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County of Santa Barbara
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA – COOK DIVISION

STATE OF CALIFORNIA ex rel. PATRICK CROWLEY and STANTON WOOD, as Private Attorneys General, Plaintiff, v. ALCO HARVESTING LLC; and DOES 1-25, inclusive, Defendants.	Case No. 23CV04823 *Assigned for All Purposes to:* **COMPLAINT FOR CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004** *Trial Date: None* *Complaint filed:*

COMES NOW Plaintiff STATE OF CALIFORNIA ex rel. PATRICK CROWLEY and STANTON WOOD as Private Attorneys General ("Plaintiff"), who asserts claims against ALCO HARVESTING LLC and DOES 1-25, inclusive (collectively "Defendants" or "Employer") as follows:

INTRODUCTION

1. Plaintiff brings this action under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698, *et seq.*, on behalf of approximately 5,000 aggrieved non-exempt employees employed by Alco Harvesting LLC between August 17, 2022, and the

conclusion of this action ("Statutory Period"), and the People of the State of California (hereinafter collectively "Employees").

2. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code, permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Employees bring this civil action to recover civil penalties for the violations identified below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil penalties specifically set forth within the text of the California Labor Code. Those civil penalties are sought for violations committed against Employees of Employers.

3. Plaintiff has filed an exhaustion letter with the California Labor and Workforce Development Agency ("LWDA") providing notice of Plaintiff's intent to bring a private attorneys general action for recovery of penalties under the PAGA. The LWDA has not investigated within the time set forth by statute and Plaintiff is now authorized to bring the present action.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, §10.

5. Venue is proper in this Court because this action arises from work performed in Santa Barbara County.

PARTIES

6. For all times relevant herein, PATRICK CROWLEY and STANTON WOOD were adult individuals residing in the State of California. Mr. Crowley and Mr. Wood are not suing in their individual capacity; they are proceeding herein solely under the PAGA, on behalf of the State of California for all aggrieved employees.

7. Mr. Crowley and Mr. Wood are proceeding with the Supreme-Court-approved option of "paring away" their individual claims herein such that the only claims asserted herein are non-arbitrable nonindividual claims. (*See Adolph v. Uber Technologies, Inc*. (2023) 14 Cal.5th 1104, 1122 ["[p]aring away the plaintiff's individual claims does not deprive the plaintiff of

standing to pursue representative claims under PAGA"], quoting *Piplack v. In-N-Out Burgers* (2023) 88 Cal.App.5th 1281, 1291; *see also Johnson v. Maxim Healthcare Services, Inc.* (2021) 66 Cal.App.5th 924, 930 [approving purely nonindividual PAGA claim with no individual PAGA claim assertable].) Mr. Crowley and Mr. Wood allege one or more violations committed against them for the sole purpose of meeting PAGA's standing requirement to proceed on behalf of all aggrieved employees. (*See Adolph*, at p. 1128 ["And even where a plaintiff concedes the applicability of an arbitration agreement, the plaintiff does not breach the agreement by alleging in a complaint that one or more violations were committed against the plaintiff for the purpose of meeting PAGA's standing requirements"].) However, Mr. Crowley seeks relief under the PAGA for violations committed against Mr. Wood, and Mr. Wood seeks relief under the PAGA for violations committed against Mr. Crowley.

8. For all times relevant herein, Plaintiff is informed and believes, and on that basis alleges, that Defendant ALCO HARVESTING LLC was and is a business entity with its principal place of business in Santa Barbara County, California.

9. Whenever in this Complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through one or more of its agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the business and affairs of Defendants.

10. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and therefore sues said defendants (the "Doe Defendants") by such fictitious names. Plaintiff will amend this Complaint to insert the true names and capacities of the Doe Defendants at such time as the identities of the Doe Defendants are ascertained.

11. Plaintiff is informed and believes, and based thereon alleges, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants, and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and

accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of Defendants as alleged herein.

12. Plaintiff is further informed and believe, and thereon allege, that at all times herein material, each Defendant was completely dominated and controlled by its co-Defendant(s) and each was the alter ego of the other. Whenever and wherever reference is made in this Complaint to any conduct by Defendants, or any of them, such allegations and references shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is made to individuals who are not named as defendants in this Complaint, but were employees and/or agents of Defendants, such individuals at all relevant times acted on behalf of Defendants named in this Complaint within the scope of their respective employment or agency with Defendants.

FACTS COMMON TO ALL COUNTS

A. Mr. Wood's Employment with Alco Harvesting LLC

13. Mr. Stanton Wood worked for Alco Harvesting as a shop welder from May 28, 2021 to January 16, 2023. As a welder, Mr. Wood drew plans, took measurements, and repaired anything that needed to be fixed such as harvesters, loaders, trucks, and trailers.

14. Alco typically asked employees to clock in and out on a tablet to track the hours they worked. There were usually many problems with the tablet so employees, including Mr. Wood, were asked to write their times on a timecard and the direct supervisor would manually input it on the computer. Even if the tablet was working, employees continued tracking their time on a timecard.

15. Mr. Wood's usual work schedule was from 7:00 AM to 5:00 PM, with the occasional overtime. During those work hours, Mr. Wood did not get any rest breaks. Mr. Wood's duties required hard labor and he felt like he really needed those rest breaks, but taking rest breaks was discouraged by management.

16. Mr. Wood's direct supervisor Mr. Victor Esparza directed shop employees to clock out for their meal period but continue working so they could finish assigned projects. Mr. Wood was instructed to write meal periods down although he did not actually take it so it would not flag

an issue with their Human Resources department. In reality, meal periods were rarely taken before 12:00 PM and sometimes taken as late as 2:30 PM. On the days that Mr. Wood was not able to clock out or take a meal period, Mr. Esparza assured him he would input it manually later. Employees did not take a second meal period when they worked longer hours. On some occasions, Mr. Esparza told employees he would manually input a second lunch so they would not have to stay at work later.

17. When Mr. Wood finally did take his meal period later, he took it in the warehouse. He started to realize that when he remained on site his meal periods were always interrupted so he decided to start leaving the work site.

18. Supervisors were forced to change time records to make sure the company passed audits. For example, Mr. Wood's supervisor, Mr. Crowley, was instructed by his direct supervisor Mr. Jeremy MacKenzie to alter the timecards every week to make it look like everyone took their meal periods. Mr. MacKenzie explained that this practice was to ensure Human Resources would not be flagged for any penalties. HR told Mr. Crowley not to change anything, but Mr. MacKenzie told him to make it right for HR. Alco Harvesting regularly altered the Employees' timecards to fraudulently create the appearance that the company was providing timely, compliant meal periods.

19. Mr. Wood knew what Mr. Esparza was instructing employees to do was wrong and they needed their breaks. Mr. Wood reported the lack of breaks and the falsification of the meal periods at least three times to Human Resources director Ms. Sandy Leyva and Ms. Maribel Alvarado. Mr. Wood started taking notes of issues he was encountering since February 24, 2022, and presented those to Alco Harvesting's HR. HR informed Mr. Wood they would investigate, but swept the violations under the rug, as it has been attempting to do for years.

B. Mr. Crowley's Employment with Alco Harvesting LLC

20. Mr. Patrick Crowley was hired to work for Alco Harvesting as a shop manager on or about August 26, 2019. Alco Harvesting classified Mr. Crowley as a salaried exempt employee. In this position, Mr. Crowley was authorized to make independent decisions and manage staff.

21. In or around May 2021, the new position of Operations Manager was filled by Mr. Will Hames. When Mr. Hames arrived, Mr. Crowley no longer made independent decisions or judgments. Every decision had to go through Mr. Hames. Mr. Hames had high expectations and micro-managed Mr. Crowley's work which quickly became an issue. Mr. Crowley was expected to communicate what he was doing 2-3 times a day. Mr. Crowley did what was asked of him. Mr. Crowley was not allowed to manage although he was given the title. Mr. Hames and Mr. Mackenzie controlled everything and told Mr. Crowley everything to do and he relayed it to the employees.

22. Around May 2021, Mr. Hames asked Mr. Crowley to drive back and forth between Santa Maria to Yuma, Arizona daily for almost a week straight to complete different duties he was asked to do such as transporting trucks, employee vehicles, and other equipment. These tasks were not in his job description and were clearly non-exempt duties. Around June 2021, Mr. Hames required Mr. Crowley to sign a document indicating that Mr. Crowley was agreeing to do whatever Mr. Hames asked, whether it was in his job description or not. Mr. Crowley took on a non-managerial role that should have been reclassified as non-exempt. However, Alco Harvesting failed to do so, resulting in derivative violations of the California Labor Code, including a failure to pay or provide overtime, minimum wages, compliant meal-and-rest breaks, timely regular payment of wages for same, accurate wage statements, and timely payment of all wages owed at the time of separation.

23. Around July 2021, Mr. Hames took over managing the shop although it was not within his title. Mr. Hames started changing what Mr. Crowley was doing and the employees he had in positions. The shop foreman was let go and Mr. Crowley was not allowed to promote his own shop foreman. Mr. Crowley asked to be reassigned because the shop was heading in a direction he did not like due to his management duties being stripped. Mr. Crowley was informed that Alco Harvesting needed someone to look after the company's hotels and do other special projects (errands) for the company.

24. On July 30, 2021, Mr. Crowley was reassigned as an Asset & Special Projects Manager. He was not given a salary increase although he was given multiple job titles umbrellaed

under one. He held the title of Asset Manager, Special Projects Manager, and Fleet Manager at the same time.

25. When he started the new position, the duties changed. Mr. Crowley no longer managed the shop of the employees. The job description offer letter included gathering and presenting bids for special projects on Alco properties, overseeing projects, organizing CAR requests and invoicing, maintaining records on fleet maintenance, safety, and inspections, managing GPS systems, managing equipment reports, managing several programs for driver training, and managing fleet information. Sprinkled within his new position was managing and assigning tasks to staff, although Mr. Crowley no longer had any independent discretion or judgment to properly called a manager.

26. Mr. Crowley was given assigned duties but still had to do more than what was assigned. For example, Mr. Crowley had to go through water tanks and conduct PH testing for an audit. It took him about 40 hours to complete the PH testing. Mr. Crowley estimates that 20% of his day was spent doing things outside his job description. Mr. Crowley was also managing the remodeling projects being doing in properties in Santa Maria, CA and Yuma, AZ.

27. Mr. Crowley was still required to work 55 hours a week, 6 days a week. This was verbally conveyed to him on multiple occasions by Mr. Mackenzie, Mr. Hames, and Human Resources manager Sandy Leyva. Mr. Crowley asked if he still had to work that long if he completed his tasks sooner, but they said it was mandatory. At one point Mr. Crowley noticed his paystub stopped reflecting 55 hours and instead said 40 hours. He asked Mr. Hames if they were working less hours, but Mr. Hames said he did not know but he still had to work 55 hours.

28. Mr. Crowley averaged about 60 hours of work per week. On the weeks he had to travel back and forth between CA and AZ he averaged 75+ hours a week. None of these overtime hours were compensated. With so much to do, Mr. Crowley did not have the opportunity to take rest or meal periods. There was nothing ever communicated to him regarding breaks. He assumed he just took them whenever he could. He was rarely off-duty. He was still receiving calls and emails while on vacation. Being interrupted was the norm.

29. Upper management was aware that Mr. Crowley was working 10 hours daily and 5 hours on Saturdays. They were aware that sometimes Mr. Crowley spent his Sundays driving the 7 hours back and forth between Santa Maria and Yuma and had no day off. Mr. Crowley mentioned it to Mr. Hames once and Mr. Hames response was “do what you have to do.”

30. Mr. Crowley complained to Mr. Mackenzie about the way he was managed. Mr. Crowley voiced his displeasure about not being able to do what he was hired to do but it did not get him anywhere. Mr. Mackenzie did nothing to reevaluate whether Mr. Crowley should be reclassified to a non-exempt position given the clear information that he was no longer doing primarily exempt work after Mr. Hames came on board.

FIRST COUNT

Failure to Pay Minimum Wages Owed

(By Plaintiff against All Defendants)

31. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

32. Section 1197 provides that “[t]he minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

33. Pursuant to Section 1197.1, “(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid

regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203."

34. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to pay Employees at least minimum wage for all time worked, including time during Employees' meal periods and other hours worked "off the clock," which must be paid at a rate of not less than minimum wage pursuant to California law. Employer paid zero dollars for this time. Consequently, Employer violated the foregoing minimum wage laws.

35. Defendants are subject to all civil penalties and other remedies under the PAGA.

SECOND COUNT

Failure to Pay Overtime Wages Owed

(By Plaintiff against All Defendants)

36. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

37. "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Cal. Lab. Code, § 1198. Prior to January 1, 2019, pursuant to Industrial Welfare Commission Wage Order 14, "employees shall not be employed more than ten (10) hours in any one workday or more than six (6) days in any workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over ten (10) hours in any workday and for the first eight (8) hours on the seventh (7th) day of work and double the employee's regular rate of pay for all hours worked over eight (8) on the seventh (7th) day of work in the workweek."

38. Effective January 1, 2019, for employers of more than 25 employees like Employer, Wage Order 14 provides that Employees shall not be employed more than nine and one-half (9 1/2) hours per workday or fifty-five (55) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked

over nine and one-half (9 1/2) hours in any one workday or more than fifty-five (55) hours in any one workweek.

39. Starting January 1, 2020, Employees shall not be employed more than nine (9) hours per workday or fifty (50) hours per workweek unless the employee receives one and one-half (11/2) times such employee's regular rate of pay for all hours worked over nine (9) hours in any one workday or more than fifty (50) hours in any one workweek.

40. Starting January 1, 2021, Employees shall not be employed more than eight and one-half (8 1/2) hours per workday or forty-five (45) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over eight and one-half (8 1/2) hours in any one workday or more than forty-five (45) hours in any one workweek.

41. Starting January 1, 2022, Employees shall not be employed more than eight (8) hours per workday or work in excess of forty (40) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee's regular rate of pay for all hours worked over eight (8) hours in any workday or more than forty (40) hours in any workweek and double the employee's regular rate of pay for all hours worked over twelve (12) hours in any one workday.

42. "Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission 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 in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Cal. Lab. Code, § 558, subd. (a).

43. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to pay Employees at least minimum wage for all time worked. Because this time was improperly not counted as hours worked, Employees also accrued additional

overtime wages for hours in excess of 8 in their workdays, and/or in excess of 40 in their workweeks, that were never paid to Employees.

44. Defendants are subject to all civil penalties and other remedies under the PAGA.

THIRD COUNT

Failure to Provide Compliant Rest Periods or Pay Rest Premiums

(By Plaintiff against All Defendants)

45. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

46. Pursuant to Industrial Welfare Commission Wage Order 14, employers must provide non-exempt employees a ten (10) minute duty-free rest period for every four (4) hours worked or major fraction thereof. Duty-free rest periods must be paid. An employer who fails to provide a duty-free rest period must pay the employee an additional one (1) hour of regular pay for each day in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd. (c).

47. "Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission 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 in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Cal. Lab. Code, § 558, subd. (a).

48. Throughout the Statutory Period, Employer maintained an illegal practice of not providing Employees with sanctioned 10-minute rest periods, which were controlled and ordered by managers. Employees first rest periods were routinely provided late, interrupted, or not provided at all, and Employees were not free of all duties or free to leave the premises. Additionally, Employer failed to provide Employees with a compliant second rest period. For some Employees, Employer regularly denied all paid rest periods as required by law.

49. Defendants are subject to all civil penalties and other remedies under the PAGA.

FOURTH COUNT

Failure to Provide Compliant Meal Periods or Pay Meal Premiums

(By Plaintiff against All Defendants)

50. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

51. "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 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." Cal. Lab. Code, § 512, subd. (a).

52. Pursuant to Labor Code sections 226.7 and 512, and Wage Order 14, duty-free meal periods of no less than thirty (30) minutes are required for all non-exempt employees who work at least five (5) hours in a work period per day. The employee must be free to leave the employer's premises. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Time records of meal periods must be kept. Meal periods must be paid when the employee is not relieved of all duties or free to leave the premises. An employer who fails to provide a duty-free meal period must pay the employee an additional one (1) hour regular pay for each day in which a duty-free meal period is not provided.

53. "If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall

pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided." Cal. Lab. Code, § 226.7, subd. (c).

54. "Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission 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 in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Cal. Lab. Code, § 558, subd. (a).

55. Employees incorporate the preceding sections herein. Throughout the Statutory Period, although Employees were entitled to a meal period within the first five (5) hours of work, Employer regularly scheduled Employees' first meal periods after such time, regularly provided less than 30 minutes of time for meal periods, failed to provide a second meal period after 10 hours of work as required by law, and otherwise failed to provide Employees compliant meal periods.

56. Defendants are subject to all civil penalties and other remedies under the PAGA.

FIFTH COUNT

Inaccurate Wage Statements

(By Plaintiff against All Defendants)

57. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

58. "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is

exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, ... (7) 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, ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment." Cal. Lab. Code, § 226, subd. (a).

59. "Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial citation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law." Cal. Lab. Code, § 226.3.

60. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to furnish Employees with accurate itemized statements at the time of each payment of wages showing the correct gross wages earned, correct total hours worked, correct net wages earned, and the corresponding correct number of hours worked at each applicable hourly rate. Rather than providing statements of actual time worked and a correct payment of wages based thereon, Employer failed to capture and pay Employees for all hours worked including overtime, and also failed to capture and pay premium pay for missed meal and rest periods. Consequently, Employer failed to provide Employees accurate itemized wages statements as required by Section 226.

61. Defendants are subject to all civil penalties and other remedies under the PAGA.

<u>SIXTH COUNT</u>

Untimely Payment of Wages

(By Plaintiff against All Defendants)

62. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

63. Generally, "[a]ll wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month." Cal. Lab. Code, § 204, subd. (a).

64. Generally, "[l]abor performed by a weekly-paid employee during any calendar week and prior to or on the regular payday shall be paid for not later than the regular payday of the employer for such weekly-paid employee falling during the following calendar week. Labor performed by a weekly-paid employee during any calendar week and subsequent to the regular payday shall be paid for not later than seven days after the regular payday of the employer for such weekly-paid employee falling during the following calendar week." Cal. Lab. Code, § 204b.

65. Special rules govern agricultural employees, however: "All wages, other than those mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section 1140.4, are due and payable twice during each calendar month, on days designated in advance by the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid between the first and the seventh day of the following month." Cal. Lab. Code, § 205.5.

66. "In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each

employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld." Cal. Lab. Code, § 210, subd. (a).

67. Employees incorporate the preceding sections herein. Rather than timely paying Employees all wages due within the periods set forth above, throughout Employees' employment, Employer failed to timely pay Employees for all hours worked and all premium wages.

68. Defendants are subject to all civil penalties and other remedies under the PAGA.

SEVENTH COUNT

Failure to Pay Wages at Termination/Resignation

(By Plaintiff against All Defendants)

69. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

70. "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Cal. Lab. Code, § 201, subd. (a).

71. "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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. Notwithstanding any other law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting." Cal. Lab. Code, § 202, subd. (a).

72. "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him

or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment." Cal. Lab. Code, § 203, subd. (a).

73. Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to pay Employees at least minimum wage, overtime, and all premium wages for all time worked. These wages were owed and due to Employees at the time of their termination or resignation. Employer did not provide these payments to Employees at the time of termination or within a sufficient time of resignation as required by Labor Code sections 201 and 202. Employer's failure to timely pay these wages at the time of termination, and failure to pay Employees' continued wages for the 30-day period thereafter, constitutes a violation of Sections 201, 202, and 203.

74. Defendants are subject to all civil penalties and other remedies under the PAGA.

PRAYER

WHEREFORE, Plaintiff and Employees pray for judgment against Defendants, as follows:

1. For civil penalties pursuant to Labor Code sections 2698, *et seq.* in an amount to be ascertained at trial exceeding $25,000.

2. For reasonable costs and attorneys' fees; and

3. For such other and further relief as the Court deems proper.

DATED: October 24, 2023

WORKWORLD LAW CORP.
A Professional Corporation

By: ______________________________
RUBEN ESCOBEDO
Attorneys for PATRICK CROWLEY and STANTON WOOD as Private Attorneys General