

John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
 Jeffrey C. Bils (SBN 301629)
jeffrey.bils@wilshirelawfirm.com
 Aram Boyadjian (SBN 334009)
aram.boyadjian@wilshirelawfirm.com
 Andrew Sandoval (SBN 346996)
andrew.sandoval@wilshirelawfirm.com
WILSHIRE LAW FIRM
 660 s. Figueroa St., Sky Lobby
 Los Angeles, California 90017
 Telephone: (213) 381-9988
 Facsimile: (213) 381-9989

Attorneys for Plaintiffs

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

BRYAN KEPNER and DONELD W.
 BOUTCHEE, individually, and on behalf of all
 others similarly situated, and on behalf of the
 State of California and other aggrieved persons,

Plaintiffs,

v.

CALIFORNIA TOWING, INC., a California
 corporation; F M G, INC., a California
 corporation; HADLEY TOWING EQUIPMENT,
 INC., a California Corporation; and DOES 1
 through 10, inclusive,

Defendants.

Case No. 23STCV09509
 Consolidated with Case No. 24NWCV00101

**SECOND AMENDED CLASS ACTION &
PAGA REPRESENTATIVE
COMPLAINT:**

1. Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
2. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198);
3. Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512);
4. Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7);
5. Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203);
6. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
7. Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802);
8. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*); and
9. Civil Penalties Under PAGA [Cal. Lab. Code § 2699, *et seq.*].

DEMAND FOR JURY TRIAL

1 Plaintiffs Bryan Kepner and Doneld W. Boutchee (“Plaintiffs”), on information and belief,
2 allege as follows:

3 **INTRODUCTION & PRELIMINARY STATEMENT**

4 1. Plaintiffs bring this action against Defendants CALIFORNIA TOWING, INC., F M
5 G, INC., HADLEY TOWING EQUIPMENT, INC., and DOES 1 through 10 (hereinafter
6 collectively referred to as “Defendants”) for California Labor Code violations and unfair business
7 practices stemming from Defendants’ failure to pay for all hours worked (minimum, straight time,
8 and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods,
9 failure to timely pay final wages, failure to furnish accurate wage statements, and failure to
10 indemnify employees for expenditures.

11 2. Plaintiffs bring the First through Eighth Causes of Action individually and as a class
12 action on behalf of themselves and certain current and former employees of Defendants
13 (hereinafter collectively referred to as the “Class” or “Class Members,” and defined more fully
14 below). The Class consists of Plaintiffs and all other persons who have been employed by any
15 Defendant in California as an hourly-paid or non-exempt employee during the statute of limitations
16 period applicable to the claims pleaded here.

17 3. Plaintiffs bring the Ninth Cause of Action as a representative action under the
18 California Private Attorneys General Act (“PAGA”) to recover civil penalties that are owed to
19 Plaintiffs, the State of California, and past and present non-exempt employees employed by
20 Defendants in the State of California during the statute of limitations period for their PAGA claim
21 (hereinafter referred to as the “Aggrieved Employees”).

22 4. Defendants own/owned and operate/operated an industry, business, and
23 establishment within the State of California, including Los Angeles County. As such, and based
24 upon all the facts and circumstances incident to Defendants’ business in California, Defendants are
25 subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission
26 (“IWC”), and the California Business & Professions Code.

27 5. Despite these requirements, throughout the statutory period, Defendants have, at
28 times:

- (a) Failed to pay employees, or some of them, for all hours worked, including all minimum, straight time, and overtime in compliance with the California Labor Code and IWC Wage Orders;
- (b) Failed to provide employees, or some of them, with timely and duty-free meal periods in compliance with the California Labor Code and IWC Wage Orders, failed to maintain accurate records of all meal periods taken or missed, and failed to pay an additional hour's pay for each workday a meal period violation occurred;
- (c) Failed to authorize and permit employees, or some of them, to take timely and duty-free rest periods in compliance with the California Labor Code and IWC Wage Orders, and failed to pay an additional hour's pay for each workday a rest period violation occurred;
- (d) Willfully failed to pay employees, or some of them, all minimum, straight time, overtime, meal period premium, and rest period premium wages due within the time period specified by California law when employment terminates;
- (e) Failed to provide employees, or some of them, with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders; and,
- (f) Failed to indemnify employees, or some of them, for expenditures incurred in direct discharge of duties of employment.

6. On information and belief, Defendants were on actual and constructive notice of the improprieties alleged herein and intentionally refused to rectify its unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were willful and deliberate.

7. At all relevant times, Defendants were and are legally responsible for all of the unlawful conduct, policies, practices, acts and omissions as described in each and all of the foregoing paragraphs as the employer of Plaintiffs, the Class, and the Aggrieved Employees. Further, Defendants are responsible for each of the unlawful acts or omissions complained of

herein under the doctrine of “respondeat superior.”

8. The damages requested in Plaintiffs’ Second Amended Complaint are based on conservative estimates of the violations suffered by the Class and the Aggrieved Employees over the statutory period of four years. To arrive at our principle, Plaintiffs’ expert analyzed subpoenaed bank, PPP loan, and payroll data from Defendant’s Zions Bancorporation and Friendly Hills Bank accounts, and other third parties, from 2019 to January 18, 2024. Plaintiff’s expert ascertained that there are approximately 36,832 weeks worked by approximately 810 employees.

9. On July 30, 2024, this Court consolidated the matters *Majidi v. Hadley Towing Equipment, Inc.* (Class Case No. 22STCV24385 and PAGA Case No. 22STCV32055). This Court also consolidated the matters *Kepner, et al. v. California Towing, Inc., et al.* (Class Case No. 23STCV09509 and PAGA Case No. 24NWCV00101). All four matters were deemed related (Case Nos. 22STCV24385, 22STCV32055, 23STCV09509, 24NWCV00101) and are pending before this Court. Plaintiffs’ counsel understands that the four actions are being heard together, and that the named entities in the four related actions are related entities, alleged joint employers, and/or engaged in an alleged joint enterprise. Plaintiffs’ Labor Code Private Attorneys General Act of 2004 (PAGA) claims relate back to November 6, 2023 (the date that Plaintiffs filed their initial letter with the California Labor Workforce and Development Agency alleging PAGA violations).

THE PARTIES

A. Plaintiff

10. Plaintiff BRYAN KEPNER is a resident of Whittier, California who worked for Defendants in Los Angeles County, California as an hourly-paid, non-exempt employee from approximately June 2022 to the present.

11. Plaintiff DONELD W. BOUTCHEE is a resident of Victorville, California who worked for Defendants in Los Angeles County, California as an hourly-paid, non-exempt employee from approximately March 2016 to approximately November 2022.

12. Plaintiffs reserve the right to seek leave to amend this complaint to add new Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

1 **B. Defendants**

2 13. Plaintiff is informed and believes, and based upon that information and belief
3 alleges, that Defendants CALIFORNIA TOWING, INC., F M G, INC., HADLEY TOWING
4 EQUIPMENT, INC. are, and at all times herein mentioned, were:

5 (a) Business entities conducting business in numerous counties throughout the
6 State of California, including Los Angeles County; and,

7 (b) The former employer of Plaintiffs, and the current and/or former employer
8 of the putative Class because Defendants suffered and permitted Plaintiffs,
9 the Class, and the Aggrieved Employees to work; and/or exercised control
10 over their wages, hours, or working conditions; and/or engaged Plaintiffs,
11 the Class, and the Aggrieved Employees, thereby creating a common law
12 employment relationship.

13 14. Plaintiffs do not know the true names or capacities of the persons or entities sued
14 herein as Does 1-10, inclusive, and therefore sues said Defendants by such fictitious names. Each
15 of the Doe Defendants was in some manner legally responsible for the damages suffered by
16 Plaintiff and the Class as alleged herein. Plaintiffs will amend this complaint to set forth the true
17 names and capacities of these Defendants when they have been ascertained, together with
18 appropriate charging allegations, as may be necessary.

19 15. At all times mentioned herein, the Defendants named as Does 1-10, inclusive, and
20 each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or
21 injured a significant number of the Plaintiffs, the Class, and the Aggrieved Employees in the State
22 of California.

23 16. Plaintiffs are informed and believe and thereon allege that at all relevant times each
24 Defendant, directly or indirectly, or through agents or other persons, employed Plaintiffs and the
25 other employees described in the class definitions below, and exercised control over their wages,
26 hours, and working conditions. Plaintiffs are informed and believe and thereon allege that, at all
27 relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director,
28 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or

predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiffs are informed and believes and thereon alleges that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

17. Plaintiff BRYAN KEPNER worked for Defendants in Los Angeles County, California as an hourly-paid, non-exempt employee from approximately June 2022 to the present. Plaintiff DONELD W. BOUTCHEE is a resident of Victorville, California who worked for Defendants in Los Angeles County, California as an hourly-paid, non-exempt employee from approximately March 2016 to approximately November 2022. During Plaintiffs' employment for Defendants, Defendants paid Plaintiffs an hourly wage and classified them as non-exempt from overtime. Defendants typically scheduled Plaintiffs to work at least five days in a workweek and at least eight hours per day, but Plaintiffs also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

18. Throughout Plaintiffs' employment, Defendants, at times, failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiffs with legally compliant meal periods, failed to authorize and permit Plaintiffs to take rest periods, failed to timely pay all final wages to Plaintiffs when Defendants terminated their employment, failed to furnish accurate wage statements to Plaintiffs, and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

19. Throughout the statutory period, Defendants, at times, failed to pay Plaintiffs, the Class, and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Defendants would, at times, manufacture time keeping records to falsely show that Plaintiffs, the Class, and the Aggrieved Employees took meal periods when in fact they worked "off-the-clock," uncompensated. The effect is that Plaintiffs, the Class, and the

1 Aggrieved Employees, or some of them, worked through meal periods “off-the-clock,” and
2 continued to work after they had clocked out for the workday. Defendants paid Plaintiffs, the
3 Class, and the Aggrieved Employees, or some of them, less than all their work time. Much of this
4 unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked,
5 Defendants also failed to maintain accurate records of the hours Plaintiffs, the Class, and the
6 Aggrieved Employees, or some of them, worked.

7 20. Throughout the statutory period, Defendants wrongfully failed to provide Plaintiffs,
8 the Class, and the Aggrieved Employees, or some of them, with legally compliant meal periods.
9 Defendants required Plaintiffs, the Class, and the Aggrieved Employees, or some of them, to work
10 in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-
11 free meal period for every five hours of work, or without compensating Plaintiffs, the Class, and
12 the Aggrieved Employees, or some of them, for all missed meal periods that were not provided by
13 the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued to assert
14 control over Plaintiffs, the Class, and the Aggrieved Employees, or some of them, by requiring,
15 pressuring, or encouraging them to perform work tasks which could not be completed without
16 working in lieu of taking mandatory meal periods, or by denying Plaintiffs, the Class, and the
17 Aggrieved Employees, or some of them, permission to take a meal period. Defendants also failed,
18 at times, to permit Plaintiffs to take a second meal period when Plaintiffs worked at least ten hours
19 of work in a workday. As described above, Defendants would manufacture time keeping records
20 to falsely show that Plaintiffs, the Class, and the Aggrieved Employees, or some of them, took
21 meal periods by the fifth hour of work or took meal periods when in fact they worked off-the-
22 clock, uncompensated. Accordingly, Defendants failed to provide meal periods to Plaintiffs, the
23 Class, and the Aggrieved Employees, or some of them, in compliance with California law.

24 21. Throughout the statutory period, Defendants have, at times, wrongfully failed to
25 authorize and permit Plaintiffs, the Class, and the Aggrieved Employees, or some of them, to take
26 legally compliant rest periods. Defendants required Plaintiffs, the Class, and the Aggrieved
27 Employees, or some of them, to work in excess of four consecutive hours a day without Defendants
28 authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every

1 four hours of work (or major fraction of four hours), or without compensating Plaintiffs, the Class,
2 and the Aggrieved Employees, or some of them, for rest periods that were not authorized or
3 permitted. Instead, Defendants continued to assert control over Plaintiffs, the Class, and the
4 Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform
5 work tasks which could not be completed without working in lieu of taking mandatory rest periods,
6 or by denying Plaintiffs, the Class, and the Aggrieved Employees, or some of them, permission to
7 take a rest period. Accordingly, Defendants failed to authorize and permit Plaintiffs, the Class,
8 and the Aggrieved Employees, or some of them, to take rest periods in compliance with California
9 law.

10 22. Throughout the statutory period, Defendants, at times, willfully failed and refused
11 to timely pay Plaintiffs, the Class, and the Aggrieved Employees, or some of them, all final wages
12 due at their termination of employment. In addition, Plaintiffs' final paychecks did not include
13 payment for all expenditures, minimum wages, straight time wages, overtime wages, meal period
14 premium wages, and rest period premium wages owed to Plaintiffs by Defendants at the conclusion
15 of Plaintiffs' employment. On information and belief, Defendants' failure to timely pay Plaintiffs'
16 final wages when Plaintiffs' employment terminated was not a single, isolated incident, but was
17 instead consistent with Defendants' practices that applied, at times, to Plaintiffs, the Class, and the
18 Aggrieved Employees.

19 23. Throughout the statutory period, Defendants failed, at times, to furnish Plaintiffs,
20 the Class, and the Aggrieved Employees, or some of them, with accurate, itemized wage statements
21 showing all applicable hourly rates, and all gross and net wages earned (including correct hours
22 worked, correct wages for meal periods that were not provided in accordance with California law,
23 and correct wages for rest periods that were not authorized and permitted to take in accordance
24 with California law). As a result of these violations of California Labor Code § 226(a), the
25 Plaintiffs, the Class, and the Aggrieved Employees, or some of them, suffered injury because,
26 among other things:
27
28

- 1 (a) the violations led them to believe that they were not entitled to be paid
- 2 minimum, straight time, overtime, meal period premium, and rest period
- 3 premium wages, even though they were entitled;
- 4 (b) the violations led them to believe that they had been paid the minimum,
- 5 straight time, overtime, meal period premium, and rest period premium
- 6 wages, even though they had not been;
- 7 (c) the violations led them to believe they were not entitled to be paid minimum,
- 8 straight time, overtime, meal period premium, and rest period premium
- 9 wages at the correct California rate even though they were entitled;
- 10 (d) the violations led them to believe they had been paid minimum, straight time,
- 11 overtime, meal period premium, and rest period premium wages at the
- 12 correct California rate even though they had not been;
- 13 (e) the violations hindered them from determining the amounts of minimum,
- 14 straight time, overtime, meal period premium, and rest period premium
- 15 wages owed to them;
- 16 (f) in connection with their employment before and during this action, and in
- 17 connection with prosecuting this action, the violations caused them to have
- 18 to perform mathematical computations to determine the amounts of wages
- 19 owed to them, computations they would not have to make if the wage
- 20 statements contained the required accurate information;
- 21 (g) by understating the wages truly due to them, the violations caused them to
- 22 lose entitlement and/or accrual of the full amount of Social Security,
- 23 disability, unemployment, and other governmental benefits;
- 24 (h) the wage statements inaccurately understated the wages, hours, and wage
- 25 rates to which Plaintiff and the Class, or some of them, were entitled, and
- 26 Plaintiff and the Class, or some of them, were paid less than the wages and
- 27 wage rates to which they were entitled.
- 28

Thus, Plaintiffs, the Class, and the Aggrieved Employees, or some of them, are owed the amounts provided for in California Labor Code § 226(e).

24. Throughout the statutory period, Defendants has wrongfully required Plaintiffs, the Class, and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiffs, the Class, and the Aggrieved Employees, or some of them, paid out-of-pocket for necessary employment-related expenses, including, without limitation, cell phone expenses.

CLASS ACTION ALLEGATIONS

25. Plaintiffs bring certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure § 382.

26. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

27. The proposed Class consists of and is defined as:

All persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years and 178 days before the filing of the initial complaint in this action and ending when notice to the Class is sent.¹

28. At all material times, Plaintiffs were a member of the Class.

29. Plaintiffs undertake this concerted activity to improve the wages and working conditions of all Class Members.

30. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

- (a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiffs at this time; however, the Class is estimated to be greater than forty (40) individuals and

¹ In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a) (California Rules of Court), whereby “statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 to October 1, 2020.”

the identity of such membership is readily ascertainable by inspection of Defendants' records.

(b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiffs' claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs have no conflicts with or interests antagonistic to any Class Member. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiffs have incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and,
- 4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a

1 class action. Indeed, current employees are often afraid to assert their rights
2 out of fear of direct or indirect retaliation. Former employees are also fearful
3 of bringing actions because they believe their former employers might
4 damage their future endeavors through negative references and/or other
5 means. Class actions provide the class members who are not named in the
6 complaint with a type of anonymity that allows for the vindication of their
7 rights at the same time as their privacy is protected.

8 31. There are common questions of law and fact as to the Class (and each subclass, if
9 any) that predominate over questions affecting only individual members, including without
10 limitation, whether, as alleged herein, Defendants have:

- 11 (a) Failed to pay Class Members for all hours worked, including minimum,
12 straight time, and overtime wages;
- 13 (b) Failed to provide meal periods and pay meal period premium wages to Class
14 Members;
- 15 (c) Failed to authorize and permit rest periods and pay rest period premium
16 wages to Class Members;
- 17 (d) Failed to provide Class Members with timely final wages;
- 18 (e) Failed to provide Class Members with accurate wage statements;
- 19 (f) Failed to indemnify Class Members for expenditures;
- 20 (g) Violated California Business & Professions Code §§ 17200 *et. seq.* as a
21 result of their illegal conduct as described above.

22 32. This Court should permit this action to be maintained as a class action pursuant to
23 California Code of Civil Procedure § 382 because:

- 24 (a) The questions of law and fact common to the Class predominate over any
25 question affecting only individual members;
- 26 (b) A class action is superior to any other available method for the fair and
27 efficient adjudication of the claims of the members of the Class;
- 28 (c) The members of the Class are so numerous that it is impractical to bring all

members of the class before the Court;

- (d) Plaintiffs, and the other members of the Class, will not be able to obtain effective and economic legal redress unless the action is maintained as a class action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries for which Defendants are responsible in an amount sufficient to adequately compensate the members of the Class for the injuries sustained;
- (f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:
 - 1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants; and/or,
 - 2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,
- (g) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

33. Plaintiffs contemplate the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiffs contemplate the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail

notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(Against All Defendants for Failure to Pay Minimum and Straight Time Wages for All Hours Worked)

34. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

35. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

36. At all relevant times herein mentioned, Defendants, at times, knowingly failed to pay to Plaintiffs, the Class, and the Aggrieved Employees, or some of them, compensation for all hours they worked. By their failure to pay compensation for each hour worked as alleged above, Defendants willfully violated the provisions of California Labor Code § 1194, and any additional applicable Wage Orders, which require such compensation to non-exempt employees.

37. Accordingly, Plaintiffs, the Class, and the Aggrieved Employees are entitled to recover minimum and straight time wages for all non-overtime hours worked for Defendants.

38. By and through the conduct described above, Plaintiffs, the Class, and the Aggrieved Employees have been deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

39. By virtue of the Defendants’ unlawful failure to pay additional compensation to Plaintiffs, the Class, and the Aggrieved Employees for their non-overtime hours worked without pay, Plaintiffs, the Class, and the Aggrieved Employees suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiffs, the Class, and the Aggrieved Employees and which will be ascertained according to proof at trial.

40. By failing to keep adequate time records required by California Labor Code § 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage compensation due Plaintiffs, the Class, and the Aggrieved Employees.

41. Pursuant to California Labor Code § 1194.2, Plaintiffs, the Class, and the Aggrieved Employees are entitled to recover liquidated damages (double damages) for Defendants' failure to pay minimum wages.

42. California Labor Code § 204 requires employers to provide employees with all wages due and payable twice a month. Throughout the statute of limitations period applicable to this cause of action, Plaintiffs, the Class, and the Aggrieved Employees were entitled to be paid twice a month at rates required by law, including minimum and straight time wages. However, Defendants failed and refused to pay Plaintiffs, the Class, and the Aggrieved Employees, or some of them, all such wages due and failed to pay those wages twice a month.

43. Plaintiffs, the Class, and the Aggrieved Employees are also entitled to seek recovery of all unpaid minimum and straight time wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor Code §§ 218.5, 218.6, and 1194(a).

44. Plaintiffs' expert estimated one hour of uncompensated off-the-clock time worked per workweek, calculated at the average \$14.55082 wage per hour. Consistent with the payroll records, 77% of wages were paid at the regular rate of pay. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$412,670.56 (excluding interest). Plaintiffs' conservative estimate of the violation suffered by Plaintiffs, the Class, and the Aggrieved Employees is one hour of off-the-clock time worked per workweek, per class member ($\$14.55082 \text{ per hour} \times 0.77 \times 36,832 \text{ workweeks during the statutory period}$) = \$412,670.56).

SECOND CAUSE OF ACTION

(Against All Defendants for Failure to Pay Overtime Wages)

45. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

46. California Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

47. California Labor Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional

1 compensation beyond their regular wages in amounts specified by law. Additionally, California
2 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed
3 by the IWC is unlawful.

4 48. At all times relevant hereto, Plaintiffs, the Class, and the Aggrieved Employees, or
5 some of them, have at times worked more than eight hours in a workday and/or more than forty
6 (40) hours in a workweek, as employees of Defendants.

7 49. At all times relevant hereto, Defendants failed to pay Plaintiffs, the Class, and the
8 Aggrieved Employees, or some of them, overtime compensation for the hours they have worked
9 in excess of the maximum hours permissible by law as required by California Labor Code §§ 510
10 and 1198.

11 50. By virtue of Defendants' unlawful failure to pay additional premium rate
12 compensation to the Plaintiffs, the Class, and the Aggrieved Employees for their overtime hours
13 worked, Plaintiffs, the Class, and the Aggrieved Employees have suffered, and will continue to
14 suffer, damages in amounts which are presently unknown to them but which exceed the
15 jurisdictional minimum of this Court and which will be ascertained according to proof at trial.

16 51. By failing to keep adequate time records required by Labor Code § 1174(d),
17 Defendants have made it difficult to calculate the full extent of overtime compensation due to
18 Plaintiffs, the Class, and the Aggrieved Employees.

19 52. Plaintiffs, the Class, and the Aggrieved Employees also request recovery of
20 overtime compensation according to proof, interest, attorneys' fees and costs pursuant to California
21 Labor Code § 1194(a), as well as the assessment of any statutory penalties against Defendants, in
22 a sum as provided by the California Labor Code and/or other statutes.

23 53. California Labor Code § 204 requires employers to provide employees with all
24 wages due and payable twice a month. The Wage Orders also provide that every employer shall
25 pay to each employee, on the established payday for the period involved, overtime wages for all
26 overtime hours worked in the payroll period. Defendants failed to provide Plaintiffs, the Class,
27 and the Aggrieved Employees with all compensation due, in violation of California Labor Code §
28 204.

54. Plaintiffs' expert estimated one hour of uncompensated overtime worked per workweek, calculated at the average \$14.55082 wage per hour. Consistent with the payroll records, 22% of wages were paid at the overtime rate of pay, and 1% of wages were paid at the double time rate of pay. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$176,858.81 (excluding interest). Plaintiffs' conservative estimate of the violation suffered by Plaintiffs, the Class, and the Aggrieved Employees is one hour of off-the-clock time worked per workweek, per class member (($\$14.55082 \times 1.5$ per hour) $\times 0.22 \times 36,832$ workweeks during the statutory period = \$176,858.81); ($\14.55082×2 per hour) $\times 0.01 \times 36,832$ workweeks during the statutory period = \$10,718.71).

THIRD CAUSE OF ACTION

(Against All Defendants for Failure to Provide Meal Periods)

55. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

56. Under California law, Defendants have an affirmative obligation to relieve the Plaintiffs, the Class, and the Aggrieved Employees of all duty in order to take their first daily meal periods no later than at the end of Plaintiffs, the Class, and the Aggrieved Employees' fifth hour of work in a workday, and to take their second meal periods no later than at the end of the tenth hour of work in the workday. California Labor Code § 512, and Section 11 of the applicable Wage Orders require that an employer provide unpaid meal periods of at least thirty (30) minutes for each five-hour period worked. It is a violation of California Labor Code § 226.7 for an employer to require any employee to work during any meal period mandated under any Wage Order.

57. Despite these legal requirements, Defendants, at times, failed to provide Plaintiffs, the Class, and the Aggrieved Employees, or some of them, with both meal periods as required by California law. By their failure to permit and authorize Plaintiffs, the Class, and the Aggrieved Employees, or some of them, to take all meal periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted meal periods), Defendants willfully violated the provisions of California Labor Code § 226.7 and the applicable Wage Orders.

59. Plaintiffs' expert estimated one unpaid meal period premium per shift, calculated at the average \$14.55082 wage per hour. Plaintiffs' expert estimated that employees worked 167,871 shifts throughout the statutory period. As such, Plaintiff and the Class are owed \$2,442,660.70 (excluding interest). Plaintiffs' estimate of the violation suffered by Plaintiffs, the Class, and the Aggrieved Employees is one unpaid meal period premium per shift, per class member (\$14.55082 x 167,871 shifts = \$2,442,660.70).

FOURTH CAUSE OF ACTION

(Against All Defendants for Failure to Authorize and Permit Rest Periods)

60. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

61. Defendants are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). California Labor Code § 512, the applicable Wage Orders require that the employer permit and authorize all employees to take paid rest periods of ten minutes each for each 4-hour period worked. Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws. It is a violation of California Labor Code § 226.7 for an employer to require any employee to work during any rest period mandated under any Wage Order.

62. Despite these legal requirements, Defendants at times failed to authorize Plaintiffs, the Class, and the Aggrieved Employees, or some of them, to take rest breaks, regardless of whether employees worked more than four hours in a workday. By their failure to permit and authorize Plaintiffs, the Class, and the Aggrieved Employees to take rest periods as alleged above (or due to the fact that Defendants made it impossible or impracticable to take these uninterrupted rest periods), Defendants willfully violated the provisions of California Labor Code § 226.7 and the

applicable Wage Orders.

63. Under California law, Plaintiffs, the Class, and the Aggrieved Employees are entitled to be paid one hour of premium wages rate for each workday he or she was not provided with all required rest break(s), plus interest thereon.

64. Plaintiffs' expert estimated one unpaid rest break premium per shift, calculated at the average \$14.55082 wage per hour. Plaintiffs' expert estimated that employees worked 167,871 shifts throughout the statutory period. As such, Plaintiff and the Class are owed \$2,442,660.70 (excluding interest). Plaintiffs' estimate of the violation suffered by Plaintiffs, the Class, and the Aggrieved Employees is one unpaid meal period premium per shift, per class member (\$14.55082 x 167,871 shifts = \$2,442,660.70).

FIFTH CAUSE OF ACTION

(Against All Defendants for Failure to Pay Wages of Discharged Employees – Waiting Time Penalties)

65. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

66. At all times herein set forth, California Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

67. Within the applicable statute of limitations, the employment of many other members of the Class ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendants at times failed, and continue to fail, to pay terminated Class Members, without abatement, all wages required to be paid by California Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

68. Defendants' failure to pay those Class members who are no longer employed by

Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code §§ 201 and 202.

69. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

70. The Class is entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to California Labor Code § 203.

71. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, the Class is also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this action.

72. Plaintiffs' expert estimated statutory penalties for up to 240 hours' of wages for employees who separated from Defendant's employ during the statutory period. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$2,828,679.

SIXTH CAUSE OF ACTION

(Against All Defendants for Failure to Provide and Maintain Accurate and Compliant Wage Records)

73. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

74. At all material times set forth herein, California Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (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

1 and the last four digits of his or her social security number or an employee identification number
2 other than a social security number, (8) the name and address of the legal entity that is the
3 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
4 number of hours worked at each hourly rate by the employee.

5 75. Defendants have, at times, intentionally and willfully failed to provide employees
6 with complete and accurate wage statements. The deficiencies include, among other things, the
7 failure to correctly identify the gross wages earned by Plaintiffs, the Class, and the Aggrieved
8 Employees, or some of them, the failure to list the true “total hours worked by the employee,” and
9 the failure to list the true net wages earned.

10 76. As a result of Defendants’ violation of California Labor Code § 226(a), Plaintiffs,
11 the Class, and the Aggrieved Employees have suffered injury and damage to their statutorily
12 protected rights.

13 77. Specifically, Plaintiffs and the members of the Class have been injured by
14 Defendants’ intentional violation of California Labor Code § 226(a) because they were denied both
15 their legal right to receive, and their protected interest in receiving, accurate, itemized wage
16 statements under California Labor Code § 226(a).

17 78. Calculation of the true wage entitlement for Plaintiffs, the Class, and the Aggrieved
18 Employees is difficult and time consuming. As a result of this unlawful burden, Plaintiffs, the
19 Class, and the Aggrieved Employees were also injured as a result of having to bring this action to
20 attempt to obtain correct wage information following Defendants’ refusal to comply with many of
21 the mandates of California’s Labor Code and related laws and regulations.

22 79. Plaintiffs, the Class, and the Aggrieved Employees are entitled to recover from
23 Defendants the greater of their actual damages caused by Defendants’ failure to comply with
24 California Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars
25 (\$4,000) per employee.

26 80. Plaintiffs, the Class, and the Aggrieved Employees are also entitled to injunctive
27 relief, as well as an award of attorney’s fees and costs to ensure compliance with this section,
28 pursuant to California Labor Code § 226(h).

81. Plaintiffs' expert estimated statutory penalties of \$50 per employee for the initial pay period, \$100 per employee thereafter, and up to \$4,000 per employee for inaccurate wage statements. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$787,850.

SEVENTH CAUSE OF ACTION

(Against All Defendants for Failure to Indemnify Employees for Expenditures)

82. Plaintiffs incorporate by reference and re-allege as if fully stated herein paragraphs 1 through 23 in this Complaint.

83. As set forth above, Plaintiffs, the Class, and the Aggrieved Employees, or some of them, were required to incur substantial necessary expenditures and losses in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

84. Defendants violated California Labor Code § 2802, by failing to pay and indemnify Plaintiffs, the Class, and the Aggrieved Employees, or some of them, for necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

85. As a result, Plaintiffs, the Class, and the Aggrieved Employees were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendants from their wages.

86. Plaintiffs, the Class, and the Aggrieved Employees are entitled to reasonable attorney's fees, expenses, and costs of suit pursuant to California Labor Code § 2802(c) and interest pursuant to California Labor Code § 2802(b).

87. Plaintiffs' expert estimated that each employee spent \$15.00 per semimonthly pay period on necessary business-related expenses that were not reimbursed. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$285,825 (excluding interest).

EIGHTH CAUSE OF ACTION

(Against All Defendants for Violation of California Business & Professions Code §§ 17200, et seq.)

88. Plaintiffs incorporate by reference and re-alleges as if fully stated herein paragraphs 1 through 23 in this Complaint.

89. Defendants, and each of them, are “persons” as defined under California Business & Professions Code § 17201.

90. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

91. Defendants’ activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, *et seq.*

92. A violation of California Business & Professions Code §§ 17200, *et seq.* may be predicated on the violation of any state or federal law. All of the acts described herein as violations of, among other things, the California Labor Code, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Minimum and Straight Time Wages

93. Defendants’ failure to pay minimum and straight time wages, and other benefits in violation of the California Labor Code constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Pay Overtime Wages

94. Defendants’ failure to pay overtime compensation and other benefits in violation of California Labor Code §§ 510, 1194, and 1198 constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

Failure to Provide Meal Periods

95. Defendants’ failure to provide meal periods in accordance with California Labor Code §§ 226.7 and 512, and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200, *et seq.*

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Failure to Authorize and Permit Rest Periods

96. Defendants' failure to authorize and permit rest periods in accordance with California Labor Code § 226.7 and the IWC Wage Orders, as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and Professions Code §§ 17200, *et seq.*

97. By and through their unfair, unlawful and/or fraudulent business practices described herein, the Defendants, have obtained valuable property, money and services from Plaintiffs, and all persons similarly situated, and have deprived Plaintiffs, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

98. Plaintiffs, the Class, and the Aggrieved Employees Members suffered monetary injury as a direct result of Defendants' wrongful conduct.

Failure to Indemnify Business Expenses

99. Defendants' failure to reimburse expenses incurred in accordance with California Labor Code § 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Business & Professions Code §§ 17200 *et seq.*

100. By and through its unfair, unlawful and/or fraudulent business practices described herein, the Defendants, have obtained valuable property, money and services from Plaintiffs, and all persons similarly situated, and has deprived Plaintiffs, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

101. Plaintiffs, the Class, and the Aggrieved Employees Members suffered monetary injury as a direct result of Defendant's wrongful conduct.

102. Plaintiffs, individually, and on behalf of members of the putative Class, and on behalf of the Aggrieved Employees are entitled to, and do seek such relief as may be necessary to disgorge money and/or property which the Defendants have wrongfully acquired, or of which Plaintiffs, the Class, and the Aggrieved Employees have been deprived, by means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiffs, the Class, and the Aggrieved Employees are not obligated to establish individual knowledge of the wrongful practices of Defendants in order to recover restitution.

103. Plaintiffs, individually, and on behalf of members of the putative Class, and on

1 behalf of the Aggrieved Employees are further entitled to and do seek a declaration that the above-
2 described business practices are unfair, unlawful and/or fraudulent, and injunctive relief restraining
3 the Defendants, and each of them, from engaging in any of the above-described unfair, unlawful
4 and/or fraudulent business practices in the future.

5 104. Plaintiffs, individually, and on behalf of members of the putative Class, and on
6 behalf of the Aggrieved Employees have no plain, speedy, and/or adequate remedy at law to redress
7 the injuries which the Class Members suffered as a consequence of the Defendants' unfair,
8 unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or fraudulent
9 business practices described above, Plaintiffs, individually, and on behalf of members of the
10 putative Class, and on behalf of the Aggrieved Employees have suffered and will continue to suffer
11 irreparable harm unless the Defendants are restrained from continuing to engage in said unfair,
12 unlawful and/or fraudulent business practices.

13 105. Plaintiffs also allege that if Defendants are not enjoined from the conduct set forth
14 herein above, Defendants will continue to avoid paying the appropriate taxes, insurance and other
15 withholdings.

16 106. Pursuant to California Business & Professions Code §§ 17200, *et seq.*, Plaintiffs and
17 putative Class Members are entitled to restitution of the wages withheld and retained by
18 Defendants during a period that commences four years and 178 days prior to the filing of this
19 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to
20 Plaintiff and Class Members; an award of attorneys' fees pursuant to California Code of Civil
21 Procedure § 1021.5 and other applicable laws; and an award of costs.

22 **NINTH CAUSE OF ACTION**

23 **(By Plaintiffs Against All Defendants for Civil Penalties Under the Private Attorneys** 24 **General Act of 2004, Cal. Lab. Code § 2698, et seq.)**

25 107. Plaintiffs incorporate by reference and re-allege all preceding paragraphs as though
26 fully set forth herein.

27 108. At all times herein mentioned, Defendants were subject to the Labor Code of the
28 State of California and the applicable IWC Orders.

1 109. California Labor Code § 2699(a) specifically provides for a private right of action
2 to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law,
3 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
4 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
5 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a
6 civil action brought by an aggrieved employee on behalf of herself or himself and other current or
7 former employees pursuant to the procedures specified in Section 2699.3.”

8 110. Plaintiffs gave written notice by online filing pursuant to California Labor Code §
9 2699.3 to the Labor and Workforce Development Agency and by certified mail to Defendants of
10 the specific provisions of the Labor Code that Defendants have violated against Plaintiffs and
11 certain current and former Aggrieved Employees, or some of them, including the facts and theories
12 to support the violations. Plaintiffs also paid the filing fee. The Labor and Workforce Development
13 Agency has not indicated that it intends to investigate Defendant’s Labor Code violations discussed
14 in the notice. Plaintiffs hereby commence a civil action to recover penalties under Labor Code §
15 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These
16 penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3,
17 1174.5, 1197.1, and 2699.

18 111. Based on the conduct described in this Complaint, Plaintiffs are entitled to an award
19 of civil penalties individually, on behalf of the State of California and certain similarly Aggrieved
20 Employees of Defendants. The exact amount of the applicable penalties, in all, is in an amount to
21 be shown according to proof at trial. These penalties are in addition to all other remedies permitted
22 by law.

23 112. In addition, Plaintiffs seek an award of reasonable attorneys’ fees and costs pursuant
24 to Labor Code § 2699(g)(1), which states, “Any employee who prevails in any action shall be
25 entitled to an award of reasonable attorney’s fees and costs.”

26 113. Plaintiffs’ expert estimated that the Aggrieved Employees are owed \$3,247,600 in
27 PAGA penalties (\$811,900), including for underpaid wages (\$811,900), meal period premiums
28 (\$811,900), rest period premiums (\$811,900), and unreimbursed business expenses (\$811,900).

PRAYER FOR RELIEF

Plaintiffs, individually, and on behalf of all others similarly situated only with respect to the class claims, pray for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action with respect to the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action;
2. That Plaintiffs be appointed as the representatives of the Class; and,
3. That counsel for Plaintiffs be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all minimum and straight time wages due;
5. For unpaid wages as may be appropriate;
6. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;
7. For liquidated damages;
8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and,
9. For such other and further relief as the Court may deem equitable and appropriate.
10. For one hour of uncompensated off-the-clock time worked per workweek at the average regular rate of pay. Consistent with the payroll records, 77% of wages were paid at the regular rate of pay. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$412,670.56 (excluding interest).

As to the Second Cause of Action

11. That the Court declare, adjudge, and decree that Defendants violated California Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due;
12. For unpaid wages at overtime wage rates as may be appropriate;

1 13. For pre-judgment interest on any unpaid overtime compensation commencing from
2 the date such amounts were due;

3 14. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
4 California Labor Code § 1194(a); and,

5 15. For such other and further relief as the Court may deem equitable and appropriate.

6 16. For one hour of uncompensated overtime worked per workweek at the overtime rate
7 of pay. Consistent with the payroll records, 22% of wages were paid at the overtime rate of pay,
8 and 1% of wages were paid at the double time rate of pay. As such, Plaintiffs, the Class, and the
9 Aggrieved Employees are owed \$176,858.81.

10 As to the Third Cause of Action

11 17. That the Court declare, adjudge, and decree that Defendants violated California
12 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

13 18. For unpaid meal period premium wages as may be appropriate;

14 19. For pre-judgment interest on any unpaid compensation commencing from the date
15 such amounts were due;

16 20. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
17 and for costs of suit incurred herein; and,

18 21. For such other and further relief as the Court may deem equitable and appropriate.

19 22. For one unpaid meal period premium per shift, per employee. As such, Plaintiffs,
20 the Class, and the Aggrieved Employees are owed \$2,442,660.70.

21 As to the Fourth Cause of Action

22 23. That the Court declare, adjudge, and decree that Defendants violated California
23 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

24 24. For unpaid rest period premium wages as may be appropriate;

25 25. For pre-judgment interest on any unpaid compensation commencing from the date
26 such amounts were due;

27 26. For reasonable attorneys' fees under California Code of Civil Procedure § 1021.5,
28 and for costs of suit incurred herein; and,

27. For such other and further relief as the Court may deem equitable and appropriate.

28. For one unpaid rest break premium per shift, per employee. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$2,442,660.70.

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment;

30. For statutory wage penalties pursuant to California Labor Code § 203 for former employees who have left Defendants' employ;

31. For pre-judgment interest on any unpaid wages from the date such amounts were due;

32. For reasonable attorneys' fees and for costs of suit incurred herein; and,

33. For such other and further relief as the Court may deem equitable and appropriate.

34. Plaintiffs' expert estimated that Plaintiffs, the Class, and the Aggrieved Employees are owed \$2,828,679 for Defendant's failure to pay timely wages upon termination.

As to the Sixth Cause of Action

35. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

36. For all actual damages, according to proof;

37. For statutory penalties pursuant to California Labor Code § 226(e);

38. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h);

39. For reasonable attorneys' fees and for costs of suit incurred herein; and,

40. For such other and further relief as the Court may deem equitable and appropriate.

41. Plaintiffs' expert estimated statutory penalties of \$50 per employee for the initial pay period, \$100 per employee thereafter, and up to \$4,000 per employee for inaccurate wage statements. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$787,850.

As to the Seventh Cause of Action

42. That the Court declare, adjudge, and decree that Defendants violated California Labor Code § 2802 by willfully failing to indemnify employees for expenditures;

43. For unpaid wages or unreimbursed business expenses as may be appropriate;

44. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

45. For reasonable attorneys' fees and for costs of suit incurred herein; and,

46. For such other and further relief as the Court may deem equitable and appropriate.

47. Plaintiffs' expert estimated that each employee spent \$15.00 per semimonthly pay period on necessary business-related expenses that were not reimbursed. As such, Plaintiffs, the Class, and the Aggrieved Employees are owed \$285,825 (excluding interest).

As to the Eighth Cause of Action

48. That the Court declare, adjudge, and decree that Defendants violated California Business & Professions Code §§ 17200, *et seq.* by failing to pay for all hours worked (minimum, straight time, and overtime wages), failing to provide meal periods, failing to authorize and permit rest periods, and failing to indemnify employees for expenditures;

49. For restitution of unpaid wages to Plaintiffs and all Class Members and prejudgment interest from the day such amounts were due and payable;

50. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 *et seq.*;

51. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5;

52. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, *et seq.*; and,

53. For such other and further relief as the Court may deem equitable and appropriate.

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As to the Ninth Cause of Action

54. That the Court declare, adjudge, and decree that Defendants violated the California Labor Code by failing to pay wages for all hours worked (including minimum, straight time, and overtime wages), failing to provide meal periods and pay the correct amount of meal period premium wages, failing to authorize and permit rest periods and pay the correct amount of rest period premium wages, failing to pay all earned wages twice per month, failing to maintain accurate records of hours worked and meal periods, failing to pay all final wages to terminated employees, failing to furnish accurate wage statements, and failing to indemnify employees for expenditures;

55. For all actual, consequential and incidental losses and damages, according to proof;

56. For all civil penalties pursuant to California Labor Code §§ 2699, et seq., and all other applicable Labor Code provisions;

57. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code § 2699;

58. Plaintiffs' expert estimated \$3,247,600 in PAGA penalties (\$811,900), including for underpaid wages (\$811,900), meal period premiums (\$811,900), rest period premiums (\$811,900), and unreimbursed business expenses (\$811,900). As such, Plaintiffs and the Aggrieved Employees are owed \$3,247,600; and,

59. For such other and further relief as the Court may deem equitable and appropriate.

As to all Causes of Action

60. For any additional relief that the Court deems just and proper.

61. For attorneys' fees totaling \$3,156,201 based on the percentage of the fund theory. Attorneys' fees are calculated at 25% of the common fund.

62. For interest totaling \$1,529,124. Interest is calculated at 10% for off-the-clock work, and 7% for other unpaid amounts.

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Dated: September 23, 2025

Respectfully submitted,

WILSHIRE LAW FIRM

By: 

John G. Yslas
Aram Boyadjian
Jeffrey C. Bils
Andrew Sandoval

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all causes of action triable by jury.

Dated: September 23, 2025

WILSHIRE LAW FIRM

By: 

John G. Yslas
Aram Boyadjian
Jeffrey C. Bils
Andrew Sandoval

Attorneys for Plaintiffs

PROOF OF SERVICE

Bryan Kepner, et al. v. California Towing, Inc., et al.

Case No.: 23STCV09509

Consolidated with Case No.: 24NWCV00101

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Celenia Ramos, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 660 S. Figueroa St., Sky Lobby Los Angeles, CA 90017. My electronic service address is celenia.ramos@wilshirelawfirm.com.

On **September 23, 2025**, I served the foregoing:

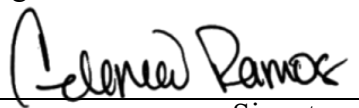
• **SECOND AMENDED CLASS ACTION & PAGA REPRESENTATIVE COMPLAINT** on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Andrey Garibyan 11819 E Hadley St Whittier, CA 90601 <i>Registered Agent for Hadley Towing Equipment, Inc Via U.S. Mail Only</i>	MV Towing Inc. Agent for Service of Process for California Towing, Inc. 15176 Whittram Avenue Fontana, CA 92335 <i>Registered Agent for California Towing, Inc. Via U.S. Mail Only</i>
Mark Hansen Agent for Service of Process for F M G, Inc. 11819 E Hadley St Whittier, CA 90601 <i>Registered Agent for F M G, Inc. Via U.S. Mail Only</i>	

- (X) **VIA CASE ANYWHERE:** I hereby certify that a true and correct copy of this document was electronically served from Los Angeles, California by transmission to Case Anywhere, to the parties listed on the Case Anywhere service list for this matter.
- (X) **BY MAIL:** I enclosed the above documents in a sealed envelope with postage thereon fully prepaid and placed for collection and mailing on the above date in accordance with ordinary business practices. I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to Cal. Code Civ. Proc. § 1013(a). I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct. I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **September 23, 2025**, at Los Angeles, California.

Celenia Ramos
Type or Print Name


Signature