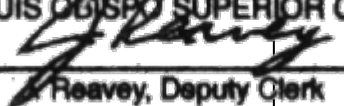


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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN LUIS OBISPO

JUAN RIVERA, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

WORKFORCE AS A SERVICE, INC. dba
WORKWHILE; a corporation; and DOES 1
through 100, Inclusive,

Defendants.

Case No. 23CV-0503

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 204, 510,
558, 1194, 1198)**
- (2) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (3) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (4) FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR
CODE §§ 2802, 2804);**
- (5) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*);**
- (6) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Juan Rivera (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby brings this Class and Representative Action Complaint against Workforce as a Service,
3 Inc. dba WorkWhile, a corporation; and Does 1 through 100, inclusive (collectively,
4 “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class and representative action for recovery of unpaid wages and penalties under California
8 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 226, 510,
9 558, 1194, 1198, 2802, 2804, 2698 *et seq.*; and Industrial Welfare Commission Wage Order No.
10 4 (“Wage Order 4”), in addition to seeking declaratory relief and restitution. This class action is
11 brought pursuant to California Code of Civil Procedure section 382. This Court has jurisdiction
12 over Defendants’ violations of the California Labor Code because the amount in controversy
13 exceeds this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this county pursuant to California Code of Civil Procedure §§
16 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in San
17 Luis Obispo County. Defendants own, maintain offices, transact business, have an agent or agents
18 within San Luis Obispo County, and/or otherwise are found within San Luis Obispo County, and
19 Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee (but was
25 misclassified as an independent contractor). Plaintiff was, and is, a victim of Defendants’ policies
26 and/or practices complained of herein, lost money and/or property, and has been deprived of the
27 rights guaranteed by Labor Code §§ 201-204, 226, 510, 558, 1194, 1198, 2802, 2804, 2698 *et*
28 *seq.*; Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 4,

1 which sets employment standards for employees in the professional, technical, clerical,
2 mechanical, and similar occupations.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
5 business as a staffing and workforce management company with their corporate headquarters and
6 “nerve center” in California, and that they employed Plaintiff and other similarly situated
7 employees within San Luis Obispo County and the state of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
12 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
13 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
14 and proximately caused Plaintiff and the Classes (as defined in Paragraph 14) to be subject to the
15 unlawful employment practices, wrongs, injuries, and damages complained of herein.

16 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
17 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

18 7. At all times herein mentioned, each of said Defendants participated in the acts
19 herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and
20 each of them, were the agents, servants, and employees of each of the other Defendants, as well
21 as the agents of all Defendants, and at all times herein mentioned were acting within the course
22 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
23 and/or otherwise ratified each of the acts or omissions alleged herein.

24 8. At all times mentioned herein, Defendants, and each of them, were members of
25 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
26 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
27 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
28 Members (as defined in Paragraph 14).

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff was employed by Defendants from approximately December 2022 until approximately March 2023. Although Plaintiff should have been classified and treated as an employee, Defendants misclassified Plaintiff and other Class members as independent contractors. Specifically, Defendants provide companies with workers in warehouse, light industrial, event services, food production, and other industries. These workers, like Plaintiff, perform the services that Defendants provide to their customers. In short, Plaintiff and other Class members are the very product that Defendants provide to their customers. As such, Plaintiff and other Class members provide services that are within the usual course of the hiring entity's (i.e., Defendants') business. Notwithstanding this fact, Defendants have willfully – as part of a pattern and practice of misclassification – misclassified Plaintiff and Class members as independent contractors. *See Dynamex Operations West, Inc. v. Superior Court*, 4 Cal.5th 903 (2018) (“Under this [ABC] test, a worker is properly considered an independent contractor to whom a wage order does not apply only if the hiring entity establishes: ... (B) that the worker performs work that is outside the usual course of the hiring entity's business....”); *see also* Labor Code § 2775 *et seq.* (codifying *Dynamex* for all purposes under the Labor Code). Moreover, Plaintiff and other Class members were not given an opportunity to negotiate their pay or work schedules on their work assignments; if they wanted a job, they had to accept whatever terms Defendants had already arrived at with their customers which were listed on the WorkWhile app.

10. In addition to intentionally misclassifying Plaintiff and other Class members, Defendants failed to pay Plaintiff and other Class members overtime at one and one-half times their “regular rate” of pay. Specifically, Plaintiff and other Class members often worked over 8.0 hours in a workday and/or over 40.0 hours in a workweek, but Defendants paid Plaintiff and other Class members at their base rates of pay irrespective of the number of overtime hours worked. Indeed, Defendants told Plaintiff that they would not pay him the applicable overtime rate since Defendants classified Plaintiff and other Class members as independent contractors rather than as employees. Defendants’ practice of paying overtime (or double-time) hours at Class members’ base rates of pay instead of one and one-half times (or two times) their “regular rate” of pay,

1 resulted in Plaintiff and other Class members being underpaid for their overtime and/or double-
2 time hours worked.

3 11. Defendants have also failed to reimburse Plaintiff and other Class members for
4 expenses they incurred in the course of their employment. Specifically, Defendants required
5 Plaintiff and other workers to use their personal cellular phone to obtain their shifts, to clock in
6 and out of work, and for location sharing purposes. Defendants required Plaintiff and other
7 workers to download the WorkWhile mobile application, through which Defendants made
8 workers' shifts available and where employees could confirm their shifts. Defendants also
9 required Plaintiff and other workers to use their personal cell phones to enable location sharing
10 with Defendants so that Defendants could track the workers' locations. On information and belief,
11 Defendants would track Plaintiff's and other workers' locations beginning two hours prior to the
12 start of their shift until the end of their shift. In addition, once Plaintiff and other workers were at
13 their assigned job site, Defendants required them to use the WorkWhile mobile application to
14 clock in and out of their shifts. Despite requiring Plaintiff and other workers to use their personal
15 cellular phones for work-related purposes, Defendants failed to reimburse them for any portion
16 of their personal cellular phone bills. As a result of the foregoing, Plaintiff and other Class
17 members are entitled to reimbursement pursuant to Labor Code § 2802 and *Cochran v. Schwan's*
18 *Home Service, Inc.*, 228 Cal.App.4th 1137 (2014).

19 12. Defendants also failed to issue Plaintiff and other workers with accurate itemized
20 wage statements as required by Labor Code section 226. Specifically, Defendants failed to furnish
21 Plaintiff and other employees with a wage statement each time a payment was issued. Defendants
22 instead sent Plaintiff a notification via the WorkWhile mobile app that stated the balance of a
23 payment issued to Plaintiff. Plaintiff did not receive a corresponding itemized wage statement
24 with each of these payments. Defendants' failure to provide Plaintiff and other workers with an
25 itemized wage statement violates Labor Code section 226.

26 13. As a result of Defendants' failure to pay all overtime compensation owed, Plaintiff
27 and other former employees were not paid all of their final wages owed at the separation of their
28 employment.

1 **CLASS ACTION ALLEGATIONS**

2 14. Class Definitions: Plaintiff bring this action on behalf of himself and the following
3 Classes pursuant to Section 382 of the Code of Civil Procedure:

4 a. The Overtime Class consists of all individuals who worked at least one assignment
5 in California via the WorkWhile app, who were classified by Defendants as independent
6 contractors, and who worked more than 8.0 hours in a workday and/or over 40.0 hours in
7 a workweek, at any time from four years prior to the filing of this action to the present.

8 b. The Wage Statement Class consists of all individuals who worked at least one
9 assignment in California via the WorkWhile app and were classified by Defendants as
10 independent contractors, at any time from one year prior to the filing of this action through
11 the present.

12 c. The Waiting Time Class consists of all members of the Overtime Class who are
13 no longer employed with Defendants, and whose employment with Defendants ended at
14 any time from three years prior to the filing of this action through the present.

15 d. The Expense Reimbursement Class consists of all individuals who worked at least
16 one assignment in California via the WorkWhile app, who were classified by Defendants
17 as independent contractors, at any time from four years prior to the filing of this action
18 through the present.

19 15. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
20 joinder of all members would be unfeasible and impracticable. The membership of the Classes is
21 unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than
22 fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via
23 Defendants' employment records.

24 16. **Common Questions of Law and Fact Predominate/Well Defined Community**
25 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
26 situated employees, which predominate over questions affecting only individual members
27 including, without limitation to:
28

- i. Whether Defendants misclassified Class members as independent contractors;
- ii. Whether Defendants' timekeeping and payroll practices violate the applicable Labor Code provisions including, but not limited to, Sections 510 and 1194 by requiring overtime work and not paying the Overtime Class for said work according to California's overtime laws;
- iii. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- iv. Whether Defendants properly reimbursed expenses incurred by members of the Expense Reimbursement Class.

17. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' uniform misclassification of Class members as well as Defendants' overtime, wage statement, and expense reimbursement policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

18. **Typicality:** Plaintiff's claims are typical of the Classes' claims because Plaintiff was employed by Defendants and misclassified as an independent contractor in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was not paid overtime wages, was not furnished with legally compliant wage statements and was not reimbursed for all expenses he incurred in carrying out his job duties for Defendants.

19. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class

actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

20. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by individual class members would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in paragraph 14 are maintainable under Section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

21. Plaintiff re-alleges and incorporates by reference all prior paragraphs.

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1 22. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
2 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
3 overtime hours worked, and which provide a private right of action for the failure to pay all
4 overtime compensation for overtime work performed.

5 23. At all times relevant herein, Defendants were required to properly compensate
6 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California
7 Labor Code § 1194 and Wage Order 4. Wage Order 4, § 3 requires an employer to pay an
8 employee “one and one-half (1½) times [the] employee’s regular rate of pay” for work in excess
9 of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours
10 on the seventh consecutive workday in a workweek. Wage Order 4, § 3 also requires an employer
11 to pay an employee double the employee’s regular rate of pay for work in excess of 12 hours in a
12 workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek.
13 As alleged herein, Defendants caused Plaintiff and Overtime Class members to work overtime
14 and double-time hours but did not compensate them at one and one-half times (or two times) their
15 regular rate of pay for such hours.

16 24. The foregoing policies and practices are unlawful and create entitlement to
17 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
18 premiums owing, including interest thereon, statutory penalties, and attorneys’ fees and costs of
19 suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of
20 Civil Procedure § 1021.5.

21 **SECOND CAUSE OF ACTION**

22 **WAGE STATEMENT VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 25. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
27 and the Wage Statement Class with accurate and complete itemized wage statements, in violation
28 of Labor Code § 226.

27. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, deprivation of the information necessary to identify discrepancies in Defendants' reported data.

28. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

THIRD CAUSE OF ACTION

WAITING TIME PENALTIES

(AGAINST ALL DEFENDANTS)

29. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

30. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee, or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

31. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including (but not limited to) unpaid overtime wages.

32. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.

33. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and Waiting Time Class members their earned wages upon separation from employment results in a continued payment of daily

wages up to 30 days from when the wages were due. Plaintiff and Waiting Time Class members are entitled to compensation per Labor Code § 203, plus reasonable attorneys' fees and costs.

FOURTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

35. At all relevant times, Defendants were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

36. At all relevant times, Defendants were subject to Labor Code § 2804, which states, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

37. Due to Defendants' unlawful policy and practice of requiring employees to use their personal cellular phones for work purposes and failing to reimburse Plaintiff and members of the Expense Reimbursement Class, Defendants have violated Labor Code § 2802.

38. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiff and Expense Reimbursement Class members suffered damages in sums, which will be shown according to proof.

39. Plaintiff and Expense Reimbursement Class members are entitled to attorneys' fees and costs, pursuant to Labor Code § 2802(c). Further, pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenses carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and Expense Reimbursement Class members are entitled to interest, accruing from the date on which they incurred the initial expense.

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1 **FIFTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

4 40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 41. Defendants have engaged, and continue to engage, in unfair and/or unlawful
6 business practices in violation of Business & Professions Code § 17200, *et seq.*, by misclassifying
7 Plaintiff and Class members as independent contractors, by failing to pay overtime, by failing to
8 furnish accurate and complete itemized wage statements, and by failing to reimburse business
9 expenses.

10 42. Defendants' utilization of these unfair and/or unlawful business practices has
11 deprived Plaintiff and Class members of compensation to which they are entitled, constitutes
12 unfair and/or unlawful competition, and provides an unfair advantage over Defendants'
13 competitors who have been and/or are currently employing workers and attempting to do so in
14 honest compliance with applicable wage and hour laws.

15 43. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
16 herein, Plaintiff for himself, and on behalf of the members of the Classes, seeks full restitution of
17 monies as necessary and according to proof, to restore all monies withheld, acquired, and/or
18 converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

19 44. The acts complained of herein occurred within the four years immediately
20 preceding the filing of this action.

21 45. Plaintiff was compelled to retain the services of counsel to file this court action to
22 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
23 of Defendants' current non-exempt employees, and to enforce important rights affecting the
24 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
25 which he is entitled to recover under Code of Civil Procedure § 1021.5.

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27 ///

28 ///

SIXTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(AGAINST ALL DEFENDANTS)

46. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

47. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.* Plaintiff, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Willfully misclassifying Plaintiff and other aggrieved employees as independent contractors, in violation of Labor Code § 226.8;
- b. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time compensation earned, in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses, in violation of Labor Code §§ 2802, 2804, and 1198;

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- d. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code § 226;
- e. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203; and
- f. Failing to maintain accurate records with respect to Plaintiff and other aggrieved employees, in violation of Labor Code § 1174.

48. On or about September 1, 2023, Plaintiff notified Defendant Workforce as a Service, Inc. dba WorkWhile, via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 47 (a)-(f) above. Now that sixty-five (65) days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

49. Based on the foregoing, Plaintiff seeks to represent himself, the State of California, and all aggrieved employees as defined by Labor Code § 2699(c), which includes all current and former employees who worked for Defendants in California at any time from one year prior to the submission of Plaintiff’s PAGA notice to the present.

50. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to recover under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;

1 4. Upon the First Cause of Action, for compensatory, consequential, general, and
2 special damages according to proof, per Labor Code §§ 204, 510, 511, 558, 1194, and 1198;

3 5. Upon the Second Cause of Action, for statutory penalties pursuant to Labor Code §
4 226, *et seq.*;

5 6. Upon the Third Cause of Action, for statutory waiting time penalties pursuant to
6 Labor Code §§ 201-203;

7 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
8 special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

9 8. Upon the Fifth Cause of Action, for restitution to Plaintiff and members of the
10 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
11 practices declared by this Court to be in violation of Business and Professions Code § 17200, *et*
12 *seq.*;

13 9. Upon the Sixth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
14 employees, and the State of California according to proof pursuant to Labor Code § 2699,
15 including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
16 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant
17 to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully
18 withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to
19 Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00
20 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4)
21 \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent
22 violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
23 each initial violation and \$200.00 for each subsequent violation per employee per pay period for
24 those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to
25 Labor Code § 2699(f);

26 10. Prejudgment interest on all due and unpaid wages and other damages pursuant to
27 California Labor Code §§ 1194(a), and 2802(b); Civil Code § 3287; and Art. XV, § 1 of the
28 California Constitution;

1 11. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
2 226(e), 1194 *et seq.*, 2802(c), 2699(g), and Code of Civil Procedure § 1021.5; and

3 12. For such other and further relief the Court may deem just and proper.

4
5 Date: November 6, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

6
7 By: 

Tuvia Korobkin
Attorneys for Plaintiff

8
9 **DEMAND FOR JURY TRIAL**

10 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

11
12
13 Dated: November 6, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

14
15 By: 

Tuvia Korobkin
Attorneys for Plaintiff