

JAMIE K. SERB, ESQ. (SBN 289601)
jamie@crosnerlegal.com
BRANDON BROUILLETTE, ESQ. (SBN 273156)
bbrouillette@crosnerlegal.com
ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
CROSNER LEGAL, PC
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (866) 276-7637
Fax: (310) 510-6429

Attorneys for Plaintiffs SEAN CRANE, JENNIFER BEAUSOLEIL, MADISON PALMER, and
DENISE ORD, on behalf of the State of California,
and others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

SEAN CRANE, JENNIFER BEAUSOLEIL,
MADISON PALMER, and DENISE ORD,
on behalf of the State of California, and others
similarly situated and aggrieved,

Plaintiffs,

v.

SIMI VALLEY HOSPITAL AND HEALTH
CARE SERVICES, a California Nonprofit
Corporation; ADVENTIST HEALTH
SYSTEM/WEST, a California Nonprofit
Corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: **23STCV2791 1**

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

1 Plaintiffs, SEAN CRANE, JENNIFER BEAUSOLEIL, MADISON PALMER, and
2 DENISE ORD, (“PLAINTIFFS”), on behalf of PLAINTIFFS, the State of California, and all other
3 Aggrieved Employees (as defined below), hereby files this Complaint against Defendants SIMI
4 VALLEY HOSPITAL AND HEALTH CARE SERVICES, a California Nonprofit Corporation;
5 ADVENTIST HEALTH SYSTEM/WEST, a California Nonprofit Corporation; and DOES 1-100,
6 inclusive, (collectively referred to herein as “DEFENDANTS”). PLAINTIFFS are informed and
7 believe and thereon allege as follows:

8 **INTRODUCTION**

9 1. This is a representative action filed by PLAINTIFFS on behalf of PLAINTIFFS, all
10 Aggrieved Employees and the State of California against DEFENDANTS, pursuant to California’s
11 Private Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties
12 (75% payable to the Labor and Workforce Development Agency and 25% payable to Aggrieved
13 Employees) for DEFENDANTS’ violations of the California Labor Code as alleged below.

14 **JURISDICTION AND VENUE**

15 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
16 California statutes, including but not limited to the PAGA, and decisional law and regulations.

17 3. Venue is proper in the County of Los Angeles pursuant to sections 395 and 395.5 of
18 the California Code of Civil Procedure because DEFENDANTS transact business within this
19 judicial district, DEFENDANTS operate locations within this judicial district, and conduct alleged
20 by PLAINTIFFS herein occurred in this this judicial district. See also *Crestwood Behavioral Health,*
21 *Inc. v. Superior Court* (2021) 60 Cal. App. 5th 1069 (venue in a PAGA action is proper in any
22 county where the defendants committed Labor Code violations against some of its employees).
23 Venue is also proper pursuant to section 393 of the California Code of Civil Procedure because the
24 cause, or some part of the cause, arose in the County of Los Angeles.

25 **THE PARTIES**

26 4. PLAINTIFFS are, and at all relevant times, were individuals domiciled in the State
27 of California and a citizen of the State of California.

28 5. PLAINTIFFS are current employees of DEFENDANTS. PLAINTIFFS worked for

1 DEFENDANTS as non-exempt employees.

2 6. PLAINTIFF CRANE worked for DEFENDANTS as a non-exempt employee with a
3 job title(s) of radiographic technologist and/or a similar title(s) and/or position(s) from in or around
4 2017 and continuing through the present. PLAINTIFF CRANE regularly worked at least eight (8)
5 hours per day.

6 7. PLAINTIFF BEAUSOLEIL worked for DEFENDANTS as a Registered Nurse (RN)
7 lead, emergency room charge nurse, charge nurse, and/or similar title(s) and/or position(s) from in
8 or around 2021 and continuing through the present. PLAINTIFF BEAUSOLEIL regularly worked
9 at least twelve (12) hours per day, at least three (3) days per week.

10 8. PLAINTIFF PALMER worked for DEFENDANTS as a RN, Emergency Room RN
11 and/or similar title(s) and/or position(s) from in or around 2018 and continuing through the present.
12 PLAINTIFF PALMER regularly worked at least twelve (12) hours per day, at least two (2) days per
13 week.

14 9. PLAINTIFF ORD worked for DEFENDANTS as a bedside RN, RN and/or similar
15 title(s) and/or position(s) from in or around 2017 and continuing through the present. PLAINTIFF
16 ORD regularly worked at least twelve (12) hours per day, at least two (2) days per week.

17 10. PLAINTIFFS worked for DEFENDANTS at DEFENDANTS' Simi Valley,
18 California location(s).

19 11. Defendant SIMI VALLEY HOSPITAL AND HEALTH CARE SERVICES is a
20 California Nonprofit Corporation that, at all relevant times, was authorized to do business within
21 the State of California and is doing business in the State of California.

22 12. Defendant ADVENTIST HEALTH SYSTEM/WEST is a California Nonprofit
23 Corporation that, at all relevant times, was authorized to do business within the State of California
24 and is doing business in the State of California.

25 13. DEFENDANTS own, operate, manage and/or staff its employees to work at the
26 hospitals, medical centers, surgery centers, imaging centers, lab facilities, offices and/or other
27 facilities and/or other location(s) in California, including but not limited to the hospitals, medical
28 centers, surgery centers, imaging centers, lab facilities, offices and/or other facilities in Simi Valley,

1 California. DEFENDANTS, through its various s/other locations serves the health care industry.

2 14. The true names and capacities of the DOE Defendants sued herein as DOES 1
3 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
4 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
5 responsible for the unlawful acts alleged herein. PLAINTIFFS will seek leave of Court to amend
6 this Complaint to reflect the true names and capacities of the Doe Defendants when such identities
7 become known.

8 15. PLAINTIFFS are further informed and believe that, at all relevant times, each
9 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
10 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
11 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
12 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
13 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
14 complaint. PLAINTIFFS are further informed and believes and thereon alleges that each Defendant
15 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
16 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
17 controlled, aided and abetted the conduct of all other Defendants.

18 **JOINT LIABILITY**

19 16. Under California law, the definition of the terms “to employ” are broadly construed
20 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
21 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
22 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
23 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
24 was to reach situations in which multiple entities control different aspects of the employment
25 relationship. Supervision of the work, in the specific sense of exercising control over how services
26 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
27 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
28 temporary employment agency) hires and pays a worker, and the other entity supervises the work.

1 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
2 California, applying a less stringent standard to what constitutes sufficient control by a business
3 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
4 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
5 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
6 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
7 employment,” *Id.* at 875 [emphasis added].

8 17. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFFS and other
9 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
10 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
11 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
12 over wages, hours and working conditions of PLAINTIFFS and Aggrieved Employees; (2) suffered
13 or permitted PLAINTIFFS and Aggrieved Employees to work for them; and (3) engaged
14 PLAINTIFFS and Aggrieved Employees to work for them.

15 18. PLAINTIFFS are informed and believe, and thereon alleges that at all relevant times
16 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
17 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
18 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
19 policies and practices regardless of the location(s) where they worked. Among other things,
20 PLAINTIFFS are informed and believe that: (1) there is common ownership in, and financial
21 control, in DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who
22 have control over the day-to-day operations and employment matters, including the power to hire
23 and fire, set schedules, issue employee policies, and determine rates of compensation across its
24 locations in California; (3) DEFENDANTS utilize the same policies and procedures for all
25 California employees, including issuing the same employee handbooks and other form agreements;
26 (4) DEFENDANTS use at least some of the same Human Resources personnel and attorneys to
27 oversee employment matters; and, (6) DEFENDANTS share employees.

28 19. PLAINTIFFS are informed and believe, and thereon alleges that at all times relevant

1 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFFS and Aggrieved
2 Employees upon whose behalf PLAINTIFFS brings these allegations and cause of action, in that
3 DEFENDANTS, exercised sufficient control over PLAINTIFFS and the Aggrieved Employees'
4 wages, hours and working conditions, and/or suffered or permitted them to work so as to be
5 considered the joint employers of PLAINTIFFS and Aggrieved Employees.

6 20. For example, based on information and belief, DEFENDANTS, and each of them,
7 maintain the same Agent for Service of Process and/or mailing address as provided to the California
8 Secretary of State and use some of the same attorneys and/or human resources personnel to oversee
9 employment-related matters. Based on further information and belief, wage statements issued by
10 DEFENDANTS to Aggrieved Employees identify "Simi Valley Hospital and Health Care Services"
11 as the name of the legal entity that is the employer. However, based on information and belief,
12 various documents contained in Aggrieved Employees' personnel files, including without
13 limitation, employment policy documents and/or agreements identify Adventist Health
14 System/West and/or Adventist Health as the name of the employer.

15 21. Upon information and belief, PLAINTIFFS allege that DEFENDANTS created a
16 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
17 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
18 working conditions that were distributed to, and/or applied to PLAINTIFFS and Aggrieved
19 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
20 PLAINTIFFS and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively
21 represented to PLAINTIFFS and other Aggrieved Employees that each was an "at-will" employee
22 of DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate
23 PLAINTIFF's and other Aggrieved Employees' employment with or without cause. Upon
24 information and belief, DEFENDANTS further collectively represented to PLAINTIFFS and
25 Aggrieved Employees in writing the details of their compensation, and the manner in which they
26 were to take meal and rest periods, the procedures required by DEFENDANTS collectively for
27 recordation of hours worked and the policies applicable to PLAINTIFFS and Aggrieved Employees
28 by which DEFENDANTS collectively would evaluate their wage rates.

22. Thus, DEFENDANTS collectively exercised the right to control the wages, hours and working conditions of PLAINTIFFS and Aggrieved Employees. As such, DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFFS' and the Aggrieved Employees' employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFFS seek relief in this Complaint.

23. PLAINTIFFS are informed and believe that DEFENDANTS exercised the same control over, applied the same policies and practices, and engaged in the same acts and omissions with regard to the other Aggrieved Employees.

24. PLAINTIFFS are informed and believe and hereon alleges that DEEFENDANTS must be classified as joint employers of PLAINTIFFS for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFFS to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFFS at all relevant times herein, so as to be considered the joint employers of PLAINTIFF.

25. By reason of their status as joint employers of PLAINTIFFS and Aggrieved Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to all Aggrieved Employees.

PAGA ALLEGATIONS

26. PLAINTIFFS bring this action under the PAGA, as a representative action on behalf of themselves, the State of California and all Aggrieved Employees, regarding violations of the California Labor Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include:

All current and former non-exempt employees that worked either directly or via a staffing agency for any one or more of the DEFENDANTS at any location in California at any time from one year plus 65 days from the filing of the initial Complaint through the present (“PAGA Period”).

27. PLAINTIFFS are each an “aggrieved employee,” as that term is defined under Labor

1 Code section 2699(c), as PLAINTIFFS were each employed by DEFENDANTS during the
2 applicable statutory limitations period and suffered one or more of the Labor Code violations set
3 forth herein. Accordingly, PLAINTIFFS seek to recover on behalf of the State of California, and all
4 Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and
5 costs. PLAINTIFFS have standing to bring a PAGA cause of action on behalf of the State and all
6 Aggrieved Employees, as PLAINTIFFS were jointly employed by DEFENDANTS and are thereby
7 affected by one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.*
8 (2018) 23 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known
9 violations committed by the employer – regardless of whether Plaintiff experienced all violations
10 personally. *Id.* at 760-761.

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

12 28. PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and PLAINTIFF ORD, on
13 August 3, 2023, through counsel, gave written notice by online filing with the California Labor and
14 Workforce Development Agency (“LWDA”) informing it that DEFENDANTS failed to comply
15 with California’s labor laws with regard to the allegations alleged in this Complaint (“Beausoleil et
16 al. PAGA Notice”). On August 4, 2023, PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and
17 PLAINTIFF ORD through counsel, gave written amended notice by online filing with the LWDA
18 informing it of an additional entity that employed PLAINTIFF BEAUSOLEIL, PLAINTIFF
19 PALMER and PLAINTIFF ORD (Beausoleil et al. First Amended PAGA Notice).

20 29. PLAINTIFF CRANE, on September 6, 2023, through counsel, gave written notice
21 by online filing with the LWDA informing it that DEFENDANTS failed to comply with California’s
22 labor laws with regard to the allegations alleged in this Complaint (“Crane PAGA Notice”).

23 30. The LWDA did not provide notice of its intention to investigate DEFENDANTS’
24 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
25 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
26 PLAINTIFFS have exhausted the administrative remedies as required by Labor Code section
27 2699.3. Consequently, PLAINTIFFS’ right to file the instant lawsuit has duly accrued.

28 31. The Beausoleil et. al. PAGA Notice, Beausoleil et al. First Amended PAGA Notice,

1 and Crane PAGA Notice, outlined PLAINTIFFS' claims for violations of the California Labor Code
2 and the applicable wage orders on behalf of PLAINTIFFS, the State of California and all Aggrieved
3 Employees.

4 32. PLAINTIFFS seek to recover the PAGA civil penalties through a representative
5 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
6 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

7 **FACTUAL ALLEGATIONS**

8 33. During the relevant period, PLAINTIFFS, and each of the Aggrieved Employees,
9 worked for DEFENDANTS in the State of California. At all times referenced herein,
10 DEFENDANTS exercised control over PLAINTIFFS and Aggrieved Employees, and suffered
11 and/or permitted them to work.

12 34. PLAINTIFF CRANE worked for DEFENDANTS as a non-exempt employee with a
13 job title(s) of radiographic technologist and/or a similar title(s) and/or position(s) from in or around
14 2017 and continuing through the present. PLAINTIFF CRANE regularly worked at least eight (8)
15 hours per day.

16 35. PLAINTIFF BEAUSOLEIL worked for DEFENDANTS as a Registered Nurse (RN)
17 lead, emergency room charge nurse, charge nurse, and/or similar title(s) and/or position(s) from in
18 or around 2021 and continuing through the present. PLAINTIFF BEAUSOLEIL regularly worked
19 at least twelve (12) hours per day, at least three (3) days per week.

20 36. PLAINTIFF PALMER worked for DEFENDANTS as a RN, Emergency Room RN
21 and/or similar title(s) and/or position(s) from in or around 2018 and continuing through the present.
22 PLAINTIFF PALMER regularly worked at least twelve (12) hours per day, at least two (2) days per
23 week.

24 37. PLAINTIFF ORD worked for DEFENDANTS as a bedside RN, RN and/or similar
25 title(s) and/or position(s) from in or around 2017 and continuing through the present. PLAINTIFF
26 ORD regularly worked at least twelve (12) hours per day, at least two (2) days per week.

27 38. PLAINTIFFS worked for DEFENDANTS at DEFENDANTS' Simi Valley,
28 California location(s).

1 39. DEFENDANTS paid PLAINTIFFS an hourly rate for time counted by
2 DEFENDANTS as hours worked.

3 40. At all relevant times, PLAINTIFFS were non-exempt employees that were paid on
4 an hourly basis for time counted by DEFENDANTS as hours worked.

5 41. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
6 PLAINTIFFS and Aggrieved Employees for all hours worked, resulting in the underpayment of
7 minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFFS and Aggrieved
8 Employees for all hours worked by virtue of, DEFENDANTS' automatic deduction and time
9 rounding policies, and failure to relieve employees of all duties/employer control during unpaid
10 meal periods or otherwise unlawful practices for missed or improper meal periods, as explained
11 below.

12 42. Based on information and belief, DEFENDANTS implemented a policy and/or
13 practice of rounding meal period start and end times and/or automatically deducting at least thirty
14 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
15 PLAINTIFFS and other Aggrieved Employees were subject to DEFENDANTS' control during
16 purported meal periods and/or were otherwise not afforded lawful meal periods, depriving
17 PLAINTIFFS and Aggrieved Employees of all wages owed.

18 43. Based on information and belief, Aggrieved Employees were not paid for all hours
19 worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours
20 worked instead of actual time worked, time rounding policies and practices, and/or mandated off-
21 the clock work policies and/or practices.

22 44. For example, based on information and belief, DEFENDANTS have a policy and
23 practice of requiring Aggrieved Employees to perform off-the-clock work outside of scheduled shift
24 times and/or prior to clocking in for the start of their shifts and/or after clocking out for the end of
25 their shifts, resulting in the underpayment of wages owed to Aggrieved Employees.

26 45. For example, based on information and belief, Aggrieved Employees were frequently
27 if not always required to wait in line behind other Aggrieved Employees to access DEFENDANTS'
28 time-keeping system and/or terminal so they could then clock in for the start of their shifts which

1 said waiting time spent under DEFENDANTS' control that was neither recorded nor compensated,
2 resulting in DEFENDANTS' failure to compensate Aggrieved Employees for all time worked and
3 the underpayment of minimum wages and overtime wages owed to Aggrieved Employees.

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

12 47. Based on information and belief, Aggrieved Employees were required to be at their
13 respective workstations at their scheduled shift start time or face discipline. As such, Aggrieved
14 Employees typically arrived at work prior to their scheduled shift start times so that they could
15 perform any required pre-shift work, including but not limited to, bestow personal items in employee
16 lockers/storage area, retrieve and/or compile work tools/equipment, make any necessary
17 adjustments to tools/equipment and/or perform any required maintenance/prep/cleaning tasks, don
18 work clothing/uniforms and/or protective equipment, and/or complete other work tasks so as to be
19 ready to be at their respective work stations at the their scheduled shift start time as mandated by
20 DEFENDANTS. This pre-shift off-the-clock work was neither recorded nor compensated resulting
21 in the substantial underpayment of wages owed to Aggrieved Employees.

22 48. Based on information and belief, Aggrieved Employees were also required to
23 perform post-shift off-the-clock work that was neither recorded nor compensated.

24 49. For example, based on information and belief, Aggrieved Employees were required
25 to put away their work tools/equipment, provide shift debriefings/make/receive work-related
26 communications, change out of their work clothing/uniforms and/or protective gear and/or complete
27 other work tasks after clocking out for the end of their shifts, resulting in DEFENDANTS' failure
28 to compensate Aggrieved Employees for all time worked and the underpayment of minimum wages

1 and overtime wages owed to Aggrieved Employees.

2 50. For example, PLAINTIFF CRANE was frequently required to clock out for the end
3 of his shift but to continue completing assigned job duties, resulting in the underpayment of
4 minimum wages and overtime wages owed to PLAINTIFF CRANE.

5 51. Also, PLAINTIFFS were often required to complete work tasks before clocking in
6 for work and/or after clocking out of work as DEFENDANTS did not want PLAINTIFFS to
7 continue working overtime hours. As such, PLAINTIFFS were frequently forced to complete
8 PLAINTIFFS' work tasks off-the-clock in order to avoid and/or reduce the number of overtime
9 hours worked. DEFENDANTS knew that the assigned workload would require PLAINTIFFS to
10 work well over eight (8) hours in a shift and knew when PLAINTIFFS worked off-the-clock in order
11 to complete assigned job duties, yet DEFENDANTS failed to pay PLAINTIFFS for all hours
12 worked.

13 52. Based on information and belief, DEFENDANTS did not compensate Aggrieved
14 Employees for time spent donning and doffing uniforms and/or personal protective equipment
15 and/or safety equipment (e.g., gloves and/or face masks and/or hair coverings and/or shoe coverings)
16 during meal periods, before the start of a scheduled shift and/or after completing a scheduled shift,
17 resulting in off-the-clock work and the underpayment of wages owed to Aggrieved Employees.

18 53. Based on information and belief, DEFENDANTS required Aggrieved Employees to
19 obtain Covid-related testing outside of their scheduled shift times without compensating them for
20 the time spent completing DEFENDANTS' testing requirements.

21 54. Based on information and belief, DEFENDANTS performed an automatic
22 deduction for meal periods that were worked through, interrupted, cut short, and/or during which
23 Aggrieved Employees were not relieved of all duties and DEFENDANTS' control, resulting in
24 DEFENDANTS' failure to compensate Aggrieved Employees for all hours worked and the
25 underpayment of minimum wages and overtime wages owed to Aggrieved Employees.

26 55. Based on information and belief, Aggrieved Employees were also pressured to
27 complete at least some of their work tasks off-the-clock in order to meet DEFENDANTS' goals and
28 expectations.

1 56. For example, based on information and belief, Aggrieved Employees were required
2 to complete off-the-clock work outside of scheduled shifts due to, including but not limited to, work-
3 related phone calls and/or messages they received to their phones and were required to respond to,
4 including but not limited to, communications from supervisors regarding scheduling and/or other
5 work tasks, resulting in the underpayment of wages owed to Aggrieved Employees.

6 57. Based on information and belief, DEFENDANTS required Aggrieved Employees to
7 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
8 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work
9 and the underpayment of wages owed to Aggrieved Employees.

10 58. Based on information and belief, at times, Aggrieved Employees were required after
11 working at their scheduled facility location to cover a shift and/or work a second shift at another of
12 DEFENDANTS' facilities/locations but were not compensated for the time spent driving and/or
13 traveling to the second facility and/or second location resulting in off-the-clock work and the
14 underpayment of wages owed to Aggrieved Employees.

15 59. Based on information and belief, at times, Aggrieved Employees also were required
16 to perform off-the-clock work duties at home/remotely, such as but not limited to, completing
17 trainings/continued education courses and/or reviewing policies and/or other documents remotely
18 as mandated by DEFENDANTS. Based on information and belief, at times, Aggrieved Employees
19 also were required to perform off-the-clock work duties at home/remotely, such as but not limited
20 to, completing trainings/continued education courses and/or reviewing policies and/or other
21 documents remotely as mandated by DEFENDANTS.

22 60. Based on information and belief, DEFENDANTS' Kronos timekeeping software was
23 hacked in 2021 and DEFENDANTS' failed to maintain accurate records of hours worked during
24 pay periods following the hack and/or during the hack and instead paid PLAINTIFFS and other
25 Aggrieved Employees based on scheduled hours worked rather than actual hours worked and/or
26 otherwise failed to pay for all hours worked due to a failure to maintain accurate records of the total
27 hours worked, leading to unpaid minimum and overtime wages.

28 61. Moreover, based on information and belief, DEFENDANTS failed to pay Aggrieved

1 Employees split shift premium wages when they worked split shifts during the relevant period. For
2 example, based on information and belief, at times, DEFENDANTS required Aggrieved Employees
3 to work two separate shifts in the same day. Based on information and belief, DEFENDANTS failed
4 to pay Aggrieved Employees split shift compensation whenever PLAINTIFF'S and/or other
5 Aggrieved Employees' work schedules were interrupted by non-paid non-working periods
6 established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See
7 section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay
8 at the minimum wage shall be paid in addition to the minimum wage for that workday...). See, also,
9 Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the
10 minimum wage shall be paid in addition to the minimum wage for that workday, except when the
11 employee resides at the place of employment). DEFENDANTS also failed to separately itemize
12 these split shift premium wages on PLAINTIFFS' and/or other Aggrieved Employees' wage
13 statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders.
14 See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium
15 payment on the pay stub provided to the employee, and it should be shown as a separate category
16 such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus,
17 etc. DEFENDANTS failed to separately account for the split shift premiums earned by
18 PLAINTIFFS and/or other Aggrieved Employees on their wage statements. Based on information
19 and belief, DEFENDANTS failed to pay Aggrieved Employees split shift compensation whenever
20 their work schedules were interrupted by non-paid non-working periods established by
21 DEFENDANTS, which resulted in a violation of the applicable Wage Order (See section 4 of all
22 applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum
23 wage shall be paid in addition to the minimum wage for that workday...). Based on information
24 and belief, DEFENDANTS failed to pay Aggrieved Employees the applicable minimum wage for
25 the county and/or city within which the Aggrieved Employee worked in California.

26 62. Based on information and belief, DEFENDANTS failed to pay Aggrieved
27 Employees for time they were required to spend completing orientation, policy questionnaires,
28 and/or time spent completing the onboarding process including but not limited to reviewing various

1 documents and policies provided by DEFENDANTS. Based on information and belief, this work time
2 was completed off-the-clock and was not compensated.

3 63. Based in information and belief, DEFENDANTS implemented a time-rounding
4 system that as applied systematically deprived PLAINTIFFS and other Aggrieved Employees of
5 compensable time because the time-rounding system implemented by DEFENDANTS would
6 almost always, if not always, result in understating actual compensable work time.

7 64. For example, DEFENDANTS' pay records and/or wage statements for PLAINTIFFS
8 list categories for "education hours" and/or "meeting hours," with hours listed that evidence
9 rounding to at least the nearest quarter, half and/or whole hour. For example, DEFENDANTS' pay
10 records and/or wage statement for PLAINTIFF BEAUSOLEIL for pay date April 21, 2023,
11 evidence rounding to at least the nearest quarter, half and/or whole hour, showing precisely 1.00
12 "Meeting Hours" and exactly 2.00 "Education Hours."

13 65. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
14 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
15 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
16 minimum wages owed to PLAINTIFFS and Aggrieved Employees as well as unpaid overtime wages
17 for those Aggrieved Employees who worked more than eight (8) hours in a day and/or more than
18 forty (40) hours in a week.

19 66. Based on information and belief, DEFENDANTS had actual and/or constructive
20 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
21 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
22 underpayment of minimum wages and overtime wages owed to Aggrieved Employees, in violation
23 of California's minimum and overtime wage laws.

24 67. Based on information and belief, DEFENDANTS failed and continue to fail to pay
25 Aggrieved Employees two times their regular rate of pay for time worked beyond twelve (12) hours
26 per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in
27 a work week, in violation of California's overtime laws.

28 68. Based on information and belief, DEFENDANTS failed to incorporate all non-

1 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
2 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
3 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
4 wages owed to PLAINTIFFS and other Aggrieved Employees.

5 69. Additionally, DEFENDANTS also violated California's overtime laws as to those
6 Aggrieved Employees, including PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and
7 PLAINTIFF ORD that were subject to an Alternative Workweek Schedule (AWS).

8 70. Based on information and belief, DEFENDANTS adopted an Alternative Workweek
9 Schedule (AWS) during the relevant period that was an unlawful AWS as it was not properly elected
10 and/or implemented in accordance with the requirements of California law and/or DEFENDANTS
11 failed to comply with the AWS, and as such, DEFENDANTS violated California's overtime laws,
12 including but not limited to, Labor Code sections 510, 511, the applicable Wage Order, and Labor
13 Code section 1198. Based on information and belief, DEFENDANTS failed to properly adopt an
14 AWS in accordance with Labor Code section 511 and 1199, and the applicable Wage Order:

15 71. (C) Election Procedures Election procedures for the adoption
16 and repeal of alternative workweek schedules require the following:

17 (1) Each proposal for an alternative workweek schedule shall be in
18 the form of a written agreement proposed by the employer. The
19 proposed agreement must designate a regularly scheduled alternative
20 workweek in which the specified number of workdays and work hours
21 are regularly recurring. The actual days worked within that alternative
22 workweek schedule need not be specified. The employer may propose
23 a single work schedule that would become the standard schedule for
24 workers in the work unit, or a menu of work schedule options, from
25 which each employee in the unit would be entitled to choose. If the
26 employer proposes a menu of work schedule options, the employee
27 may, with the approval of the employer, move from one menu option
28 to another. (2) In order to be valid, the proposed alternative workweek

1 schedule must be adopted in a secret ballot election, before the
2 performance of work, by at least a two-thirds (2/3) vote of the affected
3 employees in the work unit. The election shall be held during regular
4 working hours at the employees' work site. For purposes of this
5 subsection, "affected employees in the work unit" may include all
6 employees in a readily identifiable work unit, such as a division, a
7 department, a job classification, a shift, a separate physical location,
8 or a recognized subdivision of any such work unit. A work unit may
9 consist of an individual employee as long as the criteria for an
10 identifiable work unit in this subsection is met. (3) Prior to the secret
11 ballot vote, any employer who proposed to institute an alternative
12 workweek schedule shall have made a disclosure in writing to the
13 affected employees, including the effects of the proposed
14 arrangement on the employees' wages, hours, and benefits. Such a
15 disclosure shall include meeting(s), duly noticed, held at least 14 days
16 prior to voting, for the specific purpose of discussing the effects of
17 the alternative workweek schedule. An employer shall provide that
18 disclosure in a non- English language, as well as in English, if at least
19 five (5) percent of the affected employees primarily speak that non-
20 English language. The employer shall mail the written disclosure to
21 employees who do not attend the meeting. Failure to comply with this
22 paragraph shall make the election null and void. (4) Any election to
23 establish or repeal an alternative workweek schedule shall be held at
24 the work site of the affected employees. The employer shall bear the
25 costs of conducting any election held pursuant to this section. Upon a
26 complaint by an affected employee, and after an investigation by the
27 Labor Commissioner, the Labor Commissioner may require the
28 employer to select a neutral third party to conduct the election. (5)

1 Any type of alternative workweek schedule that is authorized by the
2 Labor Code may be repealed by the affected employees. Upon a
3 petition of one-third (1/3) of the affected employees, a new secret
4 ballot election shall be held and a two-thirds (2/3) vote of the affected
5 employees shall be required to reverse the alternative workweek
6 schedule. The election to repeal the alternative workweek schedule
7 shall be held not more than 30 days after the petition is submitted to
8 the employer, except that the election shall be held not less than 12
9 months after the date that the same group of employees voted in an
10 election held to adopt or repeal an alternative workweek schedule.
11 The election shall take place during regular working hours at the
12 employees' work site. If the alternative workweek schedule is
13 revoked, the employer shall comply within 60 days. Upon proper
14 showing of undue hardship, the Division of Labor Standards
15 Enforcement may grant an extension of time for compliance. (6) Only
16 secret ballots may be cast by affected employees in the work unit at
17 any election held pursuant to this section. The results of any election
18 conducted pursuant to this section shall be reported by the employer
19 to the Office of Policy, Research and Legislation within 30 days after
20 the results are final, and the report of election results shall be a public
21 document. The report shall include the final tally of the vote, the size
22 of the unit, and the nature of the business of the employer. (7)
23 Employees affected by a change in the work hours resulting from the
24 adoption of an alternative workweek schedule may not be required to
25 work those new work hours for at least 30 days after the
26 announcement of the final results of the election. (8) Employers shall
27 not intimidate or coerce employees to vote either in support of or in
28 opposition to a proposed alternative workweek.

1 72. No employees shall be discharged or discriminated against for
2 expressing opinions concerning the alternative workweek election or
3 for opposing or supporting its adoption or repeal. However, nothing
4 in this section shall prohibit an employer from expressing his/her
5 position concerning that alternative workweek to the affected
6 employees. A violation of this paragraph shall be subject to Labor
7 Code § 98 *et seq.*

8 73. On information and belief, PLAINTIFFS allege that DEFENDANTS failed to
9 comply with the above procedures, and thus, failed to properly institute an alternative workweek for
10 the purpose of obtaining a lawful exemption from overtime premiums for its mandated 10-hour/4-
11 day schedule. Based on information and belief, DEFENDANTS also failed to report the results to
12 the Office of Policy, Research, and Legislation, or the DLSE, within thirty after the purported
13 election results, and thus, violated Labor Code §§ 511, 1199, and the Applicable Wage Orders. This
14 conduct results in violations of Labor Code §§ 510, 511, and 1198- 1199, and the Applicable Wage
15 Orders. These violations subject employer to civil penalties under Labor Code §§ 558 and 2699,
16 and All Applicable Wage Orders. Each violation of each Labor Code section and Wage Order
17 provision results in a separate civil penalty, for each Aggrieved Employee, for each pay period
18 during which the referenced statutes and Wage Order provisions were violated.

19 74. Moreover, to the extent there was an AWS that was properly adopted,
20 DEFENDANTS violated California's overtime laws as to Aggrieved Employees, including
21 PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and PLAINTIFF ORD that were subject to an
22 Alternative Workweek Schedule (AWS) but were required to work shifts shorter than the agreed
23 upon AWS. Under the relevant Wage Order, "If an employer... requires an [AWS] employee to
24 work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay
25 the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's
26 regular rate of pay for all hours worked in excess of eight (8) hours... for the day the employee is
27 required to work the reduced hours." *See* Section 3 of all applicable Wage Orders. Based on
28 information and belief, at times, PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and

1 PLAINTIFF ORD and other Aggrieved Employees that were subject to an AWS, were sent home
2 early and/or worked less hours than those that were scheduled under the AWS. On such shortened
3 shifts, PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and PLAINTIFF ORD and other
4 Aggrieved Employees were entitled to overtime pay at 1.5 times the regular rate of pay after the
5 first eight hours of work. Instead, DEFENDANTS paid PLAINTIFF BEAUSOLEIL, PLAINTIFF
6 PALMER and PLAINTIFF ORD and/or other Aggrieved Employees their base rate for all hours
7 worked on the shortened shift(s) in violation of the alternative workweek schedule, and in violation
8 of California Labor Code section 510, the applicable Wage Order, and Labor Code section 1198.
9 As such, PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and PLAINTIFF ORD and other
10 Aggrieved Employees that were subject to an AWS were also deprived of all owed overtime wages
11 when required to work shortened shifts.

12 75. **Meal Period Violations.** PLAINTIFFS and other Aggrieved Employees consistently
13 worked shifts of at least five and one-half hours or more, entitling them to at least one meal period.
14 However, PLAINTIFFS and other Aggrieved Employees would not receive legally compliant thirty
15 (30) minute first and second meal periods. Based on information and belief, Aggrieved Employees
16 were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often
17 being forced to take late meal periods, interrupted meal periods, and/or work through part or all their
18 meal periods due to understaffing, the nature and constraints of their job duties and/or commentary
19 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
20 completely.

21 76. For example, based on information and belief, Aggrieved Employees were forced to
22 take late meal periods in order to complete assigned job duties. Based on information and belief,
23 Aggrieved Employees were at times interrupted during purported meal periods and/or had meal
24 periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned
25 job duties.

26 77. For example, PLAINTIFF CRANE was frequently forced to take his meal period late
27 (i.e. after working more than five (5) hours) due to the need to complete assigned job duties. Other
28 times, PLAINTIFF CRANE was required to work through part or all of his unpaid meal periods

1 and/or cut them short.

2 78. DEFENDANTS also required PLAINTIFFS to record that PLAINTIFFS had taken
3 at least a thirty-minute meal period and/or would unlawfully edit the clock in and out times for
4 PLAINTIFFS and/or other Aggrieved Employees' meal periods in order to display at least a thirty-
5 minute off-duty meal period during most if not all shifts worked, notwithstanding the fact that
6 DEFENDANTS had actual and/or constructive knowledge that DEFENDANTS had required
7 PLAINTIFFS and other Aggrieved Employees to perform work-related tasks during their unpaid
8 meal periods.

9 79. Based on information and belief, other Aggrieved Employees were consistently
10 suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods
11 interrupted, cut short, and/or otherwise on duty due to commentary from supervisors, understaffing,
12 the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and
13 expectations.

14 80. Based on information and belief, DEFENDANTS implemented policies and/or
15 practices that failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control
16 during unpaid meal periods.

17 81. Based on information and belief, DEFENDANTS required Aggrieved Employees to
18 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
19 into account when scheduling meal periods for Aggrieved Employees. Based on information and
20 belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

21 82. Based on information and belief, despite DEFENDANTS' failure to provide lawful
22 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
23 times of PLAINTIFF's and other Aggrieved Employees' meal periods and/or automatically
24 deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise unlawful meal
25 periods despite having actual and/or constructive knowledge that PLAINTIFFS and other Aggrieved
26 Employees did not receive lawful meal periods.

27 83. Moreover, based on information and belief, Aggrieved Employees who worked shifts
28 of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

1 84. For example, based on information and belief, when Aggrieved Employees worked
2 more than ten (10) and/or twelve (12) hours in a shift, they were not provided with any version of a
3 second meal period.

4 85. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFFS
5 and other Aggrieved Employees as to the timing and duty-free nature of meal periods. Based on
6 further information and belief, DEFENDANTS did not have a compliant written meal period policy,
7 nor did DEFENDANTS have any sort of compliant policy in practice.

8 86. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
9 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' meal periods.
10 Based on information and belief, to the extent meal periods were recorded, DEFENDANTS illegally
11 rounded the start and end times of purported meal periods resulting in PLAINTIFFS and other
12 Aggrieved Employees not being paid for all time worked as well as late and/or shortened meal
13 periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

14 87. Based on information and belief, DEFENDANTS had actual and/or constructive
15 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
16 that were free of DEFENDANTS' control owed to PLAINTIFFS and other Aggrieved Employees,
17 in violation of California's meal period laws.

18 88. DEFENDANTS failed to pay PLAINTIFFS and other Aggrieved Employees, an
19 additional hour of wages at their respective regular rates of compensation for each workday a lawful
20 meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for
21 each workday a lawful meal period was not provided and/or failed to pay the proper meal period
22 premium for failure to incorporate all non-discretionary remuneration, including but not limited to,
23 bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or
24 compensation for purposes of calculating the owed meal period premium.

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

1 90. PLAINTIFFS and other Aggrieved Employees were not adequately informed,
2 authorized, instructed about, nor permitted an opportunity to take proper rest periods per California
3 law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to
4 the taking or timing of duty-free rest periods.

5 91. Based on information and belief, DEFENDANTS did not have a have a compliant
6 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
7 practice.

8 92. For example, based on information and belief, Aggrieved Employees were at times
9 unable to take compliant rest periods due to their need to complete assigned job duties and/or were
10 unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods
11 restricted to DEFENDANTS' premises.

12 93. For example, PLAINTIFFS rarely if ever received a ten-minute, uninterrupted off-
13 duty rest period, including but not limited to, during the statutory period, due to the need to complete
14 assigned job duties.

15 94. Based on information and belief, any purported rest periods were interrupted, cut
16 short, on duty, restricted to premises, and/or late due to understaffing, the nature and constraints of
17 their job duties, and/or commentary from supervisors pressuring them to skip rest periods
18 completely and/or take non-compliant rest periods.

19 95. Moreover, based on information and belief, DEFENDANTS failed to provide any
20 form of a third rest period on shifts lasting longer than ten hours.

21 96. Based on information and belief, DEFENDANTS implemented policies and/or
22 practices that failed to relieve PLAINTIFFS and other Aggrieved Employees of all duties and
23 DEFENDANTS' control during rest periods.

24 97. Based on information and belief, Aggrieved Employees were pressured to complete
25 their work duties according to a designated schedule such that rest periods were only taken once
26 tasks were completed, and/or as time permitted.

27 98. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
28 which PLAINTIFFS and other Aggrieved Employees experienced a missed/unlawful rest period in

1 violation of California law. DEFENDANTS either failed to pay a rest period premium at all for each
2 workday a proper rest period was not provided and/or failed to pay the proper rest period premium
3 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
4 shift differential pay, and/or other non-discretionary compensation into the regular rate of
5 compensation for purposes of calculating the owed rest period premium.

6 99. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC
7 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
8 Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the
9 toilet rooms and shall be available to employees during work hours.”

10 100. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
11 there was, and continues to be, space that allows for a resting facility that employees may use to
12 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
13 Employees with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no
14 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
15 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to
16 resting, including but not limited to leaning up against the wall, or search for facilities outside of
17 DEFENDANTS’ premises which are not designated or reserved for their rest, such as their personal
18 vehicles.

19 101. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
20 during their hours of work, particularly during meal and/or rest periods.

21 102. DEFENDANTS’ failure to provide suitable resting facilities to Aggrieved
22 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
23 California Labor Code, including but not limited to section 1198.

24 103. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
25 provide PLAINTIFFS and other Aggrieved Employees with accurate wage statements that complied
26 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFFS and Aggrieved
27 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
28 DEFENDANTS issued to PLAINTIFFS and Aggrieved Employees failed and continue to fail to

1 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
2 applicable hourly rates in effect during the pay period and the corresponding number of hours
3 worked at each hourly rate by the employee.

4 104. DEFENDANTS issued wage statements to PLAINTIFFS and other Aggrieved
5 Employees that also failed to indicate the earned gross and net wages earned during the pay period,
6 the correct applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFFS
7 and Aggrieved Employees (by virtue of rounded time entries, automatic deduction for meal
8 periods/failure to relieve Aggrieved Employees of all duties and employer control during unpaid
9 meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or
10 other off-the-clock work policies and practices described above) which results in a violation of
11 Labor Code section 226(a).

12 105. Separately, and independent of the above allegations, based on information and
13 belief, DEFENDANTS issued wage statements to NON-EXEMPT AGGRIEVED EMPLOYEES
14 that failed to list the total hours worked during the pay period, in violation of, including but not
15 limited to, Labor Code section 226(a)(2).

16 106. Based on information and belief, wage statements issued by DEFENDANTS failed
17 to list all applicable hourly rates in effect during the pay period and the corresponding number of
18 hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor
19 Code section 226(a)(9).

20 107. Moreover, based on information and belief, DEFENDANTS issued wage statements
21 to PLAINTIFFS and Aggrieved Employees that further violate Labor Code section 226(a), by
22 among other things, failing to list the correct name and/or address of the legal entity that is the
23 employer, in violation of Labor Code section 226(a)(8).

24 108. As such, DEFENDANTS' issued wage statements to Aggrieved Employees that did
25 not include all of the statutorily required information, including but not limited to, the correct name
26 and/or address of the legal entity that is the employer.

27 109. Based on further information and belief, DEFENDANTS issued wage statements to
28 Aggrieved Employees that failed to list the accurate total hours worked whenever shift differential

1 wages were paid in violation of Labor Code section 226.

2 110. As a result, DEFENDANTS issued wage statements to PLAINTIFFS and Aggrieved
3 Employees that were not accurate and did not include all of the statutorily required information. As
4 such, DEFENDANTS violated Labor Code section 226.

5 111. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
6 “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
7 to said employee.” Based on information and belief DEFENDANTS made unlawful deductions
8 from Aggrieved Employees paychecks during the relevant period including but not limited to,
9 deducting costs of uniforms and/or other business costs and/or deducting wages for purported
10 overpayments from previous pay periods and/or unlawfully deducting wages for negligently
11 damaged property. Such a practice is in violation of including but not limited to, Labor Code
12 Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

13 112. **Inaccurate Records.** Based on the above-described unlawful policies and practices,
14 DEFENDANTS failed and continue to fail, to keep accurate and complete payroll records as
15 required by Labor Code sections 1174, 1198, 1199, and section 7 of all applicable Wage Orders.
16 DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as
17 required by law, including but not limited to the following records: total daily hours worked,
18 applicable rates of pay, time records showing when PLAINTIFFS and other Aggrieved Employees
19 began and ended each work period, time records of meal periods, and accurate itemized wage
20 statements.

21 113. DEFENDANTS have failed and continue to fail to keep accurate and complete
22 records showing total hours worked by virtue of DEFENDANTS’ time rounding, automatic meal
23 period deductions, failure to relieve PLAINTIFFS and Aggrieved Employees of all duties and
24 employer control during unpaid meal periods, failure to record the true start and end times of meal
25 periods, shift start times and shift end times, and other off-the-clock work policies and practices
26 described herein.

27 114. **Unreimbursed Business Expenses.** Based on information and belief,
28 DEFENDANTS required PLAINTIFFS and other Aggrieved Employees to incur business expenses

1 as a direct consequence of the performance of their job duties without providing reimbursement, in
2 violation of Labor Code section 2802. Based on information and belief, PLAINTIFFS and other
3 Aggrieved Employees were improperly required to provide and maintain work tools that are
4 supposed to be the responsibility of the employer.

5 115. Based on information and belief, DEFENDANTS shifted the costs of doing business
6 onto Aggrieved Employees by requiring them to pay for business expenses, including but not limited
7 to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of Aggrieved
8 Employees' personal cell phones/mobile devices, internet and/or data usage for work related
9 purposes, including but not limited to, to receive and respond to work related messages and/or phone
10 calls. For example, based on information and belief, Aggrieved Employees were required to receive
11 and respond to work-related calls and/or messages from including but not limited to supervisors
12 and/or other Aggrieved Employees regarding scheduling and/or other work tasks and/or were
13 required to download and use work-related applications on their personal cell phones/mobile devices
14 but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses.

15 116. For example, PLAINTIFF BEAUSOLEIL and PLAINTIFF PALMER were
16 regularly required to respond to work-related calls and/or messages on their personal cell
17 phones/mobile devices without receiving any reimbursement from DEFENDANTS for the business
18 expenses PLAINTIFF BEAUSOLEIL and PLAINTIFF PALMER incurred in connection therewith,
19 including but not limited to, increased data plan charges and/or other costs associated with using her
20 personal cell phone/mobile device for work.

21 117. Similarly, PLAINTIFF CRANE was regularly required to respond to work-related
22 calls and/or messages on PLAINTIFF's personal cell phone/mobile device without receiving any
23 reimbursement from DEFENDANTS for the business expenses PLAINTIFF CRANE incurred in
24 connection therewith, including but not limited to, increased data plan charges and/or other costs
25 associated with using his personal cell phone/mobile device for work.

26 118. Based on information and belief, DEFENDANTS failed to reimburse Aggrieved
27 Employees for expenses associated with having to purchase and/or maintain their own
28 uniforms/work clothing/work shoes/personal protective/safety gear and/or hand tools and/or

1 equipment required to perform their assigned job duties.

2 119. For example, PLAINTIFF BEAUSOLEIL, PLAINTIFF PALMER and PLAINTIFF
3 ORD had to purchase scrubs and/or other uniforms/work clothing/work shoes and/or
4 safety/protective gear DEFENDANTS required PLAINTIFF BEAUSOLEIL, PLAINTIFF
5 PALMER and PLAINTIFF ORD wear for work without receiving any and/or full reimbursement
6 from DEFENDANTS for the business expenses PLAINTIFF BEAUSOLEIL, PLAINTIFF
7 PALMER and PLAINTIFF ORD incurred in connection therewith, including but not limited to,
8 costs of purchasing and/or maintaining uniforms/work clothing/work shoes and/or safety/protective
9 gear (e.g., face masks).

10 120. Based on information and belief, at times, Aggrieved Employees were not
11 reimbursed for the business use of their personal vehicles, including mileage, wear and tear and/or
12 cost of fuel when they were required to drive between DEFENDANTS' facilities/job sites, and/or
13 otherwise use their personal vehicles in carrying out the duties assigned by DEFENDANTS. As
14 such, DEFENDANTS failed to compensate Aggrieved Employees at the legally mandated Internal
15 Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

16 121. Based on information and belief, DEFENDANTS required Aggrieved Employees to
17 work remotely, including but not limited to, from their homes. As a result of working from home,
18 Aggrieved Employees were required to use their home internet, electricity, and other utilities in the
19 discharge of their job duties. Based on information and belief, DEFENDANTS lacked and continue
20 to lack a policy to reimburse employees who regularly increased utility expenses as a result of
21 working from home. Aggrieved Employees' increased utility and internet expenses were expenses
22 for which DEFENDANTS were required to reimburse Aggrieved Employees a reasonable
23 percentage based on their required business use because said expenses were necessarily incurred by
24 Aggrieved Employees as a direct consequence of the discharge of their duties of employment.
25 However, DEFENDANTS failed to reimburse Aggrieved Employees for these business expenses
26 incurred as a result of being required to work from their homes, in violation of California law.

27 122. Based on information and belief, DEFENDANTS fail and continue to fail to
28 reimburse Aggrieved Employees for expenses Aggrieved Employees incurred in connection with

1 DEFENDANTS' mandated testing, continuing education and/or licensing requirements, and/or
2 expenses incurred in obtaining certifications and/or re-certifications as required by DEFENDANTS.

3 123. As explained above, based on information and belief, Aggrieved Employees were
4 not reimbursed for the cost of using their personal phone for work related purposes and/or the cost
5 of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal
6 protective/safety gear.

7 124. Based on information and belief, DEFENDANTS regularly failed to reimburse and
8 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
9 2802, PLAINTIFFS and Aggrieved Employees were entitled to be reimbursed for all reasonable
10 expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties
11 assigned by DEFENDANTS.

12 125. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement
13 for all reasonable expenses associated with carrying out their duties required that Aggrieved
14 Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section
15 2802.

16 126. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
17 provides as follows:

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

26 128. Aggrieved Employees were not paid reporting time wages in accordance with
27 California law, including but not limited to the applicable IWC Wage Order. For example, based on
28 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but

1 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
2 in accordance with California law.

3 129. Based on information and belief, DEFENDANTS have a policy and practice of
4 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
5 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to
6 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
7 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

8 130. **Violation of California Day of Rest Law.** Under California law, every employee in
9 California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" its
10 employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor
11 Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

12 131. Based on information and belief, DEFENDANTS have and continue to have a
13 uniform policy and practice of requiring Aggrieved Employees to work at least seven days
14 consecutively in a workweek, in violation of including but not limited to, Labor Code Section
15 551. Based on information and belief, PLAINTIFFS and/or other Aggrieved Employees were
16 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in
17 violation of California law, including but not limited to Labor Code Section 551.

18 132. **Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
19 to provide proper paid sick leave to PLAINTIFFS and other Aggrieved Employees.
20 DEFENDANTS either failed to provide paid sick leave at all or improperly calculated the sick leave
21 accrual and the sick leave rate of pay owed to PLAINTIFFS and other Aggrieved Employees by
22 failing to base the accrued sick leave hours on the correct number of hours worked (as a result of
23 the rounding/automatic deduction policies and practices for meal periods and/or shift start and end
24 times/other required off-the-clock work including but not limited to unpaid meal periods) and by
25 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but
26 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
27 compensation into the sick leave pay rate calculation.

28 133. Upon information and belief, DEFENDANTS further failed to place PLAINTIFFS

1 and Aggrieved Employees on notice of their paid sick leave rights – or thereby putting their
2 entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information and belief,
3 DEFENDANTS failed to provide notice of the correct sick leave amount balance available to
4 PLAINTIFFS and other Aggrieved Employees on their wage statements or other written statement.
5 Moreover, based on information and belief, DEFENDANTS failed to maintain accurate records of
6 used sick leave and the balance of paid sick leave.

7 134. Based on information and belief, throughout the relevant time period,
8 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFFS and
9 all Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for
10 this failure, PLAINTIFFS and all Aggrieved Employees would have used their paid sick leave at
11 least prior to their respective separations, for as on several occasions thereafter, he or she would
12 have been entitled to use the banked sick leave and earn appropriate compensation.

13 135. Upon information and belief, DEFENDANTS failed and continue to fail to comply
14 with Labor Code section 246, by failing to provide PLAINTIFFS and all Aggrieved Employees with
15 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
16 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
17 wages.

18 136. As such, DEFENDANTS have violated California's paid sick leave laws and
19 unlawfully retained and continue to retain paid sick leave that should have been paid and was not as
20 a result of DEFENDANTS' failure to properly institute a lawful paid sick leave program. These
21 unlawful practices and policies violate Labor Code sections 245-248.5.

22 137. **Failure To Provide Supplemental Paid Sick Leave.** Labor Code § 248.2 provides
23 that all employers with 26 or more employees are required to provide up to 80 hours for covered
24 employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care
25 for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS
26 violated Labor Code § 248.2 by not providing Aggrieved Employees with required 2021 COVID-
27 19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to
28 provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

1 138. **Seating Violations.** Per section 14(A-B) of all applicable IWC Wage Orders,
2 employees shall be provided with suitable seats when the nature of the work reasonably permits the
3 use of seats and when they are not actively engaged in the work duties that would not permit them
4 to be seated.

5 139. All applicable IWC Wage Orders, Section 14(A-B) provides:

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

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

12 140. Suitable seating is one of the worker protections covered by California's Wage
13 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
14 construed to effectuate the goal of protecting the comfort and welfare of employees. Brinker
15 Restaurant Corp. v. Superior Court, 53 Cal.4th 1004, 1027 (2012).

16 141. Based on information and belief, DEFENDANTS failed to provide Aggrieved
17 Employees with suitable seating, and when such employees were not engaged in duties which
18 required them to stand, no seating was placed in reasonable proximity to their workstations.

19 142. Moreover, based on information and belief, the nature of the work reasonably
20 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
21 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
22 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
23 of seats would not interfere with the performance of their duties.

24 143. **Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
25 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
26 Aggrieved Employees to use their earned vacation/paid time off during their employment and/or
27 failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation
28 pay/paid time off paid at the final rate including non-discretionary compensation, including but not

1 limited to, shift differentials) to Aggrieved Employees upon separation of employment, in violation
2 of California law, including but not limited to, Labor Code section 227.3.

3 144. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
4 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees all wages that
5 were due and owing upon termination or resignation. Based on information and belief,
6 DEFENDANTS untimely provide final wages to Aggrieved Employees without regard to the timing
7 requirements of Labor Code sections 201-202.

8 145. Upon separation of employment, Aggrieved Employees' final paychecks were not
9 timely provided and/or were not timely provided with all owed vacation pay and/or paid time off.
10 Moreover, Aggrieved Employees' final paychecks, once provided, did not include all wages owed
11 as they were devoid of, including but not limited to, all owed minimum wages, overtime wages,
12 premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the properly
13 accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate
14 including non-discretionary compensation, including but not limited to, shift differentials).

15 146. Based on further information and belief, DEFENDANTS failed to timely provide all
16 owed wages immediately upon discharge of employment. Based in information and belief, at times,
17 Aggrieved Employees experienced breaks in employment caused by DEFENDANTS whereby
18 Aggrieved Employees would not be called in for work for longer than a single pay period due to
19 including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances
20 qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at
21 the end of such periods of employment, in violation of including but not limited to Labor Code
22 section 201-202.

23 147. **Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
24 employee who is discharged shall be paid at the place of discharge, and every employee who quits
25 shall be paid at the office or agency of the employer in the county where the employee has been
26 performing labor. All payments shall be made in the manner provided by law.

27 148. Based on information and belief, DEFENDANTS have a policy and practice of
28 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place

1 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
2 office or agency of DEFENDANTS in the county where the work was performed, in violation of
3 Labor Code Section 208.

4 149. **Unlawful Agreements-Unlawful Criminal History Inquiries.**

5 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

6 150. Based on information and belief, DEFENDANTS required Aggrieved Employees to
7 agree in writing to unlawful conditions of employment including but not limited to unlawful
8 criminal and/or financial checks as a condition of obtaining and/or continuing employment in
9 violation of Labor Code section 432.5.

10 151. Based on information and belief, DEFENDANTS ordered unlawful financial credit
11 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved
12 Employees to provide ongoing written consent to the unlawful credit checks as a condition of
13 employment, in violation of California and Federal law, which results in a further violation of Labor
14 Code section 432.5.

15 152. Based on information and belief, DEFENDANTS also required Aggrieved
16 Employees to submit and/or agree to submit in writing to unlawful criminal background checks as
17 a condition of obtaining and/or holding employment in violation of the Investigative Consumer
18 Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit
19 Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*). Based on information and belief,
20 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and
21 FCRA when conducting background screenings for applicants, including but not limited to
22 Aggrieved Employees that were subject to a background check as a condition of employment during
23 the application phase.

24 153. Based on information and belief, DEFENDANTS required Aggrieved Employees to
25 agree in writing to a background check which failed to abide by the requirements set forth in CA
26 Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by
27 failing to provide a clear and conspicuous disclosure and/or failing to provide any disclosure at all,
28 failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for

1 the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA,
2 failing to provide a way by which the individual could request a copy of the report, failing to disclose
3 the name, address, and telephone number of the third party preparing the report, and failing to
4 properly obtain authorization or consent to such a background check, and thus was an unlawful
5 background check.

6 154. By requiring Aggrieved Employees to agree in writing to unlawful criminal and/or
7 financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code
8 section 432.5.

9 155. Based on further information and belief, DEFENDANTS also required Aggrieved
10 Employees to agree in writing to provide ongoing consent to DEFENDANTS to conduct
11 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
12 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
13 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

14 156. Based on further information and belief, DEFENDANTS knew that requiring
15 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
16 condition of obtaining and/or holding employment was unlawful.

17 157. By requiring Aggrieved Employees to agree in writing to unlawful provisions as a
18 condition of employment, DEFENDANTS violated Labor Code section 432.5.

19 Unlawful Inquires into Criminal History

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

24 159. Upon information and belief, DEFENDANTS, in violation of California law,
25 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
26 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
27 employment and/or otherwise impermissibly inquired into criminal history on its employment
28 application in violation of California law, and in violation of Labor code section 432.5.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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

163. Upon information and belief, DEFENDANTS required Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

164. PLAINTIFFS are informed and believe and allege thereon that DEFENDANTS engaged in these same herein described unlawful practices, which led to violations of the California Labor Code as further alleged below, and that DEFENDANTS applied these same herein described unlawful practices to all of its employees that it applied to PLAINTIFFS.

25
26
27
28

1 165. PLAINTIFFS incorporate all preceding paragraphs as if fully alleged herein.

2 **Failure to Keep Accurate Records**

3 166. California Labor Code § 1174 requires employers to keep “accurate and complete”
4 payroll records showing, among other things, the hours worked daily by all non-exempt employees.
5 All applicable Wage Orders § 7 similarly requires employers to keep time records reflecting the
6 times during which all owed meal periods were provided each day.

7 167. At all relevant times, DEFENDANTS failed, and continue to fail, to keep accurate
8 and complete records as required by law, including but not limited to the following records: total
9 daily hours worked, applicable rates of pay, time records showing when PLAINTIFFS and other
10 Aggrieved Employees began and ended each work period, time records of meal periods, and
11 accurate itemized wage statements.

12 168. DEFENDANTS’ failure to keep “accurate and complete” payroll records for
13 PLAINTIFFS and other Aggrieved Employees violates Labor Code §§ 1174, 1198, 1199, and all
14 applicable Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under
15 Labor Code §§ 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and
16 Wage Order provision results in a *separate* civil penalty, for each Aggrieved Employee for each pay
17 period during which the referenced statutes and Wage Order provisions were violated.¹

18 **Meal Period Violations**

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

24 170. Employers must also provide employees with a second duty-free, uninterrupted thirty

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

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

3 171. Employers covered by any and all applicable IWC Wage Orders have an obligation
4 to both (1) relieve their employees for at least one meal period for shifts over five hours (see above),
5 and (2) to record having done so. If the employer fails to properly record a valid meal period, it is
6 presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3)
7 (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing
8 section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a
9 rebuttable presumption arises that the employee was not relieved of duty and no meal period was
10 provided”).

11 172. Employers must pay employees an additional hour of wages at the employees’
12 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
13 meal period, first meal period provided after five (5) hours, second meal period provided after 10
14 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to
15 provide an employee a meal period in accordance with the applicable provision of this Order, the
16 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation
17 for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

18 173. As explained above, PLAINTIFFS and other Aggrieved Employees were
19 consistently unable to take timely, off duty, thirty-minute, uninterrupted first and second meal
20 periods, often being forced to take late meal periods, interrupted meal periods, and/or work through
21 part or all of their meal periods due to understaffing, the nature and constraints of their job duties,
22 and/or commentary from supervisors pressuring them to take non-compliant meal periods or skip
23 meal periods completely.

24 174. Based on information and belief, DEFENDANTS had and continue to have a policy
25 of rounding the start and end times of employees’ meal periods and/or automatically deducting thirty
26 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFFS and
27 Aggrieved Employees did not receive compliant meal periods.

28 175. Moreover, based on information and belief, Aggrieved Employees did not receive a

1 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

2 176. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS had
3 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
4 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
5 violation of California's meal period laws.

6 177. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
7 periods in violation of California law and/or failed to pay the proper meal period premium for failure
8 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
9 differential pay and/or other non-discretionary compensation into the regular rate or compensation
10 for purposes of calculating the owed meal period premium.

11 178. These unlawful meal period policies and practices result in violations of Labor Code
12 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
13 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
14 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
15 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

16 **Rest Period Violations**

17 179. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
18 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
19 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
20 “insofar as practicable.” In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
21 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
22 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
23 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
24 1029). The rest period requirement obligates employers to permit and authorize employees to take
25 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
26 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
27 257. If the employer fails to provide any required rest period, the employer must pay the employee
28 one hour of pay at the employee’s regular rate of compensation for each workday the employer did

1 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
2 applicable IWC Wage Order, §12(B).

3 180. Moreover, under California law rest periods must be a “net” ten minutes in a suitable
4 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
5 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
6 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
7 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
8 which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what
9 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
10 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
11 “onus is on the employer to clearly communicate the authorization and permission [to take rest
12 periods] to its employees.”).

13 181. PLAINTIFFS and the Aggrieved Employees did not receive legally compliant,
14 timely 10-minute rest periods for every four (4) hours worked or major fraction thereof. As
15 explained above, any purported rest periods were late, interrupted, cut short, on duty, and/or
16 otherwise subject to DEFENDANTS’ control due to the nature and constraints of Aggrieved
17 Employees’ job duties, understaffing, and/or commentary from supervisors pressuring
18 PLAINTIFFS and Aggrieved Employees to skip rest periods completely or otherwise take non-
19 compliant rest periods.

20 182. Based on information and belief, DEFENDANTS implemented policies and/or
21 practices that failed to relieve PLAINTIFFS and other Aggrieved Employees of all duties and
22 employer control during rest periods. Based on further information and belief, Aggrieved
23 Employees were pressured to complete their work duties according to a designated schedule such
24 that rest periods were only taken once tasks were completed, and/or as time permitted.

25 183. As a result, PLAINTIFFS and Aggrieved Employees did not receive legally
26 compliant first, second, or third rest periods as required by California law.

27 184. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
28 period premium to PLAINTIFFS and other Aggrieved Employees for each workday in which there

1 was a missed or otherwise unlawful rest period. Based on further information and belief, when a
2 rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including
3 but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into
4 the regular rate of compensation for purposes of determining the owed rest period premium.

5 185. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
6 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
7 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

8 **Failure to Provide Suitable Resting Facilities**

9 186. Per section 13 of all applicable IWC Wage Orders, employees shall be provided with
10 suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities
11 shall be provided in an area separate from the toilet rooms and shall be available to employees during
12 work hours.”

13 187. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
14 there was, and continues to be, space that allows for a resting facility that employees may use to
15 cease work and recover during meal or rest periods. DEFENDANTS could have provided Aggrieved
16 Employees with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no
17 modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a
18 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not conducive to
19 resting, including but not limited to leaning up against the wall, or search for facilities outside of
20 DEFENDANTS’ premises which are not designated or reserved for their rest, such as their personal
21 vehicles.

22 188. DEFENDANTS did not provide Aggrieved Employees with suitable resting facilities
23 during their hours of work, particularly during meal and/or rest periods.

24 189. DEFENDANTS’ failure to provide suitable resting facilities to Aggrieved
25 Employees violated and continue to violate the applicable Wage Order, section 13(B) and the
26 California Labor Code, including but not limited to section 1198.

27 **Minimum and Overtime Wage Violations**

28 190. California law provides that employees in California must be paid for all hours

1 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
2 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
3 The minimum wage standard applies to each hour employees worked for which they were not paid.
4 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
5 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
6 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

7 191. California law also provides that employees in California must be paid overtime,
8 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
9 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
10 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
11 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
12 consecutive day of work in a work week. *Ibid.*

13 192. As explained above, DEFENDANTS violated California's minimum and overtime
14 wage laws by failing to compensate PLAINTIFFS and the Aggrieved Employees for all hours
15 worked by virtue of, among other things, DEFENDANTS' time rounding policies and practices (for
16 shift start and end times and meal period start and end times), payment according to scheduled hours
17 worked, automatic deduction for meal periods, and/or off-the-clock/unpaid work completed during
18 meal periods, and/or other otherwise off-the-clock work (described above), and/or other unlawful
19 policies and/or practices described above which resulted in unpaid minimum and overtime wages.

20 193. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFFS
21 and Aggrieved Employees for all hours worked.

22 194. Based on information and belief, DEFENDANTS had actual or constructive
23 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
24 meal periods, payment according to scheduled hours, failure to relieve employees of all duties and
25 employer control during unpaid meal periods, and/or other off-the-clock work resulted in the
26 underpayment of minimum and overtime wages owed to PLAINTIFFS and other Aggrieved
27 Employees.

28 195. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved

1 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
2 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
3 violation of California's overtime laws.

4 196. Based on information and belief, DEFENDANTS further violated California's
5 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
6 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
7 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
8 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
9 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFFS and
10 other Aggrieved Employees.

11 197. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
12 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
13 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
14 Wage Orders, section 20.

15 **Statutory Wage Violations**

16 198. California Labor Code section 223 makes it unlawful for an employer to secretly pay
17 wages lower than required by statute while purporting to pay legal wages. As described above,
18 DEFENDANTS willfully and systematically denied PLAINTIFFS and Aggrieved Employees of all
19 earned minimum and overtime compensation for all hours worked which resulted in the payment of
20 less than statutorily required wages. DEFENDANTS acted with the intent to deprive them of
21 statutory wages, including, but not limited to, minimum and overtime wages, to which they were
22 entitled to under California law. Thus, DEFENDANTS paid PLAINTIFFS and other Aggrieved
23 Employees lower wages than those they were entitled to while purporting that PLAINTIFFS and
24 other Aggrieved Employees were properly paid. As a result, PLAINTIFFS and other Aggrieved
25 Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to
26 Labor Code § 2699(f)-(g).

27 **Refusal to Make Payment**

28 199. Labor Code section 216 declares unlawful an employer's refusal to pay wages due

1 and payable and/or the denial of the validity of any claim to wages due. DEFENDANTS violated
2 and continue to violate this section by failing to pay PLAINTIFFS and Aggrieved Employees for
3 all hours worked at the proper wage rate and by failing to pay an additional hour of pay for each
4 meal/rest period not provided or that was otherwise unlawful. *Gould v. Maryland Sound Industries,*
5 *Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
6 penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for
7 each Aggrieved Employee, for each pay period during which the statute provisions were violated.²

8 **Standard Conditions of Labor Violations**

9 200. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
10 any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal,
11 or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including
12 sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS'
13 violations with respect to meal periods, rest periods, record keeping provisions, business expenses,
14 minimum/overtime wages and other violations described herein result in separate violations of
15 sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections
16 1197.1 and 2699.

17 **Business Expense Violations**

18 201. California law requires employers to indemnify their employees for all necessary
19 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
20 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
21 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
22 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
23 incurred by the employee enforcing the rights granted by this section."

24 202. Among other things, under California law, when employees must use their personal
25 cellphones for work-related purposes, the employer must reimburse them for a reasonable
26

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

1 percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228
2 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
3 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
4 *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile
5 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
6 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

7 203. Further, "any contract or agreement, express or implied, made by any employee to
8 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
9 any employee or his personal representative of any right or remedy to which he is entitled to under
10 the laws of this State." *See* Cal. Lab. Code section 2804.

11 204. As described above, PLAINTIFFS and the Aggrieved Employees were improperly
12 required to pay for business expenses that are legally the responsibility of the employer.

13 205. DEFENDANTS' failure to provide PLAINTIFFS and the Aggrieved Employees
14 with full reimbursement for all reasonable expenses associated with carrying out their duties
15 required that PLAINTIFFS and the Aggrieved Employees subsidize and/or carry the burden of
16 business expenses in violation of Labor Code section 2802.

17 206. As a result of DEFENDANTS' unlawful conduct, PLAINTIFFS and other Aggrieved
18 Employees have suffered injury in that they were not completely reimbursed as mandated by
19 California law.

20 207. DEFENDANTS' failure to provide PLAINTIFFS and the Aggrieved Employees
21 with full reimbursement for all reasonable expenses associated with carrying out their duties
22 required that PLAINTIFFS and the Aggrieved Employees subsidize and/or carry the burden of
23 business expenses in violation of Labor Code section 2802.

24 208. As a result of DEFENDANTS' unlawful conduct, PLAINTIFFS and the Aggrieved
25 Employees have suffered injury in that they were not completely reimbursed as mandated by
26 California law.

27 209. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
28 PLAINTIFFS and other Aggrieved Employees for such expenses in violation of California Labor

1 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
2 Code § 2802 and the applicable Wage Order.

3 **Wage Statement Violations**

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

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

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

1 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
2 overtime worked by PLAINTIFFS and other Aggrieved Employees.

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

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

14 215. Separately, and independent from the above allegations, based on information and
15 belief, DEFENDANTS issued wage statements to PLAINTIFFS and Aggrieved Employees that
16 violate Labor Code section 226(a)(8), by failing to list the correct name and/or address of the legal
17 entity that is the employer.

18 216. Based on information and belief, wage statements issued by DEFENDANTS failed
19 to list the inclusive dates of the pay period for which the Class Member is being paid.

20 217. DEFENDANTS’ failure to accurately list all hours worked on all wage statements
21 caused confusion to PLAINTIFFS and caused and continues to cause confusion to other Aggrieved
22 Employees over whether they received all wages owed to them.

23 218. As a result, PLAINTIFFS and other Aggrieved Employees have suffered injury as
24 they could not easily determine whether they received all wages owed to them and whether they
25 were paid for all hours worked.

26 219. Moreover, as a result of DEFENDANTS’ failure to list the correct name and/or
27 address of the legal entity that is the employer, PLAINTIFFS and Aggrieved Employees have
28 suffered injury as they could not contact their employer regarding any question(s) they had about

1 wages paid.

2 220. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFFS and
3 Aggrieved Employees with accurate, itemized wage statements.

4 221. As a result of DEFENDANTS' unlawful conduct, PLAINTIFFS and Aggrieved
5 Employees have suffered injury. The absence of accurate information on their wage statements has
6 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
7 mathematical computations to determine the amount of wages owed, and will cause difficulty and
8 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
9 submission of inaccurate information about wages and amounts deducted from wages to state and
10 federal government agencies. As a result, PLAINTIFFS and Aggrieved Employees are required to
11 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
12 and pay records than if DEFENDANT had complied with its legal obligations.

13 222. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
14 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
15 during which the statute provisions were violated. ³

16 **Unlawful Deductions**

17 223. Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from
18 an employee any part of wages theretofore paid by said employer to said employee." Based on
19 information and belief DEFENDANTS made unlawful deductions from Aggrieved Employees
20 paychecks during the relevant period. Such a practice is in violation of including but not limited to,
21 Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code
22 Section 2699.

23 224. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
24 each pay period during which the statute provisions were violated. See Lab. Code §225.5
25 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty
26 provided in this article, every person who unlawfully withholds wages due any employee in
27 violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure

28 ³ Labor Code § 226.3 (establishing that the civil penalty is "per employee per violation").

1 to pay each employee”).

2 **Reporting Time Pay Violations.**

3 225. Section 5 of all applicable IWC Wage Orders, provides as follows:

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

12 227. Aggrieved Employees were not paid reporting time wages in accordance with
13 California law, including but not limited to the applicable IWC Wage Order. For example, based on
14 information and belief, at times, Aggrieved Employees reported to work for a scheduled shift but
15 were sent home and/or were not put to work and were not paid all owed reporting time pay wages
16 in accordance with California law.

17 228. Based on information and belief, DEFENDANTS have a policy and practice of
18 failing to pay all reporting time wages to Aggrieved Employees, in violation of California law,
19 including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to
20 pay all reporting time wages to Aggrieved Employees violated and continues to violate the
21 applicable Wage Order, and the California Labor Code, including but not limited to section 1198.

22 **Violation of California Day of Rest Law.**

23 229. Under California law, every employee in California is "entitled" to "one day's rest
24 [from labor] in seven"; and, no employer may "cause" its employees "to work more than six days in
25 seven." See Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of
26 the foregoing sections is a misdemeanor.

27 230. Based on information and belief, DEFENDANTS have and continue to have a
28 uniform policy and practice of requiring Aggrieved Employees to work at least seven days

1 consecutively in a workweek, in violation of including but not limited to, Labor Code Section
2 551. Based on information and belief, PLAINTIFFS and/or other Aggrieved Employees were
3 suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in
4 violation of California law, including but not limited to Labor Code Section 551.

5 **Seating Violations**

6 231. Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be
7 provided with suitable seats when the nature of the work reasonably permits the use of seats and
8 when they are not actively engaged in the work duties that would not permit them to be seated.

9 232. All applicable IWC Wage Orders, Section 14(A-B) provides:

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

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

16 233. Suitable seating is one of the worker protections covered by California's Wage
17 Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly
18 construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker*
19 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

20 234. Based on information and belief, DEFENDANTS failed to provide Aggrieved
21 Employees with suitable seating, and when such employees were not engaged in duties which
22 required them to stand, no seating was placed in reasonable proximity to their workstations.

23 235. Moreover, based on information and belief, the nature of the work reasonably
24 permitted the use of seats for at least part of the time that Aggrieved Employees were working.
25 Lastly, there were periods of time when Aggrieved Employees were not engaged in active duties of
26 their employment, yet there were no suitable seats in reasonable proximity to the work area and use
27 of seats would not interfere with the performance of their duties.

28 236. The Aggrieved Employees worked in various positions. The nature of Aggrieved

1 Employees' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide
2 suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section
3 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting
4 DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each
5 Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, results in a
6 separate civil penalty.

7 **Sick Leave Violations**

8 237. DEFENDANTS violated California's paid sick leave laws including, Labor Code
9 section 245-248.5 and 233-234. DEFENDANTS either failed to provide sick leave pay to
10 PLAINTIFFS and other Aggrieved Employees or failed to properly accrue paid sick leave due to
11 DEFENDANTS' failure to account for actual hours worked (as explained above), and/or failure to
12 incorporate multiple rates of pay and/or all forms of non-discretionary remuneration including but
13 not limited to, non-discretionary bonuses, shift differential pay, and/or other non-discretionary
14 compensation into the sick leave pay rate calculation.

15 238. DEFENDANTS further failed to give PLAINTIFFS and other Aggrieved Employees
16 notice of their paid sick leave rights – or thereby putting their entitlement to sick leave in a Labor
17 Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used
18 sick leave and the balance of paid sick leave left to the employees, which affected PLAINTIFFS
19 and Aggrieved Employees' intelligent exercise of their paid sick leave.

20 239. But for this failure, PLAINTIFFS and other Aggrieved Employees would have used
21 their paid sick leave at least prior to their respective separations, for as on several occasions
22 thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate
23 compensation.

24 240. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records
25 documenting the hours worked and paid sick days accrued and used by PLAINTIFFS and all
26 Aggrieved Employees, permitting the presumption that PLAINTIFFS and all Aggrieved Employees
27 were entitled to the maximum number of hours accruable.

28 241. Upon information and belief, DEFENDANTS failed and continue to fail to comply

1 with Labor Code section 246, by failing to provide PLAINTIFFS and all Aggrieved Employees with
2 a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick
3 leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays
4 wages.

5 242. These practices violated California's sick leave laws, Labor Code section 245, *et seq.*

6 243. On information and belief, PLAINTIFFS allege that all of these practices were
7 experienced and continue to be experienced by other Aggrieved Employees.

8 244. Accordingly, PLAINTIFFS seek all appropriate relief under the PAGA, the
9 aforementioned code provisions including but not limited to Labor Code section 233 and 234, and
10 seeks injunctive relief, attorney's fees, declaratory relief, and penalties as permitted by law.

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

12 245. Labor Code § 248.2 provides that all employers with 26 or more employees are
13 required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental
14 Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related.
15 DEFENDANTS violated Labor Code § 248.2 by not providing PLAINTIFFS and other Aggrieved
16 Employees with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information
17 and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of
18 Labor Code section 248.6.

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

20 246. California Labor Code section 227.3 provides that when an employer policy provides
21 for paid vacations and/or paid time off, and an employee is terminated without having taken off his,
22 her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the
23 employee's final rate in accordance with such contract of employment or employer policy respecting
24 eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time
25 off upon termination.

26 247. Based on information and belief, DEFENDANTS had and continue to have a
27 uniform policy and practice of failing to allow Aggrieved Employees to use their earned
28 vacation/paid time off during their employment and failing to pay all vested, accrued paid time off

1 to Aggrieved Employees upon separation of employment, in violation of California law, including
2 but not limited to, Labor Code section 227.3.

3 **Untimely Payment of Final Wages**

4 248. California Labor Code section 201(a) provides, in relevant part, that “[i]f an
5 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
6 payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an
7 employee not having a written contract for a definite period quits his or her employment, his or her
8 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
9 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
10 to his or her wages at the time of quitting.”

11 249. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
12 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty
13 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
14 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
15 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
16 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

17 250. Based in information and belief, DEFENDANTS failed and continue to fail to timely
18 pay final wages to PLAINTIFFS and Aggrieved Employees upon separation of employment in
19 violation of Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFFS
20 and Aggrieved Employees did not include all wages owed as they are devoid of, including but not
21 limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, and all owed
22 sick leave and/or paid time off wages at the properly accrued rates.

23 251. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
24 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
25 256.

26 **Violation of Labor Code Section 208**

27 252. Labor Code Section 208 provides: Every employee who is discharged shall be paid
28 at the place of discharge, and every employee who quits shall be paid at the office or agency of the

1 employer in the county where the employee has been performing labor. All payments shall be made
2 in the manner provided by law.

3 253. Based on information and belief, DEFENDANTS have a policy and practice of
4 failing to provide Aggrieved Employees who are terminated with their final paychecks at the place
5 of discharge and/or of failing to provide Aggrieved Employees with their final paychecks at the
6 office or agency of DEFENDANTS in the county where the work was performed, in violation of
7 Labor Code Section 208.

8 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

9 254. *Unlawful Agreements.* Labor Code section 432.5 provides that “no employer...shall
10 require any employee or applicant for employment to agree, in writing, to any term or condition
11 which is known by such employer...to be prohibited by law.” DEFENDANTS required and
12 continue to require PLAINTIFFS and Aggrieved Employees to agree in writing to unlawful
13 conditions of employment including but not limited to unlawful criminal and/or financial checks as
14 a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

15 255. The California Labor Code places certain procedural and substantive limits on an
16 employers’ ability to conduct employee background checks and on how employers can use the
17 information they obtain through those background checks. Labor Code section 1024.5 states that
18 employers, except for financial institutions, may order a credit check only if the individual works
19 (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions,
20 and certain government positions). Additionally, the Investigative Consumer Reporting Agencies
21 Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15
22 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee
23 background check, including but not limited to identifying an appropriate reason for the background
24 check, a separate consent form with required disclosures and certain formatting requirements,
25 additional forms such as a summary of rights, a way by which to request a copy of the report, as
26 well as proper notice of adverse actions taken, among other statutory requirements.

27 256. Based on information and belief, DEFENDANTS ordered unlawful financial credit
28 checks on Aggrieved Employees, in violation of Labor Code section 1024.5, and required them to

1 provide ongoing written consent to the unlawful credit checks as a condition of employment, in
2 violation of California and Federal law, which results in a violation of Labor Code section 432.5.

3 257. Based on information and belief, DEFENDANTS required Aggrieved Employees to
4 submit and/or agree to submit in writing to unlawful criminal background checks as a condition of
5 obtaining and/or holding employment in violation of the ICRAA and the FCRA as alleged above.

6 258. Based on further information and belief, DEFENDANTS required Aggrieved
7 Employees to agree in writing to provide DEFENDANTS with ongoing consent to conduct
8 background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA
9 and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by
10 requiring applicants and employees to agree to an unlawful provision as a condition of employment.

11 259. Based on further information and belief, DEFENDANTS knew that requiring
12 Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a
13 condition of obtaining and/or holding employment was unlawful.

14 260. By requiring that Aggrieved Employees sign off on the illegal background and/or
15 financial checks, DEFENDANTS violated Labor Code section 432.5.

16 Unlawful Inquires into Criminal History

17 261. Labor Code section 432.7 prohibits an employer from asking applicants about past
18 arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on
19 information and belief, DEFENDANTS asked Aggrieved Employees about arrests not resulting in
20 convictions on its employment application, in violation of California law.

21 262. Upon information and belief, DEFENDANTS, in violation of California law,
22 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
23 (“FEHA”), asked Aggrieved Employees about convictions prior to extending an offer of
24 employment and/or otherwise impermissibly inquired into criminal history on its employment
25 application in violation of California law.

26 263. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor
27 Code section 432.7. By asking about convictions at the application phase or prior to extending an
28 employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated

1 Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to
2 disclose arrests and/or convictions as a condition of employment.

3 Unlawful PAGA Waiver

4 264. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
5 Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited
6 to, an unlawful waiver of PAGA and/or representative actions as a condition of employment.

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

13 266. Moreover, the California Supreme Court has ruled that a court cannot compel
14 arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an
15 individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is
16 no individual component to a PAGA action because ‘every PAGA action ... is a representative
17 action on behalf of the state.’”)

18 267. Upon information and belief, DEFENDANTS required Aggrieved Employees to
19 agree in writing to waive their right to a trial of PAGA claims in violation of California law. By
20 requiring Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS
21 required written agreement to an unlawful provision as a condition of employment which is a
22 violation of labor code section 432.5.

23 268. Under the provisions of PAGA and the above mentioned Labor Code sections,
24 including but not limited to Labor Code sections 201-203, 210, 216, 221-223, 225.5, 226, 226.7,
25 245-248.6, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
26 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 and all applicable Wage Orders as well as all
27 interpretations of these laws by California Courts and administrative bodies, as well as any other
28 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 1 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
2 relevant California Labor Code provisions listed herein only if permitted by the
3 PAGA statute, pursuant to Labor Code section 2699(a); and
4 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
5 violations without a civil penalty recoverable under the PAGA, all in the default
6 amounts provided by Labor Code section 2699(f).
7 c. The proper measure of penalties under PAGA is the number of violations,
8 whether those violations were committed as against PLAINTIFFS or any
9 Aggrieved Employee, whether a party to this action or not.

10 269. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
11 PLAINTIFFS are entitled to recover civil penalties, costs, and attorney's fees.

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

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

1. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to Aggrieved Employees);
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: November 14, 2023

CROSNER LEGAL, PC

By: 

Jamie K. Serb, Esq.
Brandon Brouillette, Esq.
Zachary M. Crosner, Esq.
Attorneys for Plaintiffs