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Attorneys for Plaintiff EMERSON MALONE,
as an Aggrieved Employee, and on behalf of all other
Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

Assigned for All Purposes:

Judge Layne H. Melzer

Dept. CX102

EMERSON MALONE, as an Aggrieved
Employee, and on behalf of all other
Aggrieved Employees under the Labor Code
Private Attorneys' General Act of 2004,

Plaintiff

v.

MAGNIT, LLC, a Delaware limited liability
company; and DOES 1 through 100, inclusive,

Defendants.

CASE NO. 30-2026-01594257-CU-CL-CXC

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff Emerson Malone (“Plaintiff”), as an Aggrieved Employee, and on behalf of all other
2 Aggrieved Employees under the Labor Code Private Attorneys’ General Act of 2004, alleges as
3 follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Magnit, LLC, a
7 Delaware limited liability company, and any of its respective subsidiaries or affiliated companies
8 within the State of California (“Magnit”), (hereinafter, collectively, with DOES 1 through 100, as
9 further defined below, “Defendants”) as a proxy of the Labor and Workforce Development Agency
10 of the State of California (“LWDA”), on behalf of Plaintiff and all Aggrieved Employees that
11 worked for Defendants during the PAGA Period. Specifically, in connection with any alleged claims
12 for failure to comply with Labor Code sections 200, 201, 204, 210, 223, 226, 226.3, 432.5, 1198,
13 and applicable Wage Orders, Plaintiff seeks to represent all current and former employees that
14 worked for Defendants during the PAGA Period. On all other claims mentioned herein, Plaintiff
15 seeks to represent only non-exempt current and former employees that worked for Defendants
16 during the PAGA Period. Collectively, these employees are herein referred to as “Aggrieved
17 Employees.” The “PAGA Period” refers to one year preceding the date notice was submitted to the
18 LWDA, continuing past the date of notice to the LWDA into perpetuity.

19 **PARTIES**

20 2. Plaintiff EMERSON MALONE is a resident of the State of California. At all
21 relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 employ Plaintiff as a non-exempt employee. Plaintiff works as an AI projects editor with duties that
23 include, but are not limited to, working with Apple News in regard to the algorithm for the
24 application. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff EMERSON
25 MALONE worked for Defendants from approximately April of 2024 through approximately
26 October of 2025 and from approximately January of 2026 to the present.

27 3. Plaintiff is informed and believes and based thereon alleges that defendant Magnit
28 is, and at all times relevant hereto was, a limited liability company organized and existing under and

1 by virtue of the laws of the State of Delaware and doing business in the County of Orange, State of
2 California. At all relevant times herein, Magnit employed Plaintiff and Aggrieved Employees within
3 the State of California.

4 4. The true names and capacities, whether individual, corporate, associate, or otherwise,
5 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
6 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
7 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
8 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
9 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
10 the defendants designated hereinafter as DOES when such identities become known.

11 **JOINT LIABILITY ALLEGATIONS**

12 5. Plaintiff is informed and believes, and based thereon alleges, that each defendant
13 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
14 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
15 legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made
16 to "Defendants," it shall include Magnit, and any of their parent, subsidiary, or affiliated companies
17 within the State of California, as well as DOES 1 through 100 identified herein.

18 6. Plaintiff is informed and believes and based thereon alleges that all the times
19 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
20 representative, joint venture or co-conspirator of each of the other defendants, either actually or
21 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
22 employment, joint venture, and conspiracy.

23 7. All of the acts and conduct described herein of each and every corporate defendant
24 was duly authorized, ordered, and directed by the respective and collective defendant corporate
25 employers, and the officers and management-level employees of said corporate employers. In
26 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
27 their said employees, agents, and representatives, and each of them; and upon completion of the
28 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant

1 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
2 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
3 aforementioned corporate employees, agents and representatives.

4 8. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
5 thereon alleges that Defendants, and each of them, are joint employers.

6 **JURISDICTION**

7 9. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
8 of Civil Procedure section 410.10.

9 10. Venue is proper in Orange County, California pursuant to Code of Civil Procedure
10 sections 392, *et seq.* because, among other things, Orange County is where the causes of action
11 complained of herein arose; the county in which the employment relationship began; the county in
12 which performance of the employment contract, or part of it, between Plaintiff and Defendants was
13 due to be performed; the county in which the employment contract, or part of it, between Plaintiff
14 and Defendants was actually performed; and the county in which Defendants, or some of them,
15 reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Aggrieved
16 Employees in Orange County, and Defendants employ Aggrieved Employees in Orange County.

17 **PAGA REPRESENTATIVE ALLEGATIONS**

18 11. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by
19 Defendants during the PAGA Period and suffered the Labor Code violations set forth herein, even
20 if not in the precise exact fashion as other Aggrieved Employees. Accordingly, Plaintiff seeks to
21 recover civil penalties under PAGA, plus reasonable attorneys’ fees and costs, for Plaintiff and all
22 other Aggrieved Employees of Defendants during the PAGA Period.

23 12. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
24 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
25 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
26 PAGA allegations described herein is not required.

27 13. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
28 such as Plaintiff to bring a civil action to recover civil penalties pursuant to the procedures specified

1 in Labor Code section 2699.3 on behalf of Plaintiff and all other Aggrieved Employees within the
2 PAGA Period.

3 14. Pursuant to Labor Code section 2699.3, on or around April 9, 2026, Plaintiff
4 provided written notice of Defendants' violation of various provisions of the Labor Code to the
5 LWDA online and by certified mail, with return receipt requested, to Defendants ("PAGA Notice").

6 15. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
7 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)
8 calendar days of the PAGA Notice.

9 16. To the extent Defendants, or either of them, previously used the notice and cure
10 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
11 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
12 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
13 conference process pursuant to section 2699.3(f).

14 17. In the event that Defendants, or either of them, is/are determined to have satisfied
15 sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have
16 satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to
17 Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

18 18. In the event that Defendants, or either of them, is/are determined to have, prior to
19 this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff
20 and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all
21 provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to
22 section 2699(g)(1)-(3).

23 19. In the event that Defendants, or either of them is/are deemed to have adequately taken
24 all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60)
25 days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor
26 Code section 2699(h)(1)-(3).

27 20. In the event, the LWDA and/or a court issued a finding or determination to the
28 Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the

1 policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or
2 any of them, would be subject to heightened penalties pursuant to Labor Code sections
3 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either
4 Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving
5 of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations
6 as detailed herein was and is malicious, fraudulent, and/or oppressive. Thus, Defendants, or any of
7 them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack
8 eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

9 **FACTUAL ALLEGATIONS**

10 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew,
11 or should have known, that Plaintiff and Aggrieved Employees are entitled to receive wages for all
12 time worked, including regular, overtime, and double times wages, and that Plaintiff and Aggrieved
13 Employees were not receiving all wages owed for work that was required to be performed.

14 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
15 and have a policy or practice of requiring Plaintiff and other Aggrieved Employees to work more
16 than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
17 workweek (in violation of Labor Code sections 551 and 552) without paying them proper overtime
18 wages.

19 23. Upon information and belief, Defendants failed to accurately track and/or pay for all
20 minutes actually worked by Plaintiff and Aggrieved Employees at the proper rates of pay.
21 Defendants also engaged, suffered, or permitted Aggrieved Employees to work off the clock,
22 including, without limitation, by detrimentally rounding, editing and/or manipulating time entries
23 so the hours recorded were less than the hours actually worked. By way of example, the hours
24 worked on Plaintiff's wage statements are rounded to the nearest half or whole hour.

25 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 violated, without limitation, Labor Code sections 223, 510, 551, 552, 1197, 1182.12, and applicable
27 Wage Orders based on its continued failure to pay minimum and overtime wages for all hours
28 worked. Thus, Plaintiff and other Aggrieved Employees are entitled to actual and liquidated

1 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198. Plaintiff is further
2 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
3 violations and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
4 penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1197.1,
5 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further
6 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

7 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
8 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
9 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per
10 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
11 compensation in lieu thereof. By way of example, Defendants regularly denied Plaintiff and
12 Aggrieved Employees lawful meal periods by, without limitation, failing to provide meal periods
13 all together. For example, Plaintiff was not always provided a meal period due to his workload.
14 Plaintiff and other Aggrieved Employees personally suffered these violations. Consequently,
15 Plaintiff is informed and believes, and based thereon alleges, that Defendants violated Labor Code
16 sections 512 and 1198 each day for each Aggrieved Employee during the PAGA Period, and thus
17 each Aggrieved Employee was owed one hour of premium pay at their regular rate of pay for each
18 day worked during the PAGA Period under Labor Code section 226.7. However, Plaintiff is
19 informed and believes that those premium payments under Labor Code section 226.7 were not made
20 for these non-compliant meal periods, either at all or at the proper regular rate of pay. Defendants
21 would thus be liable for civil penalties pursuant to Labor Code sections 210 (for failure to timely
22 pay these wages), 558, 1198 and 2699 for both failing to authorize the taking of compliant meal
23 periods and for failing to provide premium pay under Labor Code section 226.7, or injunctive relief
24 under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
25 alleges, that Defendants' conduct that gave rise to such violations and was malicious, fraudulent, or
26 oppressive. As such, Defendants are further liable for civil penalties pursuant to Labor Code section
27 2699(f)(2)(B)(ii).

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1 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,
3 including, without limitation, work over four-hour periods (or major fractions thereof) without
4 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
5 and complete ten-minute rest periods in which the employees are completely relieved of all of their
6 duties. By way of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful
7 rest periods by, without limitation, failing to provide rest periods all together. In fact, Plaintiff was
8 never informed of his right to a net-ten minute, compliant rest period. Plaintiff and other Aggrieved
9 Employees personally suffered these violations. Consequently, Plaintiff is informed and believes,
10 and based thereon alleges, that Defendants violated the applicable Wage Order(s) each day for each
11 Aggrieved Employee during the PAGA Period, and that, thus each Aggrieved Employee was owed
12 one hour of premium pay at their regular rate of pay for each day worked during the PAGA Period
13 under Labor Code section 226.7. However, Plaintiff is informed and believes that those premium
14 payments under Labor Code section 226.7 were not made, either, for these non-compliant rest
15 periods, either at all or at the proper regular rate of pay, in violation of Labor Code sections 226.7
16 and 1198. Defendants would thus be liable for civil penalties pursuant to Labor Code sections 210
17 (for failure to timely pay these wages), 558, 1198 and 2699 for both failing to authorize the taking
18 of compliant rest periods and for failing to provide premium pay under Labor Code section 226.7,
19 or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes,
20 and based thereon alleges, that Defendants' conduct above gave rise to such violations and was
21 malicious, fraudulent, or oppressive. As such, Defendants are further liable for civil penalties
22 pursuant to Labor Code section 2699(f)(2)(B)(ii).

23 27. As a result of, among other things, Defendants' herein-described policy or practice
24 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
25 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
26 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
27 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
28 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that

1 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the
2 inclusive dates of the period for which the employee is paid; the name of the employee and only the
3 last four digits of their social security number or an employee identification number other than a
4 social security number; all deductions; all applicable hourly rates in effect during the pay period and
5 the corresponding number of hours worked at each hourly rate by the employee; the legal name and
6 address of the employer, and other such information as required by Labor Code section 226,
7 subdivision (a). Consequently, Plaintiff is informed and believes, and based thereon alleges, that
8 Defendants violated Labor Code sections 226, and 1198 each day for each Aggrieved Employee
9 during the PAGA Period, and that, thus Plaintiff and each Aggrieved Employee personally suffered
10 these violations and was owed penalties under Labor Code section 226 for each pay period worked
11 during the PAGA Period. Plaintiff is informed and believes that those penalties under Labor Code
12 section 226 were not paid for these violations of Labor Code section 226. Defendants would thus
13 be liable for civil penalties pursuant to Labor Code sections 226.3, 558, 1198, and 2699, or
14 injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes,
15 and based thereon alleges, that Defendants' conduct above gave rise to such violations and was
16 malicious, fraudulent, or oppressive. Thus, Defendants would further be liable for civil penalties
17 pursuant to Labor Code section 2699(f)(2)(B)(ii).

18 28. Plaintiff is informed and believes, and based thereon alleges that Defendants also
19 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
20 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for the use of cellular
21 phones, in direct consequence of the discharge of their duties, or of their obedience to the directions
22 of Defendants, as required by Labor Code sections 1198, 2800, 2802, and other statutory and
23 common law offenses. As a result, Plaintiff and other Aggrieved Employees have personally
24 suffered these violations and Defendants are liable to reimburse Plaintiff and other Aggrieved
25 Employees for these costs incurred in furtherance of work duties. Defendants would thus be liable
26 for civil penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief under
27 sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
28 alleges, that Defendants' conduct above gave rise to such violations and was malicious, fraudulent,

1 or oppressive. As such, Defendants would further be liable for civil penalties pursuant to Labor
2 Code section 2699(f)(2)(B)(ii).

3 29. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
4 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with
5 Labor Code Section 204, which requires that: “[l]abor performed between the 1st and 15th days,
6 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
7 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
8 any calendar month, shall be paid for between the 1st and 10th day of the following month.” Plaintiff
9 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
10 and other Aggrieved Employees all wages owed every day and every workweek in accordance with
11 Labor Code sections 204 and 1198. Plaintiff is informed and believes, and based thereon alleges,
12 that Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees
13 have personally suffered these violations. As such, Defendants would be liable for civil penalties
14 pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections
15 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon alleges, that
16 Defendants’ conduct above gave rise to such violations and was malicious, fraudulent, or
17 oppressive. Therefore, Defendants would further be liable for civil penalties pursuant to Labor Code
18 section 2699(f)(2)(B)(ii).

19 30. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
20 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
21 statements and similar payroll documents under Labor Code section 226, documents signed to
22 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
23 section 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and
24 other Aggrieved Employees to calculate their unpaid wages and/or premium payments. Plaintiff and
25 the Aggrieved Employees personally suffered these violations, which in turn would entitle Plaintiff
26 and other Aggrieved Employees to penalties prescribed by Labor Code sections 226 and 1198.5.
27 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5,
28 and 2699. Plaintiff further informed and believes, and based thereon alleges, that Defendants’

1 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. Defendants
2 would further be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

3 31. Plaintiff is further informed and believes, and based thereon alleges that Defendants
4 failed and refused, and continue to fail and refuse, to comply with the notice requirements of Labor
5 Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing
6 to provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
7 applicable to their employment; any allowances claimed as part of the minimum wage; the regular
8 payday designated by Defendants; the name of the employer, including any “doing business as”
9 names used by the employer; the physical address of the employer’s main office and the telephone
10 number of the employer; the name, address and telephone number of the workers’ compensation
11 insurance carrier; information regarding paid sick leave; and other pertinent information required to
12 be disclosed by Defendants under Labor Code section 2810.5. Plaintiff is informed and believes that
13 Defendants’ failure to provide such information, including rates of pay that are in effect, has
14 permitted Defendants to pay employees at rates of pay that were not agreed upon and violate
15 minimum wage and overtime wage laws in California. Plaintiff is informed and believes that
16 Defendants violated Labor Code sections 1198 and 2810.5. Plaintiff and other Aggrieved
17 Employees personally suffered these violations. Plaintiff is further informed and believes, and based
18 thereon alleges, that Defendants’ conduct above gave rise to such violations and was malicious,
19 fraudulent, or oppressive. Among other relief, employees may collect from Defendants in
20 connection with these violations’ civil penalties pursuant to Labor Code sections 558, 1198 and
21 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable
22 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

23 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
24 including their agents, managers, superintendents, and/or officers, required Plaintiff and/or
25 Aggrieved Employees to agree, in writing, to terms and conditions known by Defendants (and its
26 agents, managers, superintendents and/or officers) to be prohibited by law, including, without
27 limitation, terms known to be illegal in purported arbitration agreements, and other written
28 documents presented for signature and/or assent to Plaintiff and/or Aggrieved Employees by

1 Defendants. Defendants also required Plaintiff and Aggrieved Employees to inform prospective
2 employers of Defendants' restrictions of Plaintiff's and Aggrieved Employees' freedom to work.
3 As a result, Plaintiff is informed and believes that Defendants violated Labor Code sections 432.5
4 and 1198. As such, Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and
5 other Aggrieved Employees personally suffered these violations, and that Defendants violated,
6 without limitation, Labor Code section 432.5 and Government Code section 12952, entitling
7 Plaintiff and other Aggrieved Employees to damages. Plaintiff is further informed and believes, and
8 based thereon alleges, that Defendants' conduct above gave rise to such violations and was
9 malicious, fraudulent, or oppressive. Defendants would also be liable for civil penalties pursuant to
10 Labor Code sections 432.5, 1198, and 2699, or injunctive relief under sections 2699(e)(1) and
11 2699(k). Defendants would further be liable for civil penalties pursuant to Labor Code section
12 2699(f)(2)(B)(ii).

13 33. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
14 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
15 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
16 Employees pursuant to PAGA.

17 **FIRST AND ONLY CAUSE OF ACTION**

18 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

19 34. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
20 preceding paragraphs as though fully set forth hereat.

21 **Civil Penalties Under Labor Code § 210**

22 35. At all relevant times herein, Labor Code section 204, requires and required that:
23 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
24 between the 16th and 26th day of the month during which the labor was performed, and labor
25 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
26 between the 1st and 10th day of the following month.”

27 36. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
28 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this

1 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
2 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
3 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
4 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
5 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

6 37. At all relevant times herein, Defendants have had a consistent policy or practice of
7 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
8 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
9 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
10 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
11 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
12 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
13 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
14 violation in connection with each payment that was made in violation of Labor Code section 204.

15 Civil Penalties Under Labor Code § 226.3

16 38. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
17 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
18 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
19 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
20 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

21 39. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
22 this section are in addition to any other penalty provided by law.”

23 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
24 and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by
25 intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements
26 that accurately reflect gross wages earned; total hours worked; net wages earned; the name and
27 address of each employer with whom they have been placed to work; all applicable hourly rates in
28 effect during the pay period and the corresponding number of hours worked at each hourly rate; and

1 other such information as required by Labor Code section 226, subdivision (a).

2 41. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
3 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
4 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
5 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
6 period for each subsequent violation.

7 Violation of Labor Code § 558

8 42. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
9 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
10 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
11 penalty as follows:

12 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
13 pay period for which the employee was underpaid in addition to an amount sufficient
14 to recover underpaid wages;

15 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
16 employee for each pay period for which the employee was underpaid in addition to
17 an amount sufficient to recover underpaid wages;

18 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

19 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
20 each of them, violated, or caused to be violated, the Labor Code sections and Wage Orders
21 regulating wages, hours and days of work described herein, including but not limited to Labor Code
22 sections 201-204, 223, 226.7, 510, 511, 512, 551, 552, 1182.12, 1194, 1197, 1198, and 2802.

23 44. As a direct and proximate result of the herein-described Labor Code violations,
24 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
25 civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars
26 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
27 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

28 ///

Violation of Labor Code § 1174.5

45. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

46. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

47. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

48. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

49. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment

1 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
2 under Labor Code section 1174.

3 50. As a direct and proximate result of the herein-described Labor Code violations,
4 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
5 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five
6 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

7 Violation of Labor Code § 1197.1

8 51. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
9 person acting either individually or as an officer, agent, or employee of another person, who pays
10 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
11 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
12 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
13 Section 203 as follows:

14 (1) For any initial violation that is intentionally committed, one hundred dollars
15 (\$100) for each underpaid employee for each pay period for which the
16 employee is underpaid. This amount shall be in addition to an amount
17 sufficient to recover underpaid wages, liquidated damages pursuant to Section
18 1194.2, and any applicable penalties imposed pursuant to Section 203.

19 (2) For each subsequent violation for the same specific offense, two hundred fifty
20 dollars (\$250) for each underpaid employee for each pay period for which the
21 employee is underpaid regardless of whether the initial violation is
22 intentionally committed. This amount shall be in addition to an amount
23 sufficient to recover underpaid wages, liquidated damages pursuant to Section
24 1194.2, and any applicable penalties imposed pursuant to Section 203.

25 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
26 Section 203, recovered pursuant to this section shall be paid to the affected
27 employee."

28 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused

1 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants
2 routinely failing to accurately track and/or pay for all minutes actually worked by Plaintiff and
3 Aggrieved Employees at the proper rates of pay, as described above.

4 53. As a direct and proximate result of the herein-described Labor Code violations,
5 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
6 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of one
7 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
8 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
9 subsequent violation.

10 Civil Penalties Under Labor Code § 2699

11 54. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
12 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
13 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
14 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
15 action brought by an Aggrieved Employee on behalf of himself or herself and other current or former
16 employees pursuant to the procedures specified in Labor Code section 2699.3.

17 55. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
18 each of them, violated the Labor Code sections described in the preceding paragraphs.

19 56. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one
20 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
21 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
22 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

23 57. Moreover, Plaintiff and other Aggrieved Employees within the State of California
24 whom Plaintiff seeks to represent are entitled to an award of reasonable attorneys' fees and costs in
25 connection with their herein-described claims for civil penalties.

26 **PRAYER**

27 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
28 judgment against Defendants as follows:

- 1 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
2 1174.5, 1197.1, and 2699;
3 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
4 210, 226.3, +558, 1174.5, 1197.1, and 2699;
5 C. For equitable, including, without limitation, injunctive relief;
6 C. Pre-judgment and post-judgment interest;
7 D. For costs of suit incurred herein; and
8 E. Such other and further relief as the Court deems just and proper.

9 Dated: August 28, 2026

BIBIYAN LAW GROUP, P.C.

11 BY: /s/ Calyn V. Hadlock

12 Calyn V. Hadlock

13 Attorneys for Plaintiff EMERSON MALONE
14 and on behalf of all other Aggrieved
15 Employees