

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
 Misty M. Lauby, Esq. [CSB No. 243009]
misty@lmlfirm.com
 LAUBY, MANKIN & LAUBY LLP
 5198 Arlington Avenue, PMB 513
 Riverside, CA 92504
 Tel: (951) 320-1444 | Fax: (951) 320-1445

FILED
 Superior Court of California
 County of Los Angeles
 02/19/2025
 David W. Slayton, Executive Officer / Clerk of Court
 By: M. Arellanes Deputy

Attorneys for Plaintiffs, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

DIMITRI LONG and GLEN BOSTETER,
 individually, on a representative basis, and on
 behalf of all others similarly situated;

Plaintiffs,

vs.

INTERLANG LLC, a California Limited
 Liability Company; MONTGOMERY DME,
 a California Corporation; JAMES LYNCH,
 an individual; and DOES 1 through 20,
 inclusive;

Defendants.

Case No.: 23STCV28021
*[Assigned for all purposes to Hon. David S.
 Cunningham III, Dept. 11]*

FIRST AMENDED COMPLAINT

PAGA CLAIMS

- (1) Failure to Pay Minimum Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Provide Rest Breaks;
- (5) Failure to Reimburse Business Expenses;
- (6) Failure to Timely Pay Wages;
- (7) Failure to Timely Pay Final Wages; and
- (8) Failure to Provide Accurate Itemized Wage Statements.

Complaint Filed: November 15, 2023

Plaintiffs Dimitri Long and Glen Bosteter (“Plaintiffs”) on behalf of themselves, on a representative basis, and on behalf of others similarly situated, complain and allege as follows.

I. INTRODUCTION AND GENERAL ALLEGATIONS

1. Plaintiffs bring this action against their former employer(s), Defendants Interlang LLC, Montgomery DME, James Lynch and DOES 1 through 20, inclusive, (collectively, “Defendants”) on behalf of all current and former nonexempt employees employed by Defendants in California (the “Class” or “Represented Employees”), for Labor Code violations

1 stemming from Defendants' failure to pay all wages owed, including minimum, regular, and
2 overtime wages, failure to provide meal periods, failure to provide rest breaks, failure to
3 reimburse business expenses, failure to timely pay wages upon separation of employment, and
4 failure to provide accurate itemized wage statements.

5 2. Plaintiff Dimitri Long was employed by Defendants from approximately
6 January 18, 2023 through January 2024.

7 3. Plaintiff Glen Bosteter has been employed by Defendants from approximately
8 2014 through present.

9 4. Plaintiffs allege on information and belief that the Represented Employees were
10 subjected to the same policies, working conditions, and corresponding wage and hour violations
11 to which Plaintiffs were subjected during employment.

12 5. Plaintiffs and the Represented Employees were not provided all minimum,
13 regular, and overtime wages due to Defendants' failure to accurately record and compensate for
14 all hours worked. As one such example, Plaintiffs and the Represented Employees were often
15 times required to clock out but then called back to work a short time later on the same day. When
16 they clocked back in, it was considered a new shift resulting in unpaid overtime wages.
17 Moreover, timekeeping records were changed to avoid paying overtime wages. Additionally,
18 were frequently denied compliant meal periods. Yet, despite the fact that Plaintiffs and the
19 Represented Employees did not take compliant first and second meal periods, the Defendants
20 automatically deducted 30 minutes of time from every shift for each of the noncompliant and/or
21 missed meal periods. As a result, the Defendants failed to pay Plaintiffs and the Aggrieved
22 Employees for all hours worked, including minimum and overtime wages for all hours worked in
23 excess of 8 and/or 12 per day and/or 40 per week.

24 6. Plaintiffs and the Represented Employees were also denied 30-minute off-duty
25 meal periods, as mandated by California law. As a result of Defendants' policies and practices,
26 the Represented Employees were subjected to meal period violations when they were: (1) unable
27 to take a meal period due to workload, (2) forced to take an on-duty meal period while under the
28 control of the Company, (3) forced to take a shortened meal period, (4) forced to take a meal

1 period after the 5th hour of work, and (5) not provided a mandated second meal period for shifts
2 in excess of 10 hours.

3 7. Defendants also failed to provide Plaintiffs and the Represented Employees with
4 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as
5 mandated by California law. Defendants did not schedule rest breaks and the Represented
6 Employees were often not authorized and/or permitted to take mandated rest breaks due to being
7 overwhelmed by their hectic workload. Furthermore, on occasions when Plaintiffs and the
8 Represented Employees worked longer shifts, Defendants failed to authorize and/or permit
9 mandated third or fourth rest breaks.

10 8. Also, Defendants required Plaintiffs and the Represented Employees to incur
11 substantial business-related expenses and costs without reimbursement. For example,
12 Defendants required Plaintiffs and the Represented Employees to use personal cell phones to
13 carry out their duties for Defendants without reimbursement.

14 9. Plaintiffs also allege that they and the Represented Employees were not paid all
15 wages due and owing each pay period (Labor Code § 204) and upon separation of employment
16 within the time required by Labor Code §§ 201 – 203. Plaintiffs further allege that Defendants
17 engaged in the practice of failing to pay all wages due and owing to Plaintiffs and the
18 Represented Employees at the time their employment ended with Defendants, including, but not
19 limited to minimum, regular, and overtime wages, wage premiums, vacation wages, among
20 others.

21 10. Plaintiffs further allege that Defendants failed to provide accurate itemized wage
22 statements that fully complied with the requirements of Labor Code § 226(a).

23 11. Plaintiffs allege that Defendants' violations of the wage and hour components of
24 the Labor Code and IWC Wage Orders enabled them to decrease expenses and to increase their
25 level of productivity and profits, thereby allowing Defendants to gain an unfair advantage over
26 its competitors.

27 12. At all material times, Defendants and DOES 1 through 20 were and/or are the
28 Represented Employees' employers or persons acting on behalf of the Represented Employees'

1 employer, within the meaning of California Labor Code § 558, who violated or caused to be
2 violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
3 hours and days of work in an IWC Wage Order and, as such, are subject to penalties for each
4 underpaid employee as set forth in Labor Code § 558 and under California law.

5 13. Plaintiffs bring this lawsuit seeking declaratory, injunctive, equitable, and
6 monetary relief against Defendants and each of them, on behalf of themselves and the
7 Represented Employees to recover, among other things, unpaid wages and benefits, interest,
8 attorneys' fees, penalties, costs and expenses pursuant to California Labor Code §§ 200, 201,
9 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1,
10 1198, 1199 and 2802, among possibly other sections inadvertently omitted. Plaintiffs also
11 reserve the right to name additional representatives throughout the State of California.

12 14. Pursuant to Labor Code § 2699.3(a), Plaintiffs are in the process of giving written
13 notice by online filing to the Labor and Workforce Development Agency ("LWDA") and by
14 certified mail to Defendants of the specific provisions of the Labor Code alleged to have been
15 violated, including the facts and theories to support the alleged violations. As such, Plaintiffs
16 reserve the right to amend this complaint or bring a separate complaint for the PAGA claims
17 pursuant to Labor Code § 2699.3(a)(2)(C).

18 **JURISDICTION**

19 15. This Court has jurisdiction over the claims for relief of Plaintiffs and the
20 Represented Employees pursuant to the Labor Code and the IWC Wage Orders.

21 **III. VENUE**

22 16. Venue as to each Defendant is proper in this Court pursuant to Code of Civil
23 Procedure § 395(a). Defendants transact business in Los Angeles County and the unlawful acts
24 alleged herein have a direct effect on Plaintiffs and the Represented Employees in Los Angeles
25 County. Furthermore, Defendants employed or employ Plaintiffs and Represented Employees in
26 Los Angeles County.

27 ///

28 ///

1 **IV. PARTIES**

2 **Plaintiff**

3 17. Plaintiff Dimitri Long has been employed by Defendants from approximately
4 January 18, 2023 through present in Los Angeles County.

5 18. Plaintiff Glen Bosteter has been employed by Defendants from approximately
6 2014 through present in Los Angeles County.

7 **Defendants**

8 19. Plaintiffs are informed and believe and thereon allege that Defendant Interlang,
9 LLC is a California LLC authorized to and doing business in Los Angeles County, California.
10 Plaintiffs are also informed and believe that Defendant Interlang, LLC is and/or was the legal
11 employer of Plaintiffs and the Represented Employees during the applicable statutory periods.

12 20. Plaintiffs are informed and believe and thereon allege that Defendant
13 Montgomery DME is a California Corporation authorized to and doing business in Los Angeles
14 County, California. Plaintiffs are also informed and believe that Defendant Montgomery DME
15 is and/or was the legal employer of Plaintiffs and the Represented Employees during the
16 applicable statutory periods.

17 21. Plaintiffs are informed and believe and thereon allege that Defendant
18 Montgomery DME is a California Corporation authorized to and doing business in Los Angeles
19 County, California. Plaintiffs are also informed and believe that Defendant Montgomery DME
20 is and/or was the legal employer of Plaintiffs and the Represented Employees during the
21 applicable statutory periods.

22 22. Plaintiffs are informed and believe and thereon allege that Defendant James
23 Lynch is an individual authorized to and doing business in Los Angeles County, California.
24 Plaintiffs are also informed and believe that Defendant James Lynch is and/or was the legal
25 employer of Plaintiffs and the Represented Employees during the applicable statutory periods.

26 23. Plaintiffs are ignorant of the true names, capacities, relationships, and extent of
27 participation in the conduct herein alleged, of Defendants sued herein as DOES 1 through 20,
28 inclusive, but on information and belief allege that those Defendants are legally responsible for

1 the payment of penalties and damages to Plaintiffs and all Represented Employees by virtue of
2 Defendants' unlawful actions and practices and therefore sue these Defendants by such fictitious
3 names. Plaintiffs will amend this complaint to allege the true names and capacities of the DOE
4 Defendants when ascertained.

5 24. Plaintiffs are informed and believe and thereon allege that they and the
6 Represented Employees worked under the joint direction and control of Defendants and that
7 Defendants, and each of them, acted in all respects pertinent to this action as the agent of the
8 other Defendants, carried out a joint scheme, business plan or policy in all respect pertinent
9 hereto, and the acts of each Defendant are legally attributable to the other Defendants. On
10 information and belief, a unity of interest and ownership between each Defendant exists such
11 that all Defendants acted as a single employer of Plaintiffs and other Represented Employees.

12 25. Furthermore, Plaintiffs are informed and believe and thereon allege that
13 Defendants, and each of them, are an integrated enterprise and should be treated as a single
14 employer because these entities share an interrelation of operations, with common human
15 resources and personnel policies and shared common offices and facilities. Additionally,
16 Defendants also have a shared website, common management, a centralized control of labor
17 operations, and common ownership or financial control.

18 26. Plaintiffs are informed and believe and thereon allege that, in conducting
19 themselves in the manner described herein, Defendants, and each of them, were acting in active
20 concert with one another such that the acts of each were and are fully attributable to the others in
21 all material respects. Plaintiffs are further informed and believe that at all relevant times
22 Defendants and each of them are now, and at all material times herein mentioned were, the
23 agents, servants, employees, partners, affiliates, and/or representatives of each of their remaining
24 co-Defendants, and were, at all times herein mentioned, acting within the course, scope, and
25 purpose of such relationship(s) and with the knowledge, consent and/or ratification of each of
26 their remaining co-Defendants.

27 27. Plaintiffs are further informed and believe that at all relevant times, Defendants
28 have been inadequately capitalized to conduct business, have failed to follow appropriate

1 corporate formalities, and have simply been a shell and instrumentality through which
2 Defendants DOES 11 through 20, inclusive, have conducted their personal affairs. Accordingly,
3 the corporate veil should be pierced, and any liability attached to Defendants should be imposed
4 jointly and severally against Defendants DOES 11 through 20. Adherence to the fiction of the
5 separate existence of these corporate entities would permit abuse of the corporate privilege,
6 thereby sanctioning fraud and promoting injustice.

7 **VI. LABOR CODE PRIVATE ATTORNEYS GENERAL ACT CAUSES OF ACTION**
8 **(Cal. Lab. Code. §§ 2698 – 2699.5)**

9 28. Plaintiffs are “aggrieved employees” under the PAGA as they was employed by
10 Defendants during the applicable statutory period and suffered one or more of the Labor Code
11 violations alleged herein. As such, Plaintiffs may recover the remedies described herein in a civil
12 action filed on behalf of themselves and all other similarly situated current and former aggrieved
13 employees in California against whom one or more of the alleged violations was committed
14 (hereinafter the “Aggrieved Employees”).

15 29. Plaintiffs seek to recover all applicable and available PAGA remedies pursuant to
16 Labor Code § 2699, as well as attorneys’ fees, costs, and/or other damages as permitted by
17 PAGA through a representative action pursuant to the PAGA and the California Supreme Court
18 in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, Plaintiffs are not required to, nor
19 do they, seek class certification of the PAGA claims under Code of Civil Procedure § 382.

20 30. Pursuant to Labor Code § 2699.3(a), Plaintiffs gave written notice by online filing
21 to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to
22 Defendants of the specific provisions of the Labor Code alleged to have been violated, including
23 the facts and theories to support the alleged violations. More than sixty-five (65) days have
24 elapsed since the date Plaintiffs provided the written notice of the claims alleged herein without
25 the LWDA assuming jurisdiction over the claims alleged. Accordingly, Plaintiffs have fully
26 satisfied the administrative prerequisites to suit under the PAGA.

27 ///

28 ///

1 **NINTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO PAY MINIMUM WAGES**

3 (Labor Code §§ 200, 1194, 1194.2, 1197; IWC Wage Order § 4)

4 *Plaintiffs and the Aggrieved Employees against All Defendants*

5 31. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
6 as if fully alleged herein.

7 32. Plaintiffs and the Aggrieved Employees were not exempt from the requirement to
8 be paid at least the applicable California minimum wage throughout the statutory period for each
9 hour worked.

10 33. Plaintiffs and the Aggrieved Employees were not provided proper minimum and
11 regular wages due to Defendants' failure to accurately record and compensate for all hours
12 worked. As a result of this policy and practice, Plaintiffs and the Represented Employees were
13 required to perform off-the-clock work that Defendants either knew or should have known they
14 were performing.

15 34. As one such example, Defendants frequently failed to pay proper minimum and
16 regular wages to Plaintiffs and the Aggrieved Employees due to the practice of automatically
17 deducting 30 minutes from each shift, regardless of whether a meal period occurred.

18 35. As a result of this policy and practice, Plaintiffs and the Aggrieved Employees
19 were required to perform off-the-clock work that Defendants either knew or should have known
20 they were performing.

21 36. Consequently, Defendants violated California Labor Code laws and minimum
22 wage laws, *inter alia*, Labor Code §§ 200, 221, 222, 223, 1197, IWC Wage Order 9, § 4, and
23 Cal. Code Regs., tit. 8, section 11090, subs. 1 and 4(B).

24 37. Plaintiffs are informed and believe and thereon allege that Defendants
25 intentionally, willfully, and improperly failed to pay wages to Plaintiffs and the Aggrieved
26 Employees for each hour worked in violation of Labor Code §§ 221-223, 1194 and 1197.

27 38. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
28 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,

1 and seek to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

2 **TENTH CAUSE OF ACTION**

3 **PAGA ASSESSMENT FOR FAILURE TO PAY OVERTIME WAGES**

4 (Labor Code §§ 204 and 510; IWC Wage Order § 3(A))

5 *Plaintiffs and the Aggrieved Employees against All Defendants*

6 39. Plaintiffs incorporates the preceding paragraphs of the First Amended Complaint
7 as if fully alleged herein.

8 40. Plaintiffs and the Aggrieved Employees were employees of Defendants who did
9 not receive proper protections and benefits of the laws governing payment of overtime wages.

10 41. Labor Code § 204 requires that the employer timely pay all overtime wages to its
11 employees. Labor Code § 510(a) and the applicable IWC Wage Order § 3(A) provide that any
12 work performed in excess of eight (8) hours in one workday or in excess of forty (40) hours in
13 any one workweek shall be compensated at the rate of no less than one and one-half times the
14 regular rate of pay for an employee. Furthermore, any work performed in excess of twelve (12)
15 in one workday shall be compensated at twice the regular rate of pay for an employee.

16 42. At all relevant times, Plaintiffs and the Aggrieved Employees were required by
17 Defendants to work hours in excess of 8 and/or 12 per day and/or 40 per week. However, due to
18 Defendants' failure to accurately record and compensate for all hours worked Plaintiffs and the
19 Aggrieved Employees did not receive proper overtime compensation.

20 43. As one such example, Plaintiffs and Represented Employees were often required
21 to clock out from a shift and then report back to work shortly thereafter on the same day.
22 However, on such occasions, these were treated as separate shifts and therefore Represented
23 Employees were denied overtime wages when they worked over 8 hours in a day. Defendants
24 also had a practice of fraudulently adjusting the timeclocks to avoid paying overtime wages.
25 Additionally, Defendants frequently failed to pay proper overtime wages to Plaintiffs and the
26 Represented Employees due to the practice of automatically deducting 30 minutes from each
27 shift, regardless of whether a meal period occurred.
28

1 44. Defendants violate Labor Code §§ 204 and 510 and the applicable IWC Wage
2 Order § 3(A) every pay period with respect to Plaintiffs and the Aggrieved Employees because
3 Defendants required its employees to work hours in excess of 8 and/or 12 per day and/or 40 per
4 week without proper overtime compensation.

5 45. Plaintiffs are informed and believe and thereon allege that Defendants
6 intentionally, willfully, and improperly failed to pay proper overtime wages to Plaintiffs and the
7 Aggrieved Employees in violation of Labor Code §§ 204, 221-223, 510, 1194 and 1197.

8 46. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
9 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
10 and seek to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

11 **ELEVENTH CAUSE OF ACTION**

12 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE COMPLIANT MEAL PERIODS**

13 (Labor Code § 226.7 and 512; IWC Wage Order § 11, 12)

14 *Plaintiffs and the Aggrieved Employees against All Defendants*

15 47. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
16 as if fully alleged herein.

17 48. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
18 who did not receive proper protections and benefits of the laws governing mandatory meal
19 periods.

20 49. Labor Code § 226.7 requires employers, including Defendants, to provide
21 employees with meal periods as mandated by the Industrial Welfare Commission.

22 50. Labor Code § 512(a), in part, provides that employers, including Defendants, may
23 not employ an employee for a work period of more than five hours per day without providing an
24 employee the opportunity to take an uninterrupted meal period of not less than 30 minutes,
25 except that if the total work period per day of the employee is no more than six hours, the meal
26 period may be waived by mutual consent of both the employer and the employee. Employers
27 may not employ an employee for a work period more than 10 hours per day without providing
28 the employee with a second meal period of not less than 30 minutes.

1 51. Pursuant to Labor Code § 226.7(b) and the applicable IWC Wage Order § 11(B),
2 Defendants shall pay an employee one additional hour of pay at the employee's regular rate of
3 pay for each meal period that is missed.

4 52. At all relevant times herein, Plaintiffs and the Aggrieved Employees were denied
5 the 30-minute meal periods to which they were entitled. As a result of Defendants' policies and
6 practices, Plaintiffs and the Represented Employees were subjected to meal period violations
7 when they were: (1) unable to take a meal period due to workload, (2) forced to take an on-duty
8 meal period while under the control of the Company, (3) forced to take a shortened meal period,
9 (4) forced to take a meal period after the 5th hour of work, and (5) not provided a mandated
10 second meal period for shifts in excess of 10 hours.

11 53. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
12 Order every pay period because Plaintiffs and the Aggrieved Employees were not provided with
13 all mandatory meal periods and Defendants failed to pay Plaintiffs and the Aggrieved Employees
14 one additional hour of compensation at the regular rate of pay in lieu thereof.

15 54. On information and belief, Plaintiffs and the Aggrieved Employees did not
16 voluntarily or willfully waive the mandated meal periods. Any expressed or implied waivers
17 obtained from Plaintiffs and the Aggrieved Employees were not willfully obtained, were not
18 voluntarily agreed to, were a condition of employment, or were a part of a contract of an
19 unlawful adhesion. Defendants did not permit or authorize Plaintiffs and the Aggrieved
20 Employees to take meal periods in accordance with California law.

21 55. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
22 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
23 and seek to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **TWELFTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO PROVIDE REST BREAKS**

3 (Labor Code § 226.7 and 512; IWC Wage Order § 12)

4 *Plaintiffs and the Aggrieved Employees against All Defendants*

5 56. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
6 as if fully alleged herein.

7 57. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
8 who did not receive proper protections and benefits of the laws governing mandatory rest breaks.

9 58. Labor Code § 226.7 requires employers, including Defendants, to provide rest
10 breaks to its employees as mandated by Order of the Industrial Welfare Commission.

11 59. The IWC Wage Order § 12 states, in part, that every employer shall authorize and
12 permit all employees to take rest periods, which insofar as practicable shall be in the middle of
13 each work period. Employees shall receive a 10-minute rest period every four hours or major
14 fraction thereof that they are required to work. Authorized rest period time shall be counted, as
15 hours worked, for which there shall be no deduction from wages.

16 60. Pursuant to Labor Code § 226.7(b) and Section 12(B) of the applicable Wage
17 Order, Defendants shall pay Plaintiffs and the Represented Employees one additional hour of pay
18 at his regular rate of compensation for each day that the rest period is not provided.

19 61. At all relevant times, Defendants also failed to provide Plaintiffs and the
20 Aggrieved Employees with 10 minutes of net rest break time for every 4 hours worked, or major
21 fraction thereof, as mandated by California law. Defendants did not schedule rest breaks and the
22 Aggrieved Employees were often not authorized and/or permitted to take mandated rest breaks
23 due to the lack of adequate staffing and coverage and being overwhelmed by their hectic
24 workload. Furthermore, on occasions when Plaintiffs and the Aggrieved Employees worked
25 lengthy shifts, Defendants failed to authorize and/or permit a mandated third and fourth rest
26 breaks.

27 62. Defendants violated Labor Code §§ 226.7, 512, and the applicable IWC Wage
28 Order every pay period because Plaintiffs and the Aggrieved Employees were not provided with

1 all mandatory rest periods and Defendants failed to pay Plaintiffs and the Aggrieved Employees
2 one additional hour of compensation in lieu thereof.

3 63. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
4 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
5 and seek to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

6 **THIRTEENTH CAUSE OF ACTION**

7 **PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES**

8 (Labor Code § 2802)

9 *Plaintiffs and the Aggrieved Employees Against All Defendants*

10 64. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
11 as if fully alleged herein.

12 65. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
13 who did not receive proper protections and benefits of the laws governing reimbursement of
14 business expenses.

15 66. Labor Code § 2802(a) requires that the employer indemnify its employees for
16 expenses and losses incurred while discharging their duties or in obedience to the directions of
17 their employer.

18 67. At all relevant times herein mentioned, as a condition of employment, Defendants
19 required Plaintiffs and the Aggrieved Employees to incur necessary business-related expenses
20 and costs without reimbursement including necessary tools to perform their job duties, including
21 obtaining and maintaining a cell phone and monthly service.

22 68. At all relevant times herein, Defendants violated Labor Code § 2802(a) when they
23 failed to reimburse Plaintiffs and the Aggrieved Employees for expenses incurred as a direct
24 consequence of employment with Defendants and/or under the direction of Defendants.

25 69. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
26 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
27 and seek to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

28 ///

1 **FOURTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY WAGES EACH PERIOD**

3 (Labor Code § 204)

4 *Plaintiffs and the Aggrieved Employees against All Defendants*

5 70. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
6 as if fully alleged herein.

7 71. Plaintiffs and the Aggrieved Employees are and/or were “nonexempt” employees
8 of Defendants who did not receive proper protections and benefits of the laws regarding the
9 timing of payment of wages each period.

10 72. Labor Code § 204(a) states that all wages earned by a person are due and payable
11 twice during each calendar month, and further states that wages earned during the first through
12 fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that
13 wages earned between the sixteenth and last day of the month must be paid by the tenth day of
14 the following month.

15 73. Furthermore, Labor Code § 204(d) states “[t]he requirements of this section shall
16 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
17 the wages are paid not more than seven calendar days following the close of the payroll period.”

18 74. At all relevant times herein, Defendants did not provide Plaintiffs and the
19 Aggrieved Employees with all wages due and owing each period within the time required by
20 Labor Code § 204. Moreover, Defendants did not provide Plaintiffs and the Aggrieved
21 Employees with all wages due and owing each pay period, including, but not limited to,
22 minimum, regular, and overtime wages, as well as meal and rest period premiums, within the
23 time specified by Labor Code § 204.

24 75. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
25 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
26 and seek to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

27 ///

28 ///

1 **FIFTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

3 (Labor Code §§ 201 – 203 and 256)

4 *Plaintiffs and the Aggrieved Employees against All Defendants*

5 76. Plaintiffs incorporates the preceding paragraphs of the First Amended Complaint
6 as if fully alleged herein.

7 77. Plaintiffs and the Aggrieved Employees are and/or were “non-exempt” employees
8 of Defendants who did not receive proper protections and benefits of the laws governing the
9 timing and payment of final wages.

10 78. Labor Code § 201 requires that the employer immediately pay any wages, without
11 abatement or reduction, to any employee who is discharged.

12 79. Labor Code § 202 requires that the employer pay all wages earned and unpaid,
13 without abatement or reduction, no later than 72 hours of receiving an employee's notice of
14 intent to quit or immediately at the time of quitting if at least a 72-hour notice was provided.

15 80. Labor Code §§ 201-203 cause the unpaid wages of the employee to continue as a
16 penalty from the due date thereof at the same rate until paid or until an action therefore is
17 commenced, but the wages shall not continue for more than thirty (30) days.

18 81. At all relevant times here, Defendants did not provide Plaintiffs and the
19 Aggrieved Employees with all wages due and owing upon separation of employment, including,
20 but not limited to, minimum, regular, and overtime wages, as well as meal and rest period
21 premiums, within the time specified by Labor Code §§ 201 – 203.

22 82. Plaintiffs allege that, at all times material to this action, Defendants had a planned
23 pattern and practice of failing to timely pay to Plaintiffs and the Aggrieved Employees all wages
24 due and owing upon separation of employment as required by Labor Code §§ 201 and 202.

25 83. As a result of the unlawful employment practices alleged herein, Plaintiffs seek
26 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
27 and seek to recover all attorneys’ fees, costs, and/or any other damages permitted under PAGA.

28 ///

1 **SIXTEENTH CAUSE OF ACTION**

2 **PAGA ASSESSMENT FOR**

3 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

4 (Labor Code § 226)

5 *Plaintiffs and the Aggrieved Employees against All Defendants*

6 84. Plaintiffs incorporate the preceding paragraphs of the First Amended Complaint
7 as if fully alleged herein.

8 85. Plaintiffs and the Aggrieved Employees are and/or were employees of Defendants
9 who did not receive proper protections and benefits of the laws governing the provision of
10 accurate itemized wage statements.

11 86. Labor Code § 226(a) requires an employer to provide its employees with itemized
12 wage statements accurately stating gross wages earned, all deductions, net wages earned, the
13 inclusive dates of the pay period, the employee's name and the last four digits of his or her
14 Social Security number (or employee identification number), the name and address of the legal
15 entity that is the employer, and all applicable hourly rates in effect during the pay period and the
16 corresponding number of hours worked at each hourly rate by the employee.

17 87. Defendants violate Labor Code § 226(a) every pay period with respect to
18 Plaintiffs and the Aggrieved Employees because due to violations including: failure to accurately
19 state total hours worked (the wage statements failed to accurately reflect total compensable hours
20 due to the illegal auto-deduct policy); failure to accurately state gross wages earned; failure to
21 accurately state all deductions; failure to accurately state net wages earned; failure to state the
22 applicable hourly rates (including the accurate overtime rate of pay); and failure to accurately
23 state the corresponding number of hours worked at each hourly rate.

24 88. Therefore, Defendants violate Labor Code § 226(a) every pay period with respect
25 to Plaintiffs and the Aggrieved Employees because Defendants failed to provide a wage
26 statement to Plaintiffs and the Aggrieved Employees that complied with the requirements of
27 Labor Code § 226(a).

1 89. As a result of the Defendants' violations of Labor Code § 226(a), Plaintiffs seek
2 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699,
3 and seek to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.
4 See *Raines v. Coastal Pacific Food Distributors, Inc.* (2018) 23 Cal.App.5th 667, 675 ("Section
5 226.3 provides the civil penalty for failure to comply" with Labor Code § 226).

6 **VII. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs, on behalf of themselves, on a representative basis, and all
8 others similarly situated, pray for judgment and relief against Defendants, jointly and severally,
9 as follows:

10 1. As to the Ninth through Sixteenth Causes of Action, the assessment of all
11 applicable and available remedies under the PAGA;

12 2. For reasonable attorneys' fees and costs as permitted under the PAGA;

13 3. That the First through Eighth Causes of Action be certified as a class action;

14 4. That Plaintiffs be appointed as Class Representatives;

15 5. That counsel for Plaintiffs be appointed Class Counsel;

16 6. For all applicable statutory penalties recoverable under the First through Eighth
17 Causes of Action to the extent permitted by law, including those pursuant to Labor Code and
18 Orders of the Industrial Welfare Commission;

19 7. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by
20 law, including those pursuant to the Labor Code;

21 8. For injunctive relief and/or restitution as provided by the Labor Code and
22 Business and Professions Code § 17200, *et seq.*;

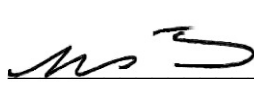
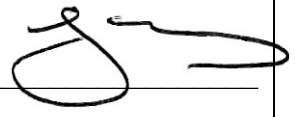
23 9. For a declaratory judgment that Defendants have violated Labor Code §§ 200,
24 201, 202, 203, 204, 208, 210, 218.6, 221, 226, 226.3, 226.7, 510, 512, 558, 1194, 1197, 1198,
25 1199, and 2802 among other sections inadvertently omitted;

26 10. For an award of damages in the amount of unpaid compensation including, but
27 not limited to, unpaid wages, benefits, and penalties according to proof, including interest
28 thereon;

- 1 11. For pre- and post-judgment interest; and
2 12. For such other relief as the Court deems just and proper.

3
4 Dated: December 13, 2024

LAUBY, MANKIN & LAUBY LLP

5
6 BY:  

7 Brian J. Mankin, Esq.
8 Misty M. Lauby, Esq.
9 Attorneys for Plaintiffs

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE:

I, Tracie Chiarito, declare I am a citizen of the United States of America and am employed in Riverside, California; I am over the age of 18 years and am not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, California 92504. On December 26, 2024, I served the within **FIRST AMENDED COMPLAINT** in said action by electronic filing service Case Home Page website to the parties on the service list maintained on the Case Home Page website for this case pursuant to the Court Order establishing the case website and authorizing service of documents.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 26, 2024, at Riverside, California.



Tracie Chiarito, Declarant

SERVICE LIST

Penny Chen Fox, Esq.
Kendall Cole, Esq.
K&L GATES LLP
10100 Santa Monica Blvd., 8th Floor
Los Angeles, CA 90067
Tel: 310.552.5000 | Fax: 310.553.5001
Penny.Fox@klgates.com
Kendall.Cole@klgates.com
Attorneys for Defendant Interlang, LLC dba Montgomery DME