 95816

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the receipt.

SPEARHEAD MOBILITY INC
2108 N ST. STE N
SACRAMENTO, CA 95816



9590 9402 7690 2122 7155 52

2. Article Number (Transfer from service label)

7022 2410 0000 2405 9266

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

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

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery
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10/15/15
SPEARHEAD

Postmark

SPEARHEAD MOBILITY INC
2108 N ST. STE N
SACRAMENTO, CA 95816

7022 2410 0000 2405 9266

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card.

SPEARHEAD MOBILITY INC
2108 N ST. STE N
SACRAMENTO, CA 95816



9590 9402 7690 2122 7155 52

2. Article Number (Transfer from service label)

7022 2410 0000 2405 9266

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature]

☒ Agent

☐ Addressee

B. Received by (Printed Name)

[Handwritten: F. Rogers]

C. Date of Delivery

[Handwritten: 8/30/03]

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

all Restricted Delivery

PROOF OF SERVICE

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

On **November 8, 2023**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Shirley C. Wang
swang@saberlaw.com
Saber Law Group
101 Howard Street, Suite 400
San Francisco, CA 94105
415-278-1422

Attorney's for Defendant:
Spearhead Mobility, Inc.

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

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

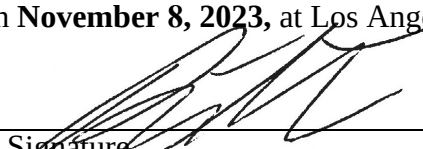
☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **November 8, 2023**, at Los Angeles, California.

Riley McIntire
Type/Print Name


Signature