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10 Attorneys for Plaintiff JOSHUA ROJAS
11 on behalf of the State of California, all Aggrieved Employees,
12 and Class Members

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF LOS ANGELES**

15 JOSHUA ROJAS, on behalf of the State of
16 California and all Aggrieved Employees,

17 Plaintiff,

18 v.

19 INTEGRATED DISTRIBUTION
20 SYSTEMS, INC., a California Corporation;
21 DART ENTITIES, INC., a Nevada
22 Corporation; and DOES 1-100, inclusive,

23 Defendants.

Case No.: 24STCV04611

**PLAINTIFF'S FIRST AMENDED CLASS
AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Furnish Accurate Itemized Wage Statements**
6. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
7. **Failure to Reimburse Business Expenses**
8. **Failure to Maintain Accurate Employment Records**
9. **Failure to Comply with the One Day's Rest in Seven Act**
10. **Failure to Pay Accrued Vacation Wages and to Properly Accrue and Pay Sick Leave**
11. **Failure to Provide Suitable Seating**

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12. Violation Of The Fair Credit Reporting Act And The California Investigative Consumer Reporting Agencies Act
13. Improper Requirement To Enter Unlawful Agreements
14. Violation of Quota Laws
15. Unfair Competition *and*
16. Violation of the Private Attorneys General Act of 2004

DEMAND FOR JURY TRIAL

1 Plaintiff, JOSHUA ROJAS, (“PLAINTIFF”), on behalf of the State of California and all
2 Aggrieved Employees (as defined below) and Class Members (as defined below), hereby files this
3 Complaint against Defendant INTEGRATED DISTRIBUTION SYSTEMS, INC., a California
4 Corporation; DART ENTITIES, INC., a Nevada Corporation; and DOES 1-100, inclusive,
5 (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and
6 thereon alleges as follows:

7 **INTRODUCTION**

8 1. This is a class action and representative action filed by PLAINTIFF on behalf of
9 PLAINTIFF, all Class Members, all Aggrieved Employees and the State of California against
10 DEFENDANTS. The representative action is brought Pursuant to California’s Private Attorney
11 General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties (75% payable
12 to the Labor and Workforce Development Agency and 25% payable to Aggrieved Employees) for
13 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 this judicial district and the County of Los Angeles pursuant to
18 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
19 this judicial district and/or DEFENDANTS maintain their principal place of business in this judicial
20 district and/or conduct alleged by PLAINTIFF herein occurred in this this judicial district. *See also*
21 *Crestwood Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a
22 PAGA action is proper in any county where the defendants committed Labor Code violations against
23 some of its employees). Venue is also proper pursuant to section 393 of the California Code of Civil
24 Procedure because the cause, or some part of the cause, arose in the County of Los Angeles.

25 **THE PARTIES**

26 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
27 California and a citizen of the State of California.

28 5. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for

1 DEFENDANTS as a non-exempt employee with a job title of forklift operator and/or a similar
2 title(s) and/or job position(s) from in or around 2021 through on or around October 1, 2023.
3 PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Dixon, California location(s).

4 6. Defendant INTEGRATED DISTRIBUTION SYSTEMS, INC. is a California
5 Corporation that, at all relevant times, was authorized to do business within the State of California
6 and is doing business in the State of California.

7 7. Defendant DART ENTITIES, INC. is a Nevada Corporation that, at all relevant
8 times, was authorized to do business within the State of California and is doing business in the State
9 of California.

10 8. DEFENDANTS own, operate, manage and/or staff its employees to work at the
11 warehouses, warehouse distribution centers, manufacturing plants and/or other facilities and/or
12 other location(s) in California, including but not limited to, the warehouses, warehouse distribution
13 centers, manufacturing plants and/or other facilities in Dixon, California. DEFENDANTS, through
14 its various locations, serve the manufacturing, logistics and/or warehousing industry.

15 9. The true names and capacities of the DOE Defendants sued herein as DOES 1
16 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
17 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
18 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
19 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
20 become known.

21 10. PLAINTIFF is further informed and believes that, at all relevant times, each
22 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
23 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
24 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
25 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
26 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
27 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
28 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant

1 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
2 controlled, aided and abetted the conduct of all other Defendants.

3 **JOINT LIABILITY**

4 11. Under California law, the definition of the terms “to employ” are broadly construed
5 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
6 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
7 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
8 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
9 was to reach situations in which multiple entities control different aspects of the employment
10 relationship. Supervision of the work, in the specific sense of exercising control over how services
11 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
12 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
13 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
14 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
15 California, applying a less stringent standard to what constitutes sufficient control by a business
16 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
17 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
18 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
19 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
20 employment,” *Id.* at 875 [emphasis added].

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

28 13. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times

1 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
2 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
3 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
4 policies and practices regardless of the location(s) where they worked. Among other things,
5 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,
6 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
7 over the day-to-day operations and employment matters, including the power to hire and fire, set
8 schedules, issue employee policies, and determine rates of compensation across its locations in
9 California; (3) DEFENDANTS utilize the same policies and procedures for all California
10 employees, including issuing the same employee handbooks and other form agreements; (4)
11 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
12 employment matters; and, (6) DEFENDANTS share employees.

13 14. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
14 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and Aggrieved
15 Employees upon whose behalf PLAINTIFF brings these allegations and cause of action, in that
16 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
17 wages, hours and working conditions, and/or suffered or permitted them to work so as to be
18 considered the joint employers of PLAINTIFF and Aggrieved Employees.

19 15. For example, based on information and belief, DEFENDANTS, and each of them,
20 share the same principal business address/ mailing address and agent for service of process as
21 provided to the California Secretary of State and share some of the same attorneys and human
22 resources personnel to oversee employment-related matters.

23 16. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
24 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
25 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
26 working conditions that were distributed to, and/or applied to PLAINTIFF and Aggrieved
27 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
28 PLAINTIFF and other Aggrieved Employees in a uniform manner. DEFENDANTS collectively

1 represented to PLAINTIFF and other Aggrieved Employees that each was an "at-will" employee of
2 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
3 and other Aggrieved Employees' employment with or without cause. Upon information and belief,
4 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
5 writing the details of their compensation, and the manner in which they were to take meal and rest
6 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
7 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
8 collectively would evaluate their wage rates.

9 17. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
10 and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS
11 collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved
12 Employees' employment, including the instrumentality that resulted in the illegal conduct for which
13 PLAINTIFF seeks relief in this Complaint.

14 18. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
15 control over, applied the same policies and practices, and engaged in the same acts and omissions
16 with regard to the other Aggrieved Employees.

17 19. PLAINTIFF is informed and believes and hereon alleges that DEFENDANTS must
18 be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under
19 PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform
20 services from which they benefited, and furthermore that the aforementioned entities had the right
21 to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant
22 times herein, so as to be considered the joint employers of PLAINTIFF.

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

26 **PAGA ALLEGATIONS**

27 21. PLAINTIFF brings this action under the PAGA, as a representative action on behalf
28 of the State of California and all Aggrieved Employees, regarding violations of the California Labor

1 Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include:

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

6 22. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code
7 section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory
8 limitations period and suffered one or more of the Labor Code violations set forth herein.
9 Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved
10 Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.
11 PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved
12 Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is thereby affected by
13 one or more of the alleged violations. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23
14 Cal.App.5th 745, 757. A PAGA plaintiff has authority to seek penalties for all known violations
15 committed by the employer – regardless of whether Plaintiff experienced all violations personally.
16 *Id.* at 760-761.

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

18 23. PLAINTIFF, on November 30, 2023, through counsel, gave written notice by online
19 filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that
20 DEFENDANTS failed to comply with California’s labor laws with regard to the allegations alleged
21 in this Complaint (“PAGA Notice”). PLAINTIFF, on December 18, 2023, through counsel, gave
22 written notice by online filing with the LWDA informing it of an additional entity - Integrated
23 Distribution Systems, Inc. - that employed PLAINTIFF and Aggrieved Employees (“Amended
24 PAGA Notice”).

25 24. The PAGA Notice and Amended PAGA Notice outlined PLAINTIFF’s claims for
26 violations of the California Labor Code and the applicable wage orders on behalf of the State of
27 California and all Aggrieved Employees.

28 25. The LWDA did not provide notice of its intention to investigate DEFENDANTS’

1 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
2 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
3 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
4 Consequently, PLAINTIFF's right to file the lawsuit has duly accrued.

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

8 CLASS ALLEGATIONS

9 27. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
10 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
11 seeks to represent are defined as follows and referred to as the "Class" or "Class Members":

12 All current and former non-exempt employees that worked for any one or more of the
13 DEFENDANTS at any location in California at any time within November 29, 2022 through
14 the date of certification ("Class Period").

15 28. Numerosity. While the exact number of Class Members is unknown to PLAINTIFF
16 at this time, the Class is so numerous that the individual joinder of all members is impractical under
17 the circumstances of this case. PLAINTIFF is informed and believes the Class consists of at least
18 100 individuals.

19 29. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
20 because common questions of law and fact predominate over individual issues. Common questions
21 include, but are not limited to, the following: (1) whether DEFENDANTS understated hours worked
22 and failed to pay all amounts due to PLAINTIFF and the Class Members for wages earned, including
23 minimum and overtime wages, under California law; (2) whether DEFENDANTS provided
24 PLAINTIFF and the Class Members with all meal periods or premium payments in lieu thereof in
25 compliance with California law; (3) whether DEFENDANTS provided PLAINTIFF and the Class
26 Members with all rest periods or premium payments in lieu thereof, in compliance with California
27 law; (4) whether DEFENDANTS provided PLAINTIFF and Class Members with accurate, itemized
28 wage statements in compliance with California law, displaying, including but not limited to, the

1 total hours worked during the pay period; (5) whether DEFENDANTS timely paid PLAINTIFF and
2 the Class Members all wages due upon separation of employment; (6) whether DEFENDANTS
3 failed to reimburse PLAINTIFF and the Class Members for all business expenses; (7) whether
4 DEFENDANTS maintained accurate employment records; (8) whether DEFENDANTS complied
5 with the One Day's Rest in Seven Act; (9) whether DEFENDANTS failed to pay accrued vacation
6 wages and properly accrued and paid sick leave; (10) whether DEFENDANTS failed to provide
7 suitable seating; (11) whether DEFENDANTS violated the Fair Credit Reporting and/or California
8 Investigative Consumer Reporting Agencies Act; (12) whether DEFENDANTS required Class
9 Members to enter unlawful agreements; (13) whether DEFENDANTS violated quota laws; and (14)
10 whether DEFENDANTS violated California Business and Professions Code sections 17200, *et seq.*

11 30. Ascertainable Class. The proposed Class is ascertainable as members can be
12 identified and located using information in DEFENDANTS' business, payroll and personnel
13 records.

14 31. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
15 PLAINTIFF suffered a similar injury as members of the Class as a result of DEFENDANTS'
16 common practices regarding, *inter-alia*, failure to calculate and pay all owed minimum and overtime
17 wages, failure to provide proper meal periods and rest periods or premium compensation in lieu
18 thereof, failure to provide accurate wage statements, failure to reimburse business expenses, and
19 failure to timely pay all wages due upon separation of employment.

20 32. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the Class
21 Members. PLAINTIFF has no interests adverse to the interests of the other Class Members. Counsel
22 who represent PLAINTIFF are competent and experienced in litigating similar class action cases
23 and are California lawyers in good standing. Counsel for PLAINTIFF have the experience and
24 resources to vigorously prosecute this case.

25 33. Superiority. A class action is superior to other available means for the fair and
26 efficient adjudication of this controversy since individual joinder of all members of the class is
27 impractical. Class action treatment will permit a large number of similarly situated persons to
28 prosecute their common claims in a single forum simultaneously, efficiently, and without the

unnecessary duplication of effort and expense that numerous individual actions would engender. Furthermore, as the damages suffered by each individual member of the Class may be relatively small, the expenses and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments. Finally, the alternative of filing a claim with the California Labor Commissioner is not superior, given the lack of discovery in such proceedings, the fact that there are fewer available remedies, and the losing party has the right to a trial de novo in the Superior Court.

FACTUAL ALLEGATIONS

34. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees and Class Members, worked for DEFENDANTS in the State of California. At all times referenced herein, DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and Class Members, and suffered and/or permitted them to work.

35. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title of forklift operator and/or a similar title(s) and/or job position(s) from in or around 2021 through on or around October 1, 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Dixon, California location(s). PLAINTIFF regularly worked at least eight (8) to fourteen (14) hours per day.

36. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time counted by DEFENDANTS as hours worked.

37. Based on information and belief, DEFENDANTS also compensated Aggrieved Employees and Class Members with shift differential pay, bonuses/incentive pay and/or other non-discretionary compensation.

38. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate PLAINTIFF and Aggrieved Employees and Class Members for all hours worked, resulting in the underpayment of minimum and overtime wages. DEFENDANTS failed to compensate PLAINTIFF

1 and Aggrieved Employees and Class Members for all hours worked by virtue of, DEFENDANTS'
2 automatic deduction and time rounding policies, and failure to relieve employees of all
3 duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or
4 improper meal periods, as explained below.

5 39. Based on information and belief, DEFENDANTS implemented a policy and/or
6 practice of rounding meal period start and end times and/or automatically deducting at least thirty
7 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
8 PLAINTIFF and other Aggrieved Employees and Class Members were subject to DEFENDANTS'
9 control during purported meal periods and/or were otherwise not afforded lawful meal periods,
10 depriving PLAINTIFF and Aggrieved Employees and Class Members of all wages owed.

11 40. Based on information and belief, Aggrieved Employees and Class Members were
12 not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to
13 scheduled hours worked instead of actual time worked, time rounding policies and practices, and/or
14 mandated off-the clock work policies and/or practices.

15 41. For example, based on information and belief, at times, Aggrieved Employees and
16 Class Members were required to stand in line behind other employees to access DEFENDANTS'
17 time-keeping system and/or were required to spend time reinitiating DEFENDANTS' time-keeping
18 system before they could clock in for the start of their shifts and/or after completing a purported
19 meal period.

20 42. For example, upon arriving at work, PLAINTIFF was consistently suffered or
21 permitted to stand in long employee lines to access DEFENDANTS' electronic time-keeping system
22 before PLAINTIFF could clock in for the start of his shift each day. This off-the-clock pre-shift
23 work, including but not limited to, time spent waiting for other employees to clock in for their shifts,
24 was not compensated, resulting in an average of at least two (2) to five (5) minutes of uncompensated
25 work time most workdays if not all workdays and the underpayment of minimum and overtime
26 wages owed to PLAINTIFF and other Aggrieved Employees and Class Members.

27 43. Based on information and belief, DEFENDANTS required Aggrieved Employees
28 and Class Members to be at their assigned workstations at the start of a scheduled shift, thereby

1 forcing Aggrieved Employees to gather work-related equipment and/or safety gear, make any
2 necessary adjustments to tools/equipment and/or perform maintenance/cleaning tasks, don work
3 clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their
4 scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock
5 work.

6 44. Based on information and belief, Aggrieved Employees and Class Members were
7 required to complete other off-the-clock work tasks after clocking out for the end of their shifts
8 and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment
9 of minimum and overtime wages owed to Aggrieved Employees.

10 45. For example, based on information and belief, DEFENDANTS required Aggrieved
11 Employees and Class Members to clock out for the end of their shifts but to continue working due
12 to the need to return/maintain tools, clean and/or organize their work stations/areas, provide shift
13 status updates and/or debriefings and/or participate in work meetings, respond to work-related
14 communications and/or perform other work tasks off-the-clock, resulting in the underpayment of
15 minimum wages and overtime wages owed to Aggrieved Employees and Class Members.

16 46. For example, PLAINTIFF was often required to clock out for purported meal periods
17 but to continue working due to the need to complete assigned work tasks.

18 47. Also, PLAINTIFF's unpaid meal periods were typically interrupted due to the need
19 to respond to work-related communications and/or complete other assigned job duties, resulting in
20 DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of
21 wages owed to PLAINTIFF.

22 48. Based on information and belief, DEFENDANTS did not compensate Aggrieved
23 Employees and Class Members for all time spent donning and doffing personal protective
24 equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses,
25 reflective vests, hard hats/bump caps/safety helmets and/or face masks) during meal periods, before
26 the start of a scheduled shift, and after completing a scheduled shift, resulting in DEFENDANTS'
27 failure to pay Aggrieved Employees and Class Members for all work time and the underpayment of
28 minimum wages and overtime wages owed to Aggrieved Employees and Class Members.

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

10 50. Based on information and belief, Aggrieved Employees and Class Members were
11 required to undergo security screenings and/or other mandated screenings before and/or after a
12 scheduled shift and/or before or after clocking in/out for work, resulting in pre-shift and/or post-
13 shift off-the-clock work.

14 51. Based on information and belief, DEFENDANTS required Aggrieved Employees
15 and Class Members to undergo COVID-19 temperature screenings and/or complete questionnaires
16 prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-
17 shift off-the-clock work.

18 52. Based on information and belief, Aggrieved Employees and Class Members were
19 also pressured to complete at least some additional work tasks off-the-clock in order to meet
20 DEFENDANTS' goals and expectations.

21 53. For example, based on information and belief, Aggrieved Employees and Class
22 Members were required to complete off-the-clock work outside of scheduled shifts due to including
23 but not limited to, work-related phone calls and/or messages they received to their phones and/or
24 mobile devices and were required to respond to, including but not limited to, communications from
25 supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages
26 owed to Aggrieved Employees and Class Members.

27 54. Based on information and belief, DEFENDANTS failed to pay Aggrieved
28 Employees and Class Members the applicable minimum wage for the county and/or city within

1 which the Aggrieved Employees and Class Members worked in California.

2 55. For example, based on information and belief, DEFENDANTS failed to pay
3 Aggrieved Employees and Class Members working in DEFENDANTS' facilities located in the city
4 of Los Angeles and/or within an unincorporated area of the county of Los Angeles, at the applicable
5 minimum wage rate(s) in effect for the city and/or county of Los Angeles, and as such failed to pay
6 all owed minimum wages.

7 56. For example, based on information and belief, DEFENDANTS paid Aggrieved
8 Employees and Class Members an hourly rate which was below the minimum wage rate in effect
9 for the city and/or county of Los Angeles. See Section 187.02(d) of the Los Angeles Municipal
10 Code (increasing the minimum wage rate, effective July 1, 2023, by \$.74 for a new minimum wage
11 rate of \$16.78 per hour) and Los Angeles County Minimum Wage Ordinance section 8.100.040
12 (increasing the minimum wage rate for the unincorporated areas of Los Angeles to \$16.90 per hour).

13 57. Based on information and belief, DEFENDANTS failed to pay Aggrieved
14 Employees and Class Members the applicable minimum wage for the county and/or city within
15 which the Aggrieved Employees and Class Members worked in California.

16 58. Moreover, based on information and belief, DEFENDANTS failed to pay
17 PLAINTIFF and/or other Aggrieved Employees and Class Members split shift premium wages
18 when they worked split shifts during the relevant period.

19 59. For example, based on information and belief, at times, DEFENDANTS required
20 PLAINTIFF and/or other Aggrieved Employees and Class Members to work two separate shifts in
21 the same day. Based on information and belief, DEFENDANTS failed to pay PLAINTIFF and/or
22 other Aggrieved Employees and Class Members split shift compensation whenever PLAINTIFF's
23 and/or other Aggrieved Employees' and Class Members' work schedules were interrupted by non-
24 paid non-working periods established by DEFENDANTS, which resulted in a violation of the
25 applicable Wage Order (See section 4 of all applicable Wage orders, "When an employee works a
26 split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage
27 for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split
28 shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for

1 that workday, except when the employee resides at the place of employment). DEFENDANTS also
2 failed to separately itemize these split shift premium wages on PLAINTIFF's and/or other
3 Aggrieved Employees' and Class Members' wage statements, in violation of Labor Code sections
4 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm.
5 (The employer must itemize the premium payment on the pay stub provided to the employee, and it
6 should be shown as a separate category such as "Split Shift Premium" and should not be lumped
7 into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for
8 the split shift premiums earned by PLAINTIFF and/or other Aggrieved Employees and Class
9 Members on their wage statements.

10 60. Moreover, DEFENDANTS wage statements for PLAINTIFF list itemized pay codes
11 for PLAINTIFF, including but not limited to, "Pass" and/or "Tardy." Based on information and
12 belief, DEFENDANTS used these pay codes to deduct time from PLAINTIFF's total hours worked.
13 For example, during pay period beginning 08/07/2023-08/17/2023, DEFENDANTS' itemized wage
14 statement lists multiple pay codes at the bottom of the wage statement. When adding up these pay
15 codes, the total hours worked adds up to 40.5, which includes all listed pay codes, including,
16 "Regular," "Overtime," "Pass" and "Tardy." However, PLAINTIFF was only paid for 39.85 hours,
17 resulting in .65 hours of unpaid time. This unpaid time results in unpaid minimum wages and
18 overtime wages.

19 61. Based on information and belief, DEFENDANTS failed to pay Aggrieved
20 Employees and Class Members for time they were required to spend completing orientation, policy
21 questionnaires, and/or time spent completing the onboarding process including but not limited to
22 reviewing various documents and policies provided by DEFEDANTS. Based on information and
23 belief, this work time was completed off-the-clock and was not compensated.

24 62. Based on information and belief, DEFENDANTS implemented a time-rounding
25 system that as applied systematically deprived PLAINTIFF and other Aggrieved Employees and
26 Class Members of compensable time because the time-rounding system implemented by
27 DEFENDANTS would almost always, if not always, result in understating actual compensable work
28 time.

1 63. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
2 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
3 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
4 minimum wages owed to PLAINTIFF and Aggrieved Employees and Class Members as well as
5 unpaid overtime wages for those Aggrieved Employees and Class Members who worked more than
6 eight (8) hours in a day and/or more than forty (40) hours in a week.

7 64. Based on information and belief, DEFENDANTS had actual and/or constructive
8 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
9 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
10 underpayment of minimum wages and overtime wages owed to Aggrieved Employees and Class
11 Members, in violation of California's minimum and overtime wage laws.

12 65. Based on information and belief, DEFENDANTS failed and continue to fail to pay
13 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
14 in a week.

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

19 67. Based on information and belief, DEFENDANTS calculated the owed overtime
20 rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s)
21 based on the minimum wage established for the cities and/or counties within which Aggrieved
22 Employees and Class Members worked, resulting in the miscalculation and underpayment of
23 overtime wages owed to Aggrieved Employees and Class Members who worked in cities and/or
24 counties in California with minimum wage rates above the California minimum wage rate.

25 68. Based on information and belief, DEFENDANTS failed to incorporate all non-
26 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
27 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
28 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime

1 wages owed to PLAINTIFF and other Aggrieved Employees and Class Members.

2 69. For example, based on information and belief, Aggrieved Employees and Class
3 Members earned shift differential pay, non-discretionary bonuses/incentive pay and/or other non-
4 discretionary compensation during pay periods in which they worked overtime, yet DEFENDANTS
5 failed to incorporate all non-discretionary compensation into the regular rate(s) used to calculate the
6 owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed
7 to Aggrieved Employees.

8 70. Additionally, DEFENDANTS also violated California's overtime laws as to those
9 Aggrieved Employees and Class Members that were subject to an Alternative Workweek Schedule
10 (AWS).

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

17 72. Based on information and belief, DEFENDANTS failed to properly adopt an AWS
18 in accordance with Labor Code section 511 and 1199, and the applicable Wage Order:

19 (C) Election Procedures Election procedures for the adoption and repeal of alternative
20 workweek schedules require the following: (1) Each proposal for an alternative
21 workweek schedule shall be in the form of a written agreement proposed by the
22 employer. The proposed agreement must designate a regularly scheduled alternative
23 workweek in which the specified number of workdays and work hours are regularly
24 recurring. The actual days worked within that alternative workweek schedule need
25 not be specified. The employer may propose a single work schedule that would
26 become the standard schedule for workers in the work unit, or a menu of work
27 schedule options, from which each employee in the unit would be entitled to choose.

28 If the employer proposes a menu of work schedule options, the employee may, with

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

workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance. (6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Office of Policy, Research and Legislation within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer. (7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election. (8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek.

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

74. On information and belief, PLAINTIFF alleges that DEFENDANTS failed to comply with the above procedures, and thus, failed to properly institute an alternative workweek for the purpose of obtaining a lawful exemption from overtime premiums for its mandated alternative workweek schedule. Based on information and belief, DEFENDANTS also failed to report the

1 results to the Office of Policy, Research, and Legislation, or the DLSE, within thirty after the
2 purported election results, and thus, violated Labor Code §§ 511, 1199, and the Applicable Wage
3 Orders. This conduct results in violations of Labor Code §§ 510, 511, and 1198- 1199, and the
4 Applicable Wage Orders. These violations subject employer to civil penalties under Labor Code §§
5 558 and 2699, and All Applicable Wage Orders. Each violation of each Labor Code section and
6 Wage Order provision results in a separate civil penalty, for each Aggrieved Employee, for each
7 pay period during which the referenced statutes and Wage Order provisions were violated.

8 75. Moreover, to the extent there was an AWS that was properly adopted,
9 DEFENDANTS violated California’s overtime laws as to Aggrieved Employees and Class
10 Members that were subject to an Alternative Workweek Schedule (AWS) but were required to work
11 shifts shorter than the agreed upon AWS. Under the relevant Wage Order, “If an employer...
12 requires an [AWS] employee to work fewer hours than those that are regularly scheduled by the
13 agreement, the employer shall pay the employee overtime compensation at a rate of one and one-
14 half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8)
15 hours... for the day the employee is required to work the reduced hours.” See Section 3 of all
16 applicable Wage Orders. Based on information and belief, at times during Aggrieved Employees’
17 respective employments by DEFENDANTS, Aggrieved Employees and Class Members worked
18 subject to an alternative work week schedule. Based on information and belief, at times, Aggrieved
19 Employees that were subject to an AWS, were sent home early and/or worked less hours than those
20 that were scheduled under the AWS. On such shortened shifts, Aggrieved Employees and Class
21 Members were entitled to overtime pay at 1.5 times the regular rate of pay after the first eight hours
22 of work. Instead, DEFENDANTS paid Aggrieved Employees and Class Members their base rate
23 for all hours worked on the shortened shift(s) in violation of the alternative workweek schedule, and
24 in violation of California Labor Code section 510, the applicable Wage Order, and Labor Code
25 section 1198. As such, Aggrieved Employees and Class Members that were subject to an AWS were
26 also deprived of all owed overtime wages when required to work shortened shifts.

27 76. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees and Class
28 Members consistently worked shifts of at least five and one-half hours or more, entitling them to at

1 least one meal period. However, PLAINTIFF and other Aggrieved Employees and Class Members
2 would not receive legally compliant thirty (30) minute first and second meal periods. Based on
3 information and belief, Aggrieved Employees and Class Members were consistently unable to take
4 timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal
5 periods, interrupted meal periods, and/or work through part or all their meal periods due to
6 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
7 pressuring them to take non-compliant meal periods or skip meal periods completely.

8 77. For example, based on information and belief, Aggrieved Employees and Class
9 Members were forced to take late meal periods in order to complete assigned job duties. Based on
10 information and belief, Aggrieved Employees and Class Members were at times interrupted during
11 purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS'
12 premises due to the need to continue assigned job duties.

13 78. For example, PLAINTIFF was typically required to clock out but to continue
14 working during unpaid meal periods due to the need to complete assigned job duties. Also,
15 PLAINTIFF was frequently interrupted during unpaid meal periods due to the need to complete
16 assigned job duties.

17 79. For example, PLAINTIFF was frequently required to respond to work-related
18 communications from his supervisors during purportedly off-duty meal periods, resulting in meal
19 period law violations as well as DEFENDANTS' failure to compensate PLAINTIFF for all hours
20 worked and the underpayment of minimum wages and overtime wages owed to PLAINTIFF.

21 80. Based on information and belief, other Aggrieved Employees and Class Members
22 were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had
23 their meal periods interrupted, cut short, and/or otherwise on duty due to commentary from
24 supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet
25 DEFENDANTS' goals and expectations.

26 81. Based on information and belief, DEFENDANTS implemented policies and/or
27 practices that failed to relieve Aggrieved Employees and Class Members of all duties and
28 DEFENDANTS' control during unpaid meal periods.

1 82. Based on information and belief, DEFENDANTS required Aggrieved Employees
2 and Class Members to complete off-the-clock work prior to their scheduled shift time which
3 DEFENDANTS failed to take into account when scheduling meal periods for Aggrieved Employees
4 and Class Members. Based on information and belief, meal periods were late, in part due to
5 unaccounted pre-shift off-the-clock work.

6 83. Based on information and belief, despite DEFENDANTS' failure to provide lawful
7 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
8 times of PLAINTIFF's and other Aggrieved Employees' and Class Members' meal periods and/or
9 automatically deducting at least thirty minutes per shift for missed, on-duty, and/or otherwise
10 unlawful meal periods despite having actual and/or constructive knowledge that PLAINTIFF and
11 other Aggrieved Employees and Class Members did not receive lawful meal periods.

12 84. Moreover, based on information and belief, Aggrieved Employees and Class
13 Members who worked shifts of more than ten hours did not receive a second legally compliant thirty
14 (30) minute meal period.

15 85. For example, when PLAINTIFF worked more than ten (10) and/or twelve (12) hours
16 in a shift, PLAINTIFF was not provided with a timely, off-duty, thirty-minute uninterrupted, second
17 meal period.

18 86. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
19 other Aggrieved Employees and Class Members as to the timing and duty-free nature of meal
20 periods. Based on further information and belief, DEFENDANTS did not have a compliant written
21 meal period policy, nor did DEFENDANTS have any sort of compliant policy in practice.

22 87. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
23 records of the true start and end times of PLAINTIFF's and Aggrieved Employees' and Class
24 Members' meal periods. Based on information and belief, to the extent meal periods were recorded,
25 DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in
26 PLAINTIFF and other Aggrieved Employees and Class Members not being paid for all time worked
27 as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th
28 58.

1 88. Based on information and belief, DEFENDANTS had actual and/or constructive
2 knowledge that its policies and practices resulted in the denial of timely uninterrupted meal periods
3 that were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees
4 and Class Members, in violation of California's meal period laws.

5 89. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees and
6 Class Members, an additional hour of wages at their respective regular rates of compensation for
7 each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal
8 period premium at all for each workday a lawful meal period was not provided and/or failed to pay
9 the proper meal period premium for failure to incorporate all non-discretionary remuneration,
10 including but not limited to, bonuses, shift differential pay and/or other non-discretionary
11 compensation into the regular rate or compensation for purposes of calculating the owed meal period
12 premium.

13 90. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
14 PLAINTIFF and other Aggrieved Employees and Class Members with legally compliant rest
15 periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable,
16 are provided in the middle of the work period, as required by law.

17 91. PLAINTIFF and other Aggrieved Employees and Class Members were not
18 adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest
19 periods per California law. Based on information and belief, DEFENDANTS had no policy in place
20 nor instruction as to the taking or timing of duty-free rest periods.

21 92. Based on information and belief, DEFENDANTS did not have a have a compliant
22 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
23 practice.

24 93. For example, based on information and belief, Aggrieved Employees and Class
25 Members were at times unable to take compliant rest periods due to their need to complete assigned
26 job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had
27 purported rest periods restricted to DEFENDANTS' premises.

28 94. For example, per DEFENDANTS' unlawful policies and practices, DEFENDANTS

1 only allowed a maximum of two rest periods per shift even on shifts lasting longer than ten (10)
2 and/or twelve (12) hours and any rest periods were noncompliant with California law.

3 95. For example, DEFENDANTS required PLAINTIFF and other Aggrieved Employees
4 and Class Members to monitor work communication devices and/or remain on the worksite premises
5 during purportedly off-duty rest periods. As such, PLAINTIFF and other Aggrieved Employees
6 and Class Members were not relieved of all duties and DEFENDANTS' control during any rest
7 periods, in violation of California rest period law.

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

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

14 98. Based on information and belief, DEFENDANTS implemented policies and/or
15 practices that failed to relieve PLAINTIFF and other Aggrieved Employees and Class Members of
16 all duties and DEFENDANTS' control during rest periods.

17 99. Based on information and belief, Aggrieved Employees and Class Members were
18 pressured to complete their work duties according to a designated schedule such that rest periods
19 were only taken once tasks were completed, and/or as time permitted.

20 100. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
21 which PLAINTIFF and other Aggrieved Employees and Class Members experienced a
22 missed/unlawful rest period in violation of California law. DEFENDANTS either failed to pay a
23 rest period premium at all for each workday a proper rest period was not provided and/or failed to
24 pay the proper rest period premium for failure to incorporate all non-discretionary remuneration,
25 including but not limited to, bonuses, shift differential pay, and/or other non-discretionary
26 compensation into the regular rate of compensation for purposes of calculating the owed rest period
27 premium.

28 101. **Failure to Provide Suitable Resting Facilities.** Per section 13 of all applicable IWC

1 Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the
2 Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the
3 toilet rooms and shall be available to employees during work hours.”

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

13 103. DEFENDANTS did not provide Aggrieved Employees and Class Members with
14 suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

15 104. DEFENDANTS’ failure to provide suitable resting facilities to Aggrieved
16 Employees and Class Members violated and continue to violate the applicable Wage Order, section
17 13(B) and the California Labor Code, including but not limited to section 1198.

18 105. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
19 provide PLAINTIFF and other Aggrieved Employees and Class Members with accurate wage
20 statements that complied with Labor Code section 226. As DEFENDANTS failed to provide
21 PLAINTIFF and Aggrieved Employees and Class Members with meal and rest periods that
22 complied with Labor section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and
23 Aggrieved Employees and Class Members failed and continue to fail to correctly set forth the gross
24 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect
25 during the pay period and the corresponding number of hours worked at each hourly rate by the
26 employee.

27 106. DEFENDANTS issued wage statements to PLAINTIFF and other Aggrieved
28 Employees and Class Members that also failed to indicate the earned gross and net wages earned

1 during the pay period, the correct applicable rates of pay for all hours worked, and the total hours
2 worked by PLAINTIFF and Aggrieved Employees and Class Members (by virtue of rounded time
3 entries, automatic deduction for meal periods/failure to relieve Aggrieved Employees and Class
4 Members of all duties and employer control during unpaid meal periods, payment according to
5 scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies
6 and practices described above) which results in a violation of Labor Code section 226(a).

7 107. Separately, and independent of the above allegations, based on information and
8 belief, DEFENDANTS issued wage statements to Aggrieved Employees and Class Members that
9 failed to list the total hours worked, in violation of including but not limited to, Labor Code section
10 226(a)(2).

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

15 109. For example, based on information and belief, wage statements issued by
16 DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the
17 corresponding number of hours worked at each hourly rate by the employee, in violation of Labor
18 Code section 226(a)(9) due to DEFENDANTS' failure to list an overtime rate category at all and/or
19 failure to list a category containing the proper overtime rate.

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

24 111. Based on information and belief, wage statements issued by DEFENDANTS failed
25 to list the inclusive dates of the pay period for which the Aggrieved Employee and/or Class Members
26 is being paid.

27 112. For example, based on information and belief, wage statements issued by
28 DEFENDANTS failed to list the inclusive dates of the pay period for which the Aggrieved

1 Employee and Class Member is being paid. For example, based on information and belief, at times,
2 DEFENDANTS issued wage statements to Aggrieved Employees and Class Members containing
3 payment for hours worked during previous pay periods, yet DEFENDANTS' wage statements do
4 not include the inclusive dates of the accurate pay period for that retroactive pay, further failing to
5 list the total hours worked for the pay period, including but not limited to, the total hours worked
6 for the pay period the retroactive pay corresponds with.

7 113. For example, based on information and belief, at times, DEFENDANTS issued wage
8 statement(s) to Aggrieved Employees and Class Members that list a category for "Retro" pay
9 without including the inclusive dates of the accurate pay period for that "Retro" pay, further failing
10 to list the total hours worked for the pay period, including but not limited to, the total hours worked
11 for the pay period the retroactive pay corresponds with, in violation of including but not limited to,
12 Labor Code section 226(a)(2) and/or Labor Code section 226(a)(6).

13 114. As such, DEFENDANTS' issued wage statements to Aggrieved Employees and
14 Class Members that did not include all of the statutorily required information, including but not
15 limited to, the correct name and/or address of the legal entity that is the employer.

16 115. Based on further information and belief, DEFENDANTS issued wage statements to
17 Aggrieved Employees and Class Members that failed to list the accurate total hours worked
18 whenever shift differential wages were paid in violation of Labor Code section 226.

19 116. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
20 Employees and Class Members that were not accurate and did not include all of the statutorily
21 required information. As such, DEFENDANTS violated Labor Code section 226.

22 117. **Unlawful Deductions.** Labor Code section 221 prohibits an employer from
23 "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer
24 to said employee." Based on information and belief DEFENDANTS made unlawful deductions
25 from Aggrieved Employees and Class Members paychecks during the relevant period including but
26 not limited to, deducting costs of uniforms and/or other business costs and/or deducting wages for
27 purported overpayments from previous pay periods and/or unlawfully deducting wages for
28 negligently damaged property and/or other unlawful deductions from Aggrieved Employees' and

1 Class Members' earned wages.

2 118. For example, DEFENDANTS wage statements for PLAINTIFF list itemized pay
3 codes for PLAINTIFF, including but not limited to, "Pass" and/or "Tardy." Based on information
4 and belief, DEFENDANTS used these pay codes to deduct time from PLAINTIFF's total hours
5 worked. For example, during pay period beginning 08/07/2023-08/17/2023, DEFENDANTS'
6 itemized wage statement lists multiple pay codes at the bottom of the wage statement. When adding
7 up these pay codes, the total hours worked adds up to 40.5, which includes all listed pay codes,
8 including, "Regular," "Overtime," "Pass" and "Tardy." However, PLAINTIFF was only paid for
9 39.85 hours, resulting in .65 hours of unpaid time. Based on information and belief DEFENDANTS
10 use the "tardy" and "pass" pay codes and/or other pay codes to make unlawful deductions from the
11 total wages actually earned by Aggrieved Employees and Class Members.

12 119. Such a practice is in violation of including but not limited to, Labor Code Sections
13 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

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

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

28 122. **Violation of Labor Code Sections 2100-2112.** Based on information and belief,

1 DEFENDANTS had/have a policy and practice of failing to provide Aggrieved Employees and
2 Class Members, upon hire, with a written description of each quota they are subject to (e.g.,
3 quantified number of tasks to be performed or materials to be handled) within a defined period of
4 time and any potential adverse employment action that may result from failure to meet the quota.
5 Based on further information and belief, DEFENDANTS had/have a policy and practice of
6 subjecting Aggrieved Employees and Class Members to quotas that prevented those Aggrieved
7 Employees and Class Members from taking their meal and rest periods and/or using bathroom
8 facilities and/or interfered with compliance of California's occupational health and safety laws.

9 **123. Unreimbursed Business Expenses.** Based on information and belief,
10 DEFENDANTS required PLAINTIFF and other Aggrieved Employees and Class Members to incur
11 business expenses as a direct consequence of the performance of their job duties without providing
12 reimbursement, in violation of Labor Code section 2802. Based on information and belief,
13 PLAINTIFF and other Aggrieved Employees and Class Members were improperly required to
14 provide and maintain work tools that are supposed to be the responsibility of the employer.

15 **124.** Based on information and belief, DEFENDANTS shifted the costs of doing business
16 onto Aggrieved Employees and Class Members by requiring them to pay for business expenses,
17 including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and
18 the use of Aggrieved Employees' and Class Members' personal cell phones/mobile devices, internet
19 and/or data usage for work-related purposes, including but not limited to, to receive and respond to
20 work-related messages and/or phone calls. For example, based on information and belief,
21 Aggrieved Employees and Class Members were required to receive and respond to work-related
22 calls and/or messages from supervisors and/or other Aggrieved Employees and Class Members
23 regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all
24 and/or in full for these business expenses.

25 **125.** For example, PLAINTIFF was frequently required to make and/or respond to calls
26 and/or messages on his personal phone, however, DEFENDANTS did not provide PLAINTIFF with
27 any and/or full reimbursement for these business expenses, including without limitation, increased
28 data plan charges and/or other business expenses incurred in connection with being required to use

1 his personal cell phone/mobile device to carry out his assigned job duties.

2 126. Based on information and belief, Aggrieved Employees and Class Members were
3 not reimbursed for the cost of purchasing and/or maintaining their own hand tools and/or equipment
4 required to perform their assigned job duties and/or for the costs of purchasing and/or maintaining
5 work uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

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

13 128. As explained above, based on information and belief, Aggrieved Employees and
14 Class Members were not reimbursed for the cost of using their personal phone for work-related
15 purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work
16 shoes, personal protective/safety gear.

17 129. Based on information and belief, DEFENDANTS regularly failed to reimburse and
18 indemnify Aggrieved Employees for business expenses. Pursuant to California Labor Code section
19 2802, PLAINTIFF and Aggrieved Employees and Class Members were entitled to be reimbursed
20 for all reasonable expenses associated with carrying out DEFENDANTS' orders and/or carrying out
21 the duties assigned by DEFENDANTS.

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

26 131. **Reporting Time Pay Violations.** Section 5 of all applicable IWC Wage Orders,
27 provides as follows:

28 132. (A) Each workday an employee is required to report for work and does report, but is

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

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

13 134. Based on information and belief, DEFENDANTS have a policy and practice of
14 failing to pay all reporting time wages to Aggrieved Employees and Class Members, in violation of
15 California law, including but not limited to, the applicable IWC Wage Order, Section
16 5. DEFENDANTS' failure to pay all reporting time wages to Aggrieved Employees and Class
17 Members violated and continues to violate the applicable Wage Order, and the California Labor
18 Code, including but not limited to section 1198.

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

23 136. Based on information and belief, DEFENDANTS have and continue to have a
24 uniform policy and practice of requiring Aggrieved Employees and Class Members to work at least
25 seven days consecutively in a workweek, in violation of including but not limited to, Labor Code
26 Section 551. Based on information and belief, PLAINTIFF and/or other Aggrieved Employees and
27 Class Members were suffered, permitted, or required to work at least seven (7) days consecutively
28 in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

1 **137. Sick Leave Violations.** Throughout the relevant time period, DEFENDANTS failed
2 to provide proper paid sick leave to PLAINTIFF and other Aggrieved Employees and Class
3 Members. DEFENDANTS either failed to provide paid sick leave at all or improperly calculated
4 the sick leave accrual and the sick leave rate of pay owed to PLAINTIFF and other Aggrieved
5 Employees and Class Members by failing to base the accrued sick leave hours on the correct number
6 of hours worked (as a result of the rounding/automatic deduction policies and practices for meal
7 periods and/or shift start and end times/other required off-the-clock work including but not limited
8 to unpaid meal periods) and by failing to incorporate multiple rates of pay and/or all non-
9 discretionary remuneration, including but not limited to, non-discretionary bonuses, shift
10 differential pay, and/or other non-discretionary compensation into the sick leave pay rate
11 calculation.

12 **138.** Upon information and belief, DEFENDANTS further failed to place PLAINTIFF
13 and Aggrieved Employees and Class Members on notice of their paid sick leave rights – or thereby
14 putting their entitlement to sick leave in a Labor Code section 2810.5 notice. Based on information
15 and belief, DEFENDANTS failed to provide notice of the correct sick leave amount balance
16 available to PLAINTIFF and other Aggrieved Employees and Class Members on their wage
17 statements or other written statement. Moreover, based on information and belief, DEFENDANTS
18 failed to maintain accurate records of used sick leave and the balance of paid sick leave.

19 **139.** Based on information and belief, throughout the relevant time period,
20 DEFENDANTS failed to provide notice of the balance of sick leave pay left for PLAINTIFF and
21 all Aggrieved Employees and Class Members, thus affecting their intelligent exercise of their paid
22 sick leave. But for this failure, PLAINTIFF and all Aggrieved Employees and Class Members would
23 have used their paid sick leave at least prior to their respective separations, for as on several
24 occasions thereafter, he or she would have been entitled to use the banked sick leave and earn
25 appropriate compensation.

26 **140.** Upon information and belief, DEFENDANTS failed and continue to fail to comply
27 with Labor Code section 246, by failing to provide PLAINTIFF and all Aggrieved Employees and
28 Class Members with a Labor Code section 226 wage statement, or separate writing containing the

1 amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave,
2 at the time it pays wages.

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

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

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

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

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

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

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

25 146. Moreover, based on information and belief, the nature of the work reasonably
26 permitted the use of seats for at least part of the time that Aggrieved Employees and Class Members
27 were working. Lastly, there were periods of time when Aggrieved Employees and Class Members
28 were not engaged in active duties of their employment, yet there were no suitable seats in reasonable

1 proximity to the work area and use of seats would not interfere with the performance of their duties.

2 **147. Failure to Pay Vested Vacation/Paid Time Off.** Based on information and belief,
3 DEFENDANTS have and continue to have a uniform policy and practice of failing to allow
4 Aggrieved Employees and Class Members to use their earned vacation/paid time off during their
5 employment and/or failing to pay all vested, accrued paid time off (including but not limited to, all
6 owed vacation pay/paid time off paid at the final rate including non-discretionary compensation,
7 including but not limited to, shift differentials) to Aggrieved Employees and Class Members upon
8 separation of employment, in violation of California law, including but not limited to, Labor Code
9 section 227.3.

10 **148. Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
11 information and belief, DEFENDANTS failed to timely pay Aggrieved Employees and Class
12 Members all wages that were due and owing upon termination or resignation. Based on information
13 and belief, DEFENDANTS untimely provide final wages to Aggrieved Employees and Class
14 Members without regard to the timing requirements of Labor Code sections 201-202.

15 **149.** Upon separation of employment, Aggrieved Employees' and Class Members' final
16 paychecks were not timely provided and/or were not timely provided with all owed vacation pay
17 and/or paid time off. Moreover, Aggrieved Employees' and Class Members final paychecks, once
18 provided, did not include all wages owed as they were devoid of, including but not limited to, all
19 owed minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave
20 and/or paid time off wages at the properly accrued rates (including but not limited to, all owed
21 vacation pay/paid time off paid at the final rate including non-discretionary compensation, including
22 but not limited to, shift differentials).

23 **150.** Based on further information and belief, DEFENDANTS failed to timely provide all
24 owed wages immediately upon discharge of employment. Based on information and belief, at times,
25 Aggrieved Employees and Class Members experienced breaks in employment caused by
26 DEFENDANTS whereby Aggrieved Employees and Class Members would not be called in for work
27 for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work
28 or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS

1 failed to timely pay all owed wages at the end of such periods of employment, in violation of
2 including but not limited to Labor Code section 201-202.

3 **151. Violation of Labor Code Section 208.** Labor Code Section 208 provides: Every
4 employee who is discharged shall be paid at the place of discharge, and every employee who quits
5 shall be paid at the office or agency of the employer in the county where the employee has been
6 performing labor. All payments shall be made in the manner provided by law. Based on information
7 and belief, DEFENDANTS have a policy and practice of failing to provide Aggrieved Employees
8 and Class Members who are terminated with their final paychecks at the place of discharge and/or
9 of failing to provide Aggrieved Employees and Class Members with their final paychecks at the
10 office or agency of DEFENDANTS in the county where the work was performed, in violation of
11 Labor Code Section 208.

12 **152. Unlawful Agreements-Unlawful Criminal History Inquiries.**

13 Unlawful Agreements/ Unlawful Financial and Criminal Background Checks.

14 **153.** Based on information and belief, DEFENDANTS required Aggrieved Employees
15 and Class Members to agree in writing to unlawful conditions of employment, including but not
16 limited to, unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or
17 nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful
18 meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements
19 and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing
20 employment in violation of Labor Code section 432.5.

21 **154.** Labor Code section 432.6(a), provides that “a person shall not, as a condition of
22 employment, continued employment, or the receipt of any employment-related benefit, require any
23 applicant for employment or any employee to waive any right...”Based on information and belief,
24 DEFENDANTS required Aggrieved Employees and Class Members to sign meal period waivers
25 that were universally signed as a condition of employment, including but not limited to, during the
26 onboarding process. By requiring Aggrieved Employees and Class Members to sign unlawful meal
27 period waivers as a condition of obtaining and/or maintaining employment, DEFENDANTS
28 violated Labor Code section 432.5. Further, these invalid waivers are otherwise unlawful under

1 Labor Code section 432.6. unlawful criminal and/or financial checks as a condition of obtaining
2 and/or continuing employment in violation of Labor Code section 432.5.

3 155. Moreover, based on information and belief, DEFENDANTS ordered unlawful
4 financial credit checks on Aggrieved Employees and Class Members, in violation of Labor Code
5 section 1024.5, and required Aggrieved Employees and Class Members to provide ongoing written
6 consent to the unlawful credit checks as a condition of employment, in violation of California and
7 Federal law, which results in a further violation of Labor Code section 432.5.

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

17 157. Based on information and belief, DEFENDANTS required Aggrieved Employees
18 and Class Members to agree in writing to a background check which failed to abide by the
19 requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*,
20 including but not limited to by failing to provide a clear and conspicuous disclosure and/or failing
21 to provide any disclosure at all, failing to provide disclosures free of extraneous information, failing
22 to provide a lawful purpose for the background check, failing to provide a summary of rights under
23 the ICRAA and/or the FRCA, failing to provide a way by which the individual could request a copy
24 of the report, failing to disclose the name, address, and telephone number of the third party preparing
25 the report, and failing to properly obtain authorization or consent to such a background check, and
26 thus was an unlawful background check.

27 158. By requiring Aggrieved Employees and Class Members to agree in writing to
28 unlawful criminal and/or financial checks not in conformance with the applicable laws,

1 DEFENDANTS violated Labor Code section 432.5.

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

8 160. Based on further information and belief, DEFENDANTS knew that requiring
9 Aggrieved Employees and Class Members to agree to unlawful criminal and/or financial
10 background checks as a condition of obtaining and/or holding employment was unlawful.

11 161. By requiring Aggrieved Employees and Class Members to agree in writing to
12 unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section
13 432.5.

14 Unlawful Inquires into Criminal History

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

19 163. Upon information and belief, DEFENDANTS, in violation of California law,
20 including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act
21 (“FEHA”), asked Aggrieved Employees and Class Members about convictions prior to extending
22 an offer of employment and/or otherwise impermissibly inquired into criminal history on its
23 employment application in violation of California law, and in violation of Labor code section 432.5.

24 Unlawful PAGA Waiver

25 164. Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring
26 Aggrieved Employees and Class Members to agree in writing to other unlawful agreements,
27 including but not limited to, an unlawful waiver of PAGA and or representative actions as a
28 condition of employment.

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

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

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

17 168. **Violation of Labor Code Section 432.6.** Based on information and belief,
18 DEFENDANTS require/required Aggrieved Employees and Class Members to waive their right to
19 first and/or second meal periods as a condition of working for DEFENDANTS in violation of
20 California law. As such, DEFENDANTS violated including but not limited to, Labor Code section
21 432.6 by virtue of including but not limited to, requiring Aggrieved Employees and Class Members
22 to sign invalid meal period waivers as a condition of employment and/or for threatening, retaliating
23 and/or discriminating against and/or terminating Aggrieved Employees and Class Members because
24 of their refusal to waive their meal period rights.

25 169. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
26 engaged in these same herein described unlawful practices, which led to violations of the California
27 Labor Code as further alleged below, and that DEFENDANTS applied these same herein described
28 unlawful practices to all of its employees that it applied to PLAINTIFF.

1 **FIRST CAUSE OF ACTION**

2 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
3 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

4 170. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

5 171. It is fundamental that an employer must pay its employees for all time worked.
6 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
7 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
8 permits deductions from wages when the employer is required or empowered to do so by state or
9 federal law or when the deduction is expressly authorized in writing by the employee for specified
10 purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223
11 prohibits the pay of less than a statutory or contractual wage scale.

12 172. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
13 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
14 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
15 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
16 period is unlawful.

17 173. DEFENDANTS violated California’s minimum wage laws by failing to compensate
18 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
19 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
20 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
21 and/or payment according to scheduled hours worked rather than actual hours worked (described
22 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
23 wages.

24 174. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
25 Class Members for all hours worked.

26 175. Based on information and belief, DEFENDANTS had actual or constructive
27 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
28 meal periods, failure to relieve employees of all duties and employer control during unpaid meal

1 periods, policy and practice of payment according to scheduled work time rather than actual work
2 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
3 owed to PLAINTIFF and other Class Members.

4 176. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
5 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
6 attorney's fees and costs, in an amount to be proved at trial.

7
8 **SECOND CAUSE OF ACTION**
9 **Recovery of Unpaid Overtime Wages**
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

10 177. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

11 178. Employees in California must be paid overtime, equal to one and one-half times the
12 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
13 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
14 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
15 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
16 consecutive day of work in a workweek, unless they are exempt.

17 179. PLAINTIFF and the Class Members worked overtime hours for which they were not
18 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
19 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
20 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
21 scheduled hours worked rather than actual hours worked (described above), which resulted in the
22 failure to account for all hours worked and thus the denial of all owed overtime wages.

23 180. Based on information and belief, DEFENDANTS failed to pay twice Class
24 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
25 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
26 violation of California's overtime laws.

27 181. Based on information and belief, DEFENDANTS further violated California's
28

1 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
2 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
3 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
4 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
5 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
6 other Class Members.

7 182. DEFENDANTS' conduct described above is in violation of California Labor Code
8 sections 510 and 1194 and all applicable Wage Orders.

9 183. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
10 wages, plus attorney's fees and costs, in an amount to be proved.

11 **THIRD CAUSE OF ACTION**

12 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
13 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

14 184. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

15 185. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
16 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-
17 minute meal break free from all duties and employer control for all shifts longer than 5 hours, and
18 a second 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal
19 periods can be waived, but only under the following circumstances: (1) if an employee's total
20 work period in a day is over five (5) hours but no more than six (6) hours, the required meal period
21 may be waived by mutual consent of the employer and employee, and (2) if an employee's total
22 work period in a day is over ten (10) hours but no more than twelve (12) hours, the required
23 second meal period may be waived by mutual consent of the employer and employee, but only if
24 the first meal period was not waived. Employers covered by the Wage Orders have an obligation
25 to both (1) relieve their employees for at least one meal period for shifts over five hours (see
26 above), and (2) to record having done so.

27 186. Employers must pay employees an additional hour of wages at the employees'
28 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted

1 meal period, first meal period provided after five (5) hours, second meal period provided after 10
2 hours). Lab. Code § 226.7.

3 187. As explained above, PLAINTIFF and other Class Members were consistently
4 unable to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often
5 being forced to take late meal periods, interrupted meal periods, and/or work through part or all of
6 their meal periods due to understaffing, the nature and constraints of their job duties, and/or
7 commentary from supervisors pressuring them to take non-compliant meal periods or skip meal
8 periods completely.

9 188. Based on information and belief, DEFENDANTS had and continue to have a
10 policy of rounding the start and end times of employees' meal periods and/or automatically
11 deducting thirty minutes per shift despite having actual and/or constructive knowledge that
12 PLAINTIFF and Class Members did not receive compliant meal periods.

13 189. Moreover, based on information and belief, Class Members did not receive a
14 timely, uninterrupted second meal period when working shifts over ten (10) hours in a workday.

15 190. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
16 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
17 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
18 violation of California's meal period laws.

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

24 192. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
25 are entitled to one additional hour's pay at the employee's regular rate of compensation for each
26 day a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and
27 costs, all in an amount to be proved at trial.

28 **FOURTH CAUSE OF ACTION**

Failure to Provide Rest Periods or Compensation in Lieu Thereof

(By PLAINTIFF and the Class Members Against all DEFENDANTS)

193. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

194. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period “insofar as practicable.” In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

195. If the employer fails to provide any required rest period, the employer must pay the employee one hour of pay at the employee’s regular rate of compensation for each workday the employer did not provide at least one legally required rest period, pursuant to Labor Code section 226.7.

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

197. Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer control during rest periods. Based on further information and belief, Class Members were pressured to complete their work duties according to a designated schedule such that rest periods were only taken once tasks were completed, and/or as time permitted.

198. As a result, PLAINTIFF and Class Members did not receive legally compliant first, second, or third rest periods as required by California law.

199. Moreover, based on information and belief, DEFENDANTS failed to pay a rest period premium to PLAINTIFF and other Class Members for each workday in which there was a missed or otherwise unlawful rest period. Based on further information and belief, when a rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of determining the owed rest period premium.

200. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one hour of additional pay at the regular rate of compensation for each workday that a required rest period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at trial.

FIFTH CAUSE OF ACTION
Failure to Furnish Accurate Itemized Wage Statements
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

201. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

202. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in

1 effect during the pay period and the corresponding number of hours
2 worked at each hourly rate by the employee.

3 203. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
4 meal and rest periods that complied with Labor Code section 226.7, any wage statements
5 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
6 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
7 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
8 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
9 effect during the pay period and the corresponding number of hours worked at each hourly rate by
10 the employee, in violation of Labor Code section 226(a)(9).

11 204. Moreover, due to violations detailed above, including but not limited to,
12 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to
13 provide meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
14 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
15 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the
16 gross and net wages earned and the correct applicable rates of pay for all hours worked. Based on
17 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
18 compensation earned during the pay period into the regular rate of pay for purposes of calculating
19 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
20 overtime worked by PLAINTIFF and other Class Members.

21 205. As explained above, any wage statements issued by DEFENDANTS failed to list
22 the "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries,
23 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
24 control during unpaid meal periods, payment according to scheduled hours worked rather than
25 actual hours worked, and/or other off-the-clock work policies and practices all described in greater
26 detail *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours
27 worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226
28 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

1 206. Based on information and belief, any wage statements issued by DEFENDANTS
2 failed to list all applicable hourly rates in effect during the pay period and the corresponding
3 number of hours worked at each hourly rate by the employee, in violation of Labor Code section
4 226(a)(9).

5 207. Separately, and independent from the above allegations, DEFENDANTS issued
6 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by
7 failing to list the correct name and/or address of the legal entity that is the employer.

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

10 209. DEFENDANTS' failure to accurately list all hours worked on all wage statements
11 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
12 Members over whether they received all wages owed to them.

13 210. As a result, PLAINTIFF and other Class Members have suffered injury as they
14 could not easily determine whether they received all wages owed to them and whether they were
15 paid for all hours worked.

16 211. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
17 address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered
18 injury as they could not contact their employer regarding any question(s) they had about wages
19 paid.

20 212. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
21 Class Members with accurate, itemized wage statements.

22 213. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
23 have suffered injury. The absence of accurate information on their wage statements has prevented
24 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
25 mathematical computations to determine the amount of wages owed, and will cause difficulty and
26 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
27 submission of inaccurate information about wages and amounts deducted from wages to state and
28 federal government agencies. As a result, PLAINTIFF and Class Members are required to

1 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
2 and pay records than if DEFENDANT had complied with its legal obligations.

3 214. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
4 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
5 violation occurred and one hundred dollars per employee per violation for each subsequent pay
6 period, not to exceed an aggregate penalty of four thousand dollars per employee.

7 215. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
8 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
9 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue
10 to provide currently employed Class Members with inaccurate wage statements and/or with no
11 wage statements at all in violation of California Labor Code § 226, including but not limited to
12 §226(a). Currently employed Class Members have no adequate legal remedy for the continuing
13 injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful conduct. Injunctive
14 relief is the only remedy available for ensuring DEFENDANTS' compliance with California
15 Labor Code § 226(a).

16 216. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
17 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
18 attorneys' fees, and costs of suit.

19 **SIXTH CAUSE OF ACTION**

20 **Failure to Timely Pay All Wages Due Upon Separation of Employment** 21 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

22 217. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

23 218. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
24 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
25 payable immediately."

26 219. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
27 employee not having a written contract for a definite period quits his or her employment, his or her
28 wages shall become due and payable not later than 72 hours thereafter, unless the employee has

1 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
2 to his or her wages at the time of quitting.”

3 220. Based in information and belief, DEFENDANTS failed and continue to fail to timely
4 pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of
5 Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class
6 Members do not include all wages owed as they are devoid of, including but not limited to, all owed
7 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
8 paid time off wages at the properly accrued rates.

9 221. Under Labor Code section 203, PLAINTIFF and the Class Members who are no
10 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days’
11 pay, plus attorney’s fees and costs, in an amount to be proved at trial.

12 222. Further, Labor Code Section 208 provides that every employee who is discharged
13 shall be paid at the place of discharge, and every employee who quits shall be paid at the office or
14 agency of the employer in the county where the employee has been performing labor.

15 223. Based on information and belief, DEFENDANTS failed to provide PLAINTIFF and
16 the Class Members who were terminated with their final paychecks at the place of discharge and/or
17 of failing to provide Aggrieved Employees and Class Members with their final paychecks at the
18 office or agency of DEFENDANTS in the county where the work was performed, in violation of
19 Labor Code Section 208 such that they are entitled to penalties and attorneys’ fees.

20 **SEVENTH CAUSE OF ACTION**
21 **Failure to Reimburse Business Expenses**
22 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

23 224. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

24 225. California law requires employers to indemnify their employees for all necessary
25 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
26 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
27 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
28 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees

1 incurred by the employee enforcing the rights granted by this section.”

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

10 227. As described above, PLAINTIFF and the Class Members were improperly required
11 to pay for business expenses that are legally the responsibility of the employer.

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

16 229. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class
17 Members have suffered injury in that they were not completely reimbursed as mandated by
18 California law.

19 230. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
20 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
21 attorneys’ fees, and costs of suit.

22
23 **EIGHTH CAUSE OF ACTION**
24 **Failure to Maintain Accurate Employment Records**
25 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

26 231. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

27 232. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall
28 keep 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 wages paid to employees

1 employed at the respective plants or establishments. These records must be kept in accordance with
2 rules established for this purpose by the commission, but in any case shall be kept on file for not
3 less than two years.

4 233. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure
5 to maintain accurate and complete records.

6 234. DEFENDANTS have intentionally and willfully failed to keep accurate and
7 complete records showing the hours worked daily and wages paid to Plaintiff and the other Class
8 Members. Thus, Plaintiff and the other Class Members have been denied their legal right and
9 protected interest in having available at a central location at the plant or establishment where they
10 are employed, accurate and complete payroll records showing the hours worked daily by, and the
11 wages paid to, employees at those respective locations pursuant to Labor Code 1174.

12
13 **NINTH CAUSE OF ACTION**

14 **Failure to Comply With the One Day's Rest In Seven Act
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

15 235. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

16 236. PLAINTIFF is informed and believes and thereon alleges, that DEFENDANTS
17 willfully and intentionally scheduled PLAINTIFF and the Class Members to work seven (7)
18 consecutive days without providing them with one (1) day's rest, and did not qualify for any
19 exemption to Labor Code sections 551 and 552.

20 237. As a result, DEFENDANTS are liable for all applicable penalties, including but not
21 limited to for violation of California Labor Code section 558.

22 **TENTH CAUSE OF ACTION**

23 **Failure to Pay Accrued Vacation Wages and to Properly Accrue and Pay Sick
24 Leave
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

25 238. PLAINTIFF incorporates all proceeding paragraphs as if fully alleged herein.

26 239. Under California law, accrued vacation and/or paid time off are considered earned
27 wages and cannot be forfeited if unused. (Lab. Code, § 227.3.) A vacation policy and/or paid time
28 off policy that provides for forfeiture of vested vacation pay if not used within a designated time,

1 such as before termination, is impermissible. (*Boothby v. Atlas Mechanical, Inc.* (1992) 6
2 Cal.App.4th 1595, 1602.)

3 240. As explained above, PLAINTIFF and other Class Members accrued vested vacation
4 pay under a “contract of employment,” for purposes of Labor Code section 227.3. When they ended
5 their employment with DEFENDANTS, DEFENDANTS failed to pay their vested vacation pay in
6 violation of Labor Code sections 201, 202, and 227.3. Accordingly, pursuant to section 227.3 of
7 the California Labor Code, Plaintiff and other Class Members are entitled to recover their accrued,
8 vested, and unpaid vacation time, including but not limited to Paid Sick Leave pursuant to California
9 Labor Code section 246.

10 241. Pursuant to sections 218.5, 227.3, and 246 of the Labor Code, Plaintiff and the other
11 Class Members are also entitled to recover interest, costs, and attorneys’ fees associated with this
12 cause of action.

13 **ELEVENTH CAUSE OF ACTION**
14 **Failure to Provide Suitable Seating**
15 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

16 242. PLAINTIFF incorporates all proceeding paragraphs as if fully alleged herein.

17 243. California Labor Code section 1198 requires that “the standard conditions of labor
18 fixed by the commission shall be the ... standard conditions of labor for employees. The
19 employment of any employee ... under conditions of labor prohibited by the order is unlawful.”
20 Code of Regulations, title 8, section 11070(14)(A) provides that “[a]ll working employees shall be
21 provided with suitable seats when the nature of the work reasonably permits the use of seats.”

22 244. DEFENDANTS violated the law by not providing seating to PLAINTIFF and Class
23 Members although the nature of their work reasonably permitted the use of seats. Further,
24 PLAINTIFF and Class Members were not informed that they were allowed to use seats or request
25 same throughout their employment.

26 245. Due to DEFENDANTS’ failure to provide suitable seating, PLAINTIFF and Class
27 Members were forced to stand during shifts while working, violating California Labor Code section
28 1198 and IWC wage order No. 7-2001 section 14(A).

1 246. PLAINTIFF and Class Members are entitled to recover civil penalties, attorneys’
2 fees, costs, and interest, and to seek injunctive relief to bring DEFENDANTS into compliance with
3 California’s seating requirements, pursuant to California Labor Code section 1194.5.

4
5 **TWELFTH CAUSE OF ACTION**
6 **Violation Of The Fair Credit Reporting Act And The California Investigative Consumer**
7 **Reporting Agencies Act**
8 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

9 247. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

10 248. PLAINTIFF and Class Members fall withing the purview of the FRCA section
11 1681a(c) and Section 1786.2(b) of the ICRAA.

12 249. 15 U.S.C. section 1681b(b)(2)(A) provides that an employer may not procure, or
13 cause to be procured, consumer reports for employment purposes without providing the [employee]
14 with “a clear and conspicuous disclosure... made in writing... in a document that consists solely of
15 the disclosure that a consumer report may be obtained for employment purposes” and which the
16 consumer has “authorized in writing” the procurement of the report by that person. 29. 15 U.S.C.
17 section 1681d(a)(1)(B) further provides that an employer may not procure or cause to be prepared
18 an investigative consumer report on any consumer unless it is “clearly and accurately disclosed to
19 the [employee] that an investigative consumer report... may be made and such disclosure includes
20 a statement informing the consumer of his right to request the additional disclosures provided for
21 under subsection (b) of this section and the written summary of the rights of the consumer prepared
22 pursuant to section 1681g(c) of this title.”

23 250. PLAINTIFF and Class Members allege that DEFENDANTS required them to submit
24 to unlawful criminal background checks as a condition of being hired and/or holding employment
25 in violation of the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section
26 1786, et seq.) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, et seq.).
27 DEFENDANTS failed and continue to fail to comply with the requirements of the ICRAA and
28 FCRA when conducting background screenings for applicants, including but not limited to
Aggrieved Employees and Class Members that were subject to a background check as a condition

1 of employment during the application phase. Further, DEFENDANTS conducted unlawful
2 background checks of PLAINTIFF and the Class Members without making clear and conspicuous
3 disclosures before the checks were conducted.

4 251. PLAINTIFF alleges that DEFENDANTS know or should have known of its
5 violations of the ICRAA and FRCA. As a results of the actions of DEFENDANTS, PLAINTIFF
6 and the Class Members were improperly informed of their rights to make consent/authorization to
7 a lawful background check.

8
9 **THIRTEENTH CAUSE OF ACTION**

10 **Improper Requirement To Enter Unlawful Agreements
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

11 252. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

12 253. California Labor Code section 432.5 states “No employer, or agent, manager,
13 superintendent, or officer thereof, shall require any employee or applicant for employment to agree,
14 in writing, to any term or condition which is known by such employer, or agent, manager,
15 superintendent, or office thereof to be prohibited by law.”

16 254. Based on information and belief, DEFENDANTS required PLAINTIFF and Class
17 Members to agree in writing to unlawful conditions of employment, including but not limited to,
18 unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure
19 agreements, unlawful releases and/or waivers, including but not limited to, unlawful meal period
20 waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or
21 unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment
22 in violation of Labor Code section 432.5.

23 255. As a results of the conduct of DEFENDANTS, PLAINTIFF and the Class Members
24 are entitled to penalties, damages, and attorneys’ fees.

25 **FOURTEENTH CAUSE OF ACTION**

26 **Violation of Quota Laws
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

27 256. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.
28

257. California Labor Code section 2100-2112 provide that DEFENDANTS were required to provide PLAINTIFF and Class Members a written description of all quotas they were required to work under.

258. DEFENDANTS failed to provide the required notices required to PLAINTIFF and Class Members of all quotas under which they were required to work. Further, DEFENDANTS had/have a policy and practice of subjecting Aggrieved Employees and Class Members to quotas that prevented those Aggrieved Employees and Class Members from taking their meal and rest periods and/or using bathroom facilities and/or interfered with compliance of California's occupational health and safety laws.

259. As a result of the conduct of DEFENDANTS, PLAINTIFF and the Class Members are entitled to injunctive relief under Labor Code section 2018, requiring DEFENDANTS to comply with Labor Code sections 2100 *et seq.*, and attorneys' fees and costs for obtaining injunctive relief.

FIFTEENTH CAUSE OF ACTION

Unfair Competition

(By PLAINTIFF and the Class Members Against all DEFENDANTS)

260. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

261. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS' failure to pay minimum and overtime wages by virtue of its illegal policies and practices; DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized wage statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure to timely pay all wages owed upon separation of employment; DEFENDANTS' failure to maintain accurate records; DEFENDANTS' failure to provide suitable seating; DEFENDANTS' failure to provide reporting time pay; DEFENDANTS' failure to comply with California Day of Rest Law; DEFENDANTS' failure to comply with Labor Code sections 2100-2112; DEFENDANTS' use of

1 unlawful agreements and the making of unlawful criminal history inquiries; DEFENDANTS'
2 failure to provide paid sick leave (or paid time off in lieu thereof); and DEFENDANTS' violations
3 of Labor Code section 432.6); and any other violations of Labor Code sections 2698, et seq. as
4 alleged herein.

5 262. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
6 California Labor Code, DEFENDANTS have gained a competitive advantage over other
7 comparable companies doing business in the State of California that comply with their obligations
8 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
9 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
10 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
11 minimum and overtime wages and to pay all wages due upon separation of employment of their
12 employees.

13 263. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
14 and Class Members have suffered injury in fact and lost money or property, as described in more
15 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
16 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
17 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
18 unlawful and unfair business practices.

19 264. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
20 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
21 engaging in each of the unlawful practices and policies set forth herein.
22 PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc Section 1021.5 and
as permitted by law, and an award for costs reasonably incurred, as permitted by law.

23 **SIXTEENTH CAUSE OF ACTION**
24 **VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS**
2698, ET SEQ.

25 **(On behalf of PLAINTIFF, Class Members, Aggrieved Employees and the State of**
26 **California against all Defendants)**

26 265. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

27 **Failure to Keep Accurate Records**

28 266. California Labor Code § 1174 requires employers to keep "accurate and complete"

1 payroll records showing, among other things, the hours worked daily by all non-
2 exempt employees. All applicable Wage Orders § 7 similarly requires employers to
3 keep time records reflecting the times during which all owed meal periods were
4 provided each day.

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

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

17 **Meal Period Violations**

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

23 270. Employers must also provide employees with a second duty-free, uninterrupted thirty
24 (30) minute meal period when an employee works more than (10) hours in a

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).

workday, and it must be provided before the end of the 10th hour of work. *Ibid.*

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

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

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

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

1 meal periods.

2 275. Moreover, based on information and belief, Aggrieved Employees did not receive a
3 timely, uninterrupted second meal period when working shifts over ten (10) hours in
4 a workday.

5 276. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
6 actual and/or constructive knowledge that its time-rounding and auto-deduction
7 policies and practices, other unlawful policies and practices resulted in the denial of
8 compliant meal periods in violation of California's meal period laws.

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

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

21 **Rest Period Violations**

22 279. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for
24 every four hours worked or major fraction thereof. Such rest periods must be in the
25 middle of the four-hour period “insofar as practicable.” In *Brinker v. Restaurant*
26 *Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held
27 that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6
28 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10

1 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14
2 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and
3 authorize employees to take off-duty rest periods, meaning employers must relieve
4 employees of all duties and relinquish control over how employees spend their time.
5 *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257. If the employer fails
6 to provide any required rest period, the employer must pay the employee one hour of
7 pay at the employee's regular rate of compensation for each workday the employer
8 did not provide at least one legally required rest period, pursuant to Labor Code
9 section 226.7, and applicable IWC Wage Order, §12(B).

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

21 281. PLAINTIFF and the Aggrieved Employees did not receive legally compliant, timely
22 10-minute rest periods for every four (4) hours worked or major fraction thereof. As
23 explained above, any purported rest periods were late, interrupted, cut short, on duty,
24 and/or otherwise subject to DEFENDANTS' control due to the nature and constraints
25 of Aggrieved Employees' job duties, understaffing, and/or commentary from
26 supervisors pressuring PLAINTIFF and Aggrieved Employees to skip rest periods
27 completely or otherwise take non-compliant rest periods.

28 282. Based on information and belief, DEFENDANTS implemented policies and/or

1 practices that failed to relieve PLAINTIFF and other Aggrieved Employees of all
2 duties and employer control during rest periods. Based on further information and
3 belief, Aggrieved Employees were pressured to complete their work duties according
4 to a designated schedule such that rest periods were only taken once tasks were
5 completed, and/or as time permitted.

6 283. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
7 first, second, or third rest periods as required by California law.

8 284. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
9 period premium to PLAINTIFF and other Aggrieved Employees for each workday
10 in which there was a missed or otherwise unlawful rest period. Based on further
11 information and belief, when a rest premium was paid, DEFENDANTS failed to
12 include non-discretionary compensation including but not limited to, bonuses, shift
13 differential pay, and/or other non-discretionary compensation into the regular rate of
14 compensation for purposes of determining the owed rest period premium.

15 285. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
16 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to
17 civil penalties under Labor Code §§ 558 and 2699, and all applicable Wage Orders,
18 §20.

19 **Failure to Provide Suitable Resting Facilities**

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

24 287. DEFENDANTS’ locations/facilities are generally similar in layout and design, and
25 there was, and continues to be, space that allows for a resting facility that employees
26 may use to cease work and recover during meal or rest periods. DEFENDANTS
27 could have provided Aggrieved Employees with a resting facility within
28 DEFENDANTS’ facilities/locations with reasonable or no modification, but instead

1 denied and continues to deny, employees with suitable areas to rest (e.g. a
2 breakroom). As a result, Aggrieved Employees were forced to adjust to areas not
3 conducive to resting, including but not limited to leaning up against the wall, or
4 search for facilities outside of DEFENDANTS' premises which are not designated
5 or reserved for their rest, such as their personal vehicles.

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

8 289. DEFENDANTS' failure to provide suitable resting facilities to Aggrieved
9 Employees violated and continue to violate the applicable Wage Order, section 13(B)
10 and the California Labor Code, including but not limited to section 1198.

11 **Minimum and Overtime Wage Violations**

12 290. California law provides that employees in California must be paid for all hours
13 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate
14 that is no less than the mandated minimum wage. *See* Labor Code section 1197 and
15 the applicable Wage Order. The minimum wage standard applies to each hour
16 employees worked for which they were not paid. Therefore, an employer's failure to
17 pay for any particular hour worked by an employee is unlawful even if averaging an
18 employee's total pay over all hours worked, paid or not, results in an average hourly
19 wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314,
20 324.

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

28 292. As explained above, DEFENDANTS violated California's minimum and overtime

1 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for
2 all hours worked by virtue of, among other things, DEFENDANTS' time rounding
3 policies and practices (for shift start and end times and meal period start and end
4 times), payment according to scheduled hours worked, automatic deduction for meal
5 periods, and/or off-the-clock/unpaid work completed during meal periods, and/or
6 other otherwise off-the-clock work (described above), and/or other unlawful policies
7 and/or practices described above which resulted in unpaid minimum and overtime
8 wages.

9 293. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
10 Aggrieved Employees for all hours worked.

11 294. Based on information and belief, DEFENDANTS had actual or constructive
12 knowledge that its time-rounding policies and practices, auto-deduction policies and
13 practices for meal periods, payment according to scheduled hours, failure to relieve
14 employees of all duties and employer control during unpaid meal periods, and/or
15 other off-the-clock work resulted in the underpayment of minimum and overtime
16 wages owed to PLAINTIFF and other Aggrieved Employees.

17 295. Based on information and belief, DEFENDANTS failed to pay twice Aggrieved
18 Employees' regular rate(s) of pay for time worked beyond twelve (12) hours per
19 workday and for time worked beyond eight (8) hours on the seventh consecutive day
20 of work in a work week, in violation of California's overtime laws.

21 296. Based on information and belief, DEFENDANTS further violated California's
22 overtime wage laws by failing to incorporate all non-discretionary compensation,
23 including but not limited to, non-discretionary bonus compensation, shift
24 differentials, and/or other non-discretionary compensation into the regular rate of pay
25 used to calculate the overtime rate of pay. Failing to include non-discretionary
26 compensation into the regular rate of pay resulted in a miscalculation of the overtime
27 wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF
28 and other Aggrieved Employees.

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

13 298. This conduct results in violations of Labor Code sections 218.5, 510, 511, 558, 558.1,
14 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject
15 DEFENDANTS to civil penalties under Labor Code sections 218.5, 558, 558.1,
16 1197.1, 2699, and all applicable IWC Wage Orders, section 20.

17 **Statutory Wage Violations**

18 299. California Labor Code section 223 makes it unlawful for an employer to secretly pay
19 wages lower than required by statute while purporting to pay legal wages. As
20 described above, DEFENDANTS willfully and systematically denied PLAINTIFF
21 and Aggrieved Employees of all earned minimum and overtime compensation for all
22 hours worked which resulted in the payment of less than statutorily required wages.
23 DEFENDANTS acted with the intent to deprive them of statutory wages, including,
24 but not limited to, minimum and overtime wages, to which they were entitled to
25 under California law. Thus, DEFENDANTS paid PLAINTIFF and other Aggrieved
26 Employees lower wages than those they were entitled to while purporting that
27 PLAINTIFF and other Aggrieved Employees were properly paid. As a result,
28 PLAINTIFF and other Aggrieved Employees are entitled to recover penalties,

1 attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

2
3 **Refusal to Make Payment**

4 300. Labor Code section 216 declares unlawful an employer's refusal to pay wages due
5 and payable and/or the denial of the validity of any claim to wages due.
6 DEFENDANTS violated and continue to violate this section by failing to pay
7 PLAINTIFF and Aggrieved Employees for all hours worked at the proper wage rate
8 and by failing to pay an additional hour of pay for each meal/rest period not provided
9 or that was otherwise unlawful. *Gould v. Maryland Sound Industries, Inc.* (1995) 31
10 Cal.App.4th 1137, 1154-1155. These violations subject DEFENDANTS to civil
11 penalties under Labor Code section 225.5. Each violation results in a *separate* civil
12 penalty, for each Aggrieved Employee, for each pay period during which the statute
13 provisions were violated.²

14 **Standard Conditions of Labor Violations**

15 301. Together, Labor Code sections 1198 and 1199 make unlawful any employment of
16 any employee under conditions of labor prohibited by the Wage Orders, and any
17 violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1
18 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the
19 commission. Therefore, DEFENDANTS' violations with respect to meal periods,
20 rest periods, record keeping provisions, business expenses, suitable resting facilities,
21 seating, reporting time pay, split shift premium wages, minimum/overtime wages
22 and other violations described herein result in separate violations of sections 1198
23 and 1199, which subject DEFENDANTS to civil penalties under Labor Code
24 sections 1197.1 and 2699.

25 **Business Expense Violations**

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).

- 1 302. California law requires employers to indemnify their employees for all necessary
2 expenditures incurred by the employee in direct consequence of the discharge of their
3 duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code s.
4 2802 and all applicable Wage Orders section 9(b). Furthermore, “for purposes of
5 [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable
6 costs, including, but not limited to, attorneys’ fees incurred by the employee
7 enforcing the rights granted by this section.”
- 8 303. Among other things, under California law, when employees must use their personal
9 cellphones for work-related purposes, the employer must reimburse them for a
10 reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home*
11 *Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee
12 will only need to show that he or she was required to use their personal cellphone for
13 work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law
14 also requires employers to reimburse employees for automobile expenses incurred
15 for the business use of personal vehicles, such as for mileage, gas, and the wear and
16 tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th
17 554.
- 18 304. Further, “any contract or agreement, express or implied, made by any employee to
19 waive the benefits of this article or any part thereof, is null and void, and this article
20 shall not deprive any employee or his personal representative of any right or remedy
21 to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code section
22 2804.
- 23 305. As described above, PLAINTIFF and the Aggrieved Employees were improperly
24 required to pay for business expenses that are legally the responsibility of the
25 employer.
- 26 306. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
27 full reimbursement for all reasonable expenses associated with carrying out their
28 duties required that PLAINTIFF and the Aggrieved Employees subsidize and/or

1 carry the burden of business expenses in violation of Labor Code section 2802.

2 307. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and other Aggrieved
3 Employees have suffered injury in that they were not completely reimbursed as
4 mandated by California law.

5 308. DEFENDANTS' failure to provide PLAINTIFF and the Aggrieved Employees with
6 full reimbursement for all reasonable expenses associated with carrying out their
7 duties required that PLAINTIFF and the Aggrieved Employees subsidize and/or
8 carry the burden of business expenses in violation of Labor Code section 2802.

9 309. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Aggrieved
10 Employees have suffered injury in that they were not completely reimbursed as
11 mandated by California law.

12 310. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
13 PLAINTIFF and other Aggrieved Employees for such expenses in violation of
14 California Labor Code § 2802. In turn, there constitutes a PAGA violation based on
15 violations of California Labor Code § 2802 and the applicable Wage Order.

16 **Wage Statement Violations**

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

28 312. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees

1 with meal and rest periods that complied with Labor Code section 226.7, the wage
2 statements DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees
3 failed and continue to fail to correctly set forth (a) the gross wages earned, in
4 violation of Labor Code section 226(a)(1); (b) the total hours worked by the
5 employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in
6 violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
7 during the pay period and the corresponding number of hours worked at each hourly
8 rate by the employee, in violation of Labor Code section 226(a)(9).

9 313. Moreover, due to violations detailed above, including but not limited to,
10 DEFENDANTS' failure to pay regular and overtime wages for all hours worked,
11 failure to provide meal and rest break premiums, and failure to pay all sick leave
12 wages at the proper rates, DEFENDANTS have violated California Labor Code §
13 226 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with
14 accurate, itemized wage statements that listed the gross and net wages earned and the
15 correct applicable rates of pay for all hours worked. Based on information and belief,
16 DEFENDANTS failed to incorporate all forms of non-discretionary compensation
17 earned during the pay period into the regular rate of pay for purposes of calculating
18 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for
19 each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

20 314. As explained above, wage statements issued by DEFENDANTS failed to list the
21 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of
22 rounded time entries, automatic deduction for meal periods/failure to relieve
23 Aggrieved Employees of all duties and employer control during unpaid meal periods,
24 and/or other off-the-clock work policies and practices described above), which
25 results in a violation of Labor Code section 226(a). Failure to list all hours worked
26 on a wage statement, gives rise to an inference of injury under Labor Code Section
27 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

28 315. Based on information and belief, wage statements issued by DEFENDANTS failed

1 to list all applicable hourly rates in effect during the pay period and the corresponding
2 number of hours worked at each hourly rate by the employee, in violation of,
3 including but not limited to, Labor Code section 226(a)(9).

4 316. Separately, and independent from the above allegations, based on information and
5 belief, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
6 Employees that violate Labor Code section 226(a)(8), by failing to list the correct
7 name and/or address of the legal entity that is the employer.

8 317. Based on information and belief, wage statements issued by DEFENDANTS failed
9 to list the inclusive dates of the pay period for which the Aggrieved Employee is
10 being paid.

11 318. DEFENDANTS' failure to accurately list all hours worked on all wage statements
12 caused confusion to PLAINTIFF and caused and continues to cause confusion to
13 other Aggrieved Employees over whether they received all wages owed to them.

14 319. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
15 they could not easily determine whether they received all wages owed to them and
16 whether they were paid for all hours worked.

17 320. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
18 address of the legal entity that is the employer, PLAINTIFF and Aggrieved
19 Employees have suffered injury as they could not contact their employer regarding
20 any question(s) they had about wages paid.

21 321. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
22 Aggrieved Employees with accurate, itemized wage statements.

23 322. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
24 Employees have suffered injury. The absence of accurate information on their wage
25 statements has prevented earlier challenges to DEFENDANTS' unlawful pay
26 practices, will require discovery and mathematical computations to determine the
27 amount of wages owed, and will cause difficulty and expense in attempting to
28 reconstruct time and pay records. DEFENDANTS' conduct led to the submission of

1 inaccurate information about wages and amounts deducted from wages to state and
2 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are
3 required to participate in this lawsuit and create more difficulty and expense from
4 having to reconstruct time and pay records than if DEFENDANT had complied with
5 its legal obligations.

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

9 **Unlawful Deductions**

10 324. Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from
11 an employee any part of wages theretofore paid by said employer to said employee.”
12 Based on information and belief DEFENDANTS made unlawful deductions from
13 Aggrieved Employees paychecks during the relevant period. Such a practice is in
14 violation of including but not limited to, Labor Code Sections 221-222 which
15 subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

16 325. Each violation results in a separate civil penalty, for each Aggrieved Employee, for
17 each pay period during which the statute provisions were violated. See Lab. Code
18 §225.5 (establishing that “[i]n addition to, and entirely independent and apart from,
19 any other penalty provided in this article, every person who unlawfully withholds
20 wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be
21 subject to a civil penalty...for each failure to pay each employee”).

22 **Reporting Time Pay Violations**

23 326. Section 5 of all applicable IWC Wage Orders, provides as follows:

24 327. (A) Each workday an employee is required to report for work and does report, but is
25 not put to work or is furnished less than half said employee’s usual or scheduled
26 day’s work, the employee shall be paid for half the usual or scheduled day’s work,
27 but in no event for less than two (2) hours nor more than four (4) hours, at the

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

1 employee's regular rate of pay, which shall not be less than the minimum wage. (B)
2 If an employee is required to report for work a second time in any one workday and
3 is furnished less than two (2) hours of work on the second reporting said employee
4 shall be paid for two hours at the employee's regular rate of pay, which shall not be
5 less than the minimum wage.

6 328. Aggrieved Employees were not paid reporting time wages in accordance with
7 California law, including but not limited to the applicable IWC Wage Order. For
8 example, based on information and belief, at times, PLAINTIFF and/or other
9 Aggrieved Employees reported to work for a scheduled shift but were sent home
10 and/or were not put to work and were not paid all owed reporting time pay wages in
11 accordance with California law.

12 329. Based on information and belief, DEFENDANTS have a policy and practice of
13 failing to pay all reporting time wages to Aggrieved Employees, in violation of
14 California law, including but not limited to, the applicable IWC Wage Order, Section
15 5. DEFENDANTS' failure to pay all reporting time wages to Aggrieved Employees
16 violated and continues to violate the applicable Wage Order, and the California Labor
17 Code, including but not limited to section 1198.

18 **Violation of California Day of Rest Law**

19 330. Under California law, every employee in California is "entitled" to "one day's rest
20 [from labor] in seven"; and, no employer may "cause" its employees "to work more
21 than six days in seven." *See* Labor Code Sections 551 and 552. Labor Code section
22 553 provides that a violation of the foregoing sections is a misdemeanor.

23 331. Based on information and belief, DEFENDANTS have and continue to have a
24 uniform policy and practice of requiring Aggrieved Employees to work at least seven
25 days consecutively in a workweek, in violation of including but not limited to, Labor
26 Code Section 551. Based on information and belief, PLAINTIFF and/or other
27 Aggrieved Employees were suffered, permitted, or required to work at least seven
28 (7) days consecutively in a workweek, in violation of California law, including but

not limited to Labor Code Section 551.

Seating Violations

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

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

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

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

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

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

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

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

9 **Sick Leave Violations**

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

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

24 340. But for this failure, PLAINTIFF and other Aggrieved Employees would have used
25 their paid sick leave at least prior to their respective separations, for as on several
26 occasions thereafter, he or she would have been entitled to use the banked sick leave
27 and earn appropriate compensation.

28 341. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records

documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all Aggrieved Employees, permitting the presumption that PLAINTIFF and all Aggrieved Employees were entitled to the maximum number of hours accruable.

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

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

344. On information and belief, PLAINTIFF alleges that all of these practices were experienced and continue to be experienced by other Aggrieved Employees.

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

Failure to Pay Vested Vacation/Paid Time Off

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

347. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow Aggrieved Employees to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to Aggrieved Employees upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Untimely Payment of Final Wages

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

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

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

23 351. 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,
25 210, and/or 256.

26 **Violation of Labor Code Sections 2100-2112**

27 352. Pursuant to Labor Code Sections 2100–2112, employers with one hundred (100) or
28 more employees at a single warehouse distribution center, or one thousand (1,000)

1 or more employees at one or more warehouse distribution centers in California are
2 required to provide nonexempt employees, upon hire, with a written description of
3 each quota they are subject to (e.g., quantified number of tasks to be performed or
4 materials to be handled) within a defined period of time and any potential adverse
5 employment action that may result from failure to meet the quota. Labor Code
6 Section 2102 (see below) prohibits adverse employment actions against employees
7 who fail to meet their quota if the quota was not properly disclosed to the employee
8 and prohibits quotas that prevent an employee from taking his or her meal or rest
9 breaks, use of restrooms, or that interfere with compliance with California's
10 occupational health and safety laws.

11 353. Labor Code Section 2101 provides:

12 354. Each employer shall provide to each employee, upon hire, or within 30 days of the
13 effective date of this part, a written description of each quota to which the employee
14 is subject, including the quantified number of tasks to be performed or materials to
15 be produced or handled, within the defined time period, and any potential adverse
16 employment action that could result from failure to meet the quota.

17 355. Labor Code Section 2102 provides:

18 356. An employee shall not be required to meet a quota that prevents compliance with
19 meal or rest periods, use of bathroom facilities, including reasonable travel time to
20 and from bathroom facilities, or occupational health and safety laws in the Labor
21 Code or division standards. An employer shall not take adverse employment action
22 against an employee for failure to meet a quota that does not allow a worker to
23 comply with meal and rest periods, or occupational health and safety laws in the
24 Labor Code or division standards, or for failure to meet a quota that has not been
25 disclosed to the employee pursuant to Section 2101.

26 357. Labor Code Section 2104 provides in pertinent part:

27 358. (a)(1) If a current or former employee believes that meeting a quota caused a
28 violation of their right to a meal or rest period or required them to violate any

1 occupational health and safety laws in the Labor Code or division standards, they
2 have the right to request, and the employer shall provide, a written description of
3 each quota to which the employee is subject and a copy of the most recent 90 days
4 of the employee's own personal work speed data.

5 359. (2) If a former employee requests a written description of the quotas to which they
6 were subject and a copy of their own personal work speed data pursuant to paragraph
7 (1), the employer shall provide 90 days of the former employee's quotas and personal
8 work speed data for the 90 days prior to the date of the employee's separation from
9 the employer.

10 360. (b) An employer that receives a written or oral request for information pursuant to
11 subdivision (a) shall comply with the request as soon as practicable, but no later than
12 21 calendar days from the date of the request.

13 361. Based on information and belief, during the relevant period, DEFENDANTS
14 employed 100 or more Aggrieved Employees at a single warehouse distribution
15 center and/or employed 1,000 or more Aggrieved Employees at one or more
16 distribution centers in California rendering DEFENDANTS subject to the provisions
17 of Labor Code Sections 2100-2112, during the relevant period.

18 362. Based on information and belief, DEFENDANTS had/have a policy and practice of
19 failing to provide Aggrieved Employees, upon hire, with a written description of each
20 quota they are subject to (e.g., quantified number of tasks to be performed or
21 materials to be handled) within a defined period of time and any potential adverse
22 employment action that may result from failure to meet the quota.

23 363. Based on further information and belief, DEFENDANTS had/have a policy and
24 practice of subjecting Aggrieved Employees to quotas that prevented those
25 Aggrieved Employees from taking their meal and rest periods and/or using bathroom
26 facilities and/or interfered with compliance of California's occupational health and
27 safety laws.

28 364. Based on further information and belief, DEFENDANTS have/had a policy and

1 practice of subjecting Aggrieved Employees to adverse employment actions for
2 failure to meet a quota that was not disclosed pursuant to Labor Code Section 2101
3 and/or did not allow them to comply with meal and rest period laws and/or
4 occupational health and safety laws, in violation of Labor Code section 2102.

5 365. Based on information and belief, DEFENDANTS failed and continue to fail to timely
6 produce upon written and/or oral request by current and/or former Aggrieved
7 Employees of the belief that meeting a quota caused a violation of their right to a
8 meal or rest period and/or required them to violate any occupational health and safety
9 laws, a written description of each quota to which the employee is subject and/or a
10 copy of the most recent 90 days of the Aggrieved Employee's own personal work
11 speed data.

12 366. As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor
13 Code section 2100-2112 as to Aggrieved Employees and are subject to civil
14 penalties.

15 **Unlawful Agreements/ Unlawful Criminal History Inquiries**

16 367. *Unlawful Agreements.* Labor Code section 432.5 provides that "no employer...shall
17 require any employee or applicant for employment to agree, in writing, to any term
18 or condition which is known by such employer...to be prohibited by law."
19 DEFENDANTS required and continue to require PLAINTIFF and Aggrieved
20 Employees to agree in writing to unlawful conditions of employment including but
21 not limited to, unlawful non-solicitation/non-compete agreements, unlawful
22 confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers,
23 including but not limited to, unlawful meal period waivers, unlawful forum selection
24 clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or
25 financial checks as a condition of obtaining and/or continuing employment in
26 violation of Labor Code section 432.5.

27 368. The California Labor Code places certain procedural and substantive limits on an
28 employers' ability to conduct employee background checks and on how employers

1 can use the information they obtain through those background checks. Labor Code
2 section 1024.5 states that employers, except for financial institutions, may order a
3 credit check only if the individual works (or is applying to work) in certain positions
4 (e.g., managerial positions, financially-related positions, and certain government
5 positions). Additionally, the Investigative Consumer Reporting Agencies Act
6 (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act
7 (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and
8 following an employee background check, including but not limited to identifying
9 an appropriate reason for the background check, a separate consent form with
10 required disclosures and certain formatting requirements, additional forms such as a
11 summary of rights, a way by which to request a copy of the report, as well as proper
12 notice of adverse actions taken, among other statutory requirements.

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

18 370. Based on information and belief, DEFENDANTS required Aggrieved Employees to
19 submit and/or agree to submit in writing to unlawful criminal background checks as
20 a condition of obtaining and/or holding employment in violation of the ICRAA and
21 the FCRA as alleged above.

22 371. Based on further information and belief, DEFENDANTS required Aggrieved
23 Employees to agree in writing to provide DEFENDANTS with ongoing consent to
24 conduct background checks throughout the duration of employment, in violation of
25 the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation
26 of Labor Code section 432.5, by requiring applicants and employees to agree to an
27 unlawful provision as a condition of employment.

28 372. Based on further information and belief, DEFENDANTS knew that requiring

Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

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

Unlawful Inquires into Criminal History

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

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

376. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring Aggrieved Employees to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

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

378. 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

1 agreements purporting to waive an employee's right to a trial of PAGA claims is
2 contrary to California law and unenforceable. See *Iskanian v CLS Transportation*
3 *Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 ("We conclude that where, as here,
4 an employment agreement compels the waiver of representative claims under the
5 PAGA, it is contrary to public policy and unenforceable as a matter of state law.")

6 379. Moreover, the California Supreme Court has ruled that a court cannot compel
7 arbitration of an aggrieved employee's individual PAGA claim because there is no
8 such thing as an individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9
9 Cal. 5th 73, 86-87 ("There is no individual component to a PAGA action because
10 'every PAGA action ... is a representative action on behalf of the state.'")

11 380. Upon information and belief, DEFENDANTS required Aggrieved Employees to
12 agree in writing to waive their right to a trial of PAGA claims in violation of
13 California law. By requiring Aggrieved Employees to agree, in writing, to an
14 unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful
15 provision as a condition of employment which is a violation of labor code section
16 432.5.

17 **Violation of Labor Code Section 432.6**

18 381. Based on information and belief, DEFENDANTS required Aggrieved Employees to
19 sign meal period waivers that were universally signed as a condition of employment,
20 including but not limited to, during the onboarding process. Further, these invalid
21 waivers are otherwise unlawful under Labor Code section 432.6.

22 382. Labor Code Section 432.6(a) provides: "[A] person shall not, as a condition of
23 employment, continued employment, or the receipt of any employment-related
24 benefit, require any applicant for employment or any employee to waive any right..."

25 383. Labor Code Section 432.6(b) provides in pertinent part:

26 384. "An employer shall not threaten, retaliate, or discriminate against, or terminate any
27 applicant for employment or any employee because of the refusal to the waiver of
28 any right..."

1 385. Based on information and belief, DEFENDANTS require/required Aggrieved
2 Employees to waive their right to first and/or second meal periods as a condition of
3 working for DEFENDANTS in violation of California law. As such, DEFENDANTS
4 violated including but not limited to, Labor Code section 432.6 by virtue of including
5 but not limited to, requiring Aggrieved Employees to sign invalid meal period
6 waivers as a condition of employment and/or for threatening, retaliating and/or
7 discriminating against and/or terminating Aggrieved Employees because of their
8 refusal to waive their meal period rights.

9 386. Under the provisions of PAGA and the above mentioned Labor Code sections,
10 including but not limited to Labor Code sections 201-203, 208, 210, 216, 221-223,
11 225.5, 226, 226.7, 245-248.6, 256, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1,
12 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5
13 and all applicable Wage Orders as well as all interpretations of these laws by
14 California Courts and administrative bodies, as well as any other law that is
15 enforceable through PAGA, DEFENDANTS are liable for the following penalties:

- 16 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
17 relevant California Labor Code provisions listed herein only if permitted by the
18 PAGA statute, pursuant to Labor Code section 2699(a); and
19 b. Default PAGA penalties for any violation of the enumerated list of Labor Code
20 violations without a civil penalty recoverable under the PAGA, all in the default
21 amounts provided by Labor Code section 2699(f).
22 c. The proper measure of penalties under PAGA is the number of violations,
23 whether those violations were committed as against PLAINTIFF or any
24 Aggrieved Employee, whether a party to this action or not.

25 387. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
26 PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

27 **PRAYER FOR RELIEF**

1 WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of
2 PLAINTIFF, the State of California, and all Aggrieved Employees and Class Members:

- 3
- 4 1. For an order that the action be certified as a class action;
 - 5 2. For an order that PLAINTIFF be appointed as class representative;
 - 6 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
 - 7 4. For compensatory damages according to proof;
 - 8 5. For liquidated damages according to proof;
 - 9 6. For penalties according to proof;
 - 10 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
11 withheld from PLAINTIFF and the Class Members;
 - 12 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of
13 section 17200, *et seq.*, of the California Business and Professions Code;
 - 14 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
 - 15 10. For pre-judgment interest as permitted by law;
 - 16 11. For civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25%
17 payable to Aggrieved Employees);
 - 18 12. For attorney's fees and costs reasonably incurred; and
 - 19 13. For such other and further relief that the Court deems just and proper.
- 20

21 Dated: May 22, 2025

CROSNER LEGAL, PC

22
23 By: 

24 Brandon Brouillette, Esq.
25 Zachary M. Crosner, Esq.
26 Attorneys for Plaintiff
27 JOSHUA ROJAS
28