

MARALLE MESSRELIAN (SBN 316974)
maralle@mmlawapc.com

MM LAW, APC
500 N. Brand Blvd., Ste 2000
Glendale, CA 91203
Telephone (818) 810-7747
Facsimile (818) 230-9018

Assigned for All Purposes
Judge Melissa R. McCormick
Dept. CX104

Attorneys for Plaintiff,
OLGA TAPIA, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
(UNLIMITED JURISDICTION)

OLGA TAPIA, as an “aggrieved employee” on
behalf of herself and other similarly situated
“aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff,

vs.

PHILLIPS CONNECT TECHNOLOGIES,
LLC; and DOES 1 to 25, inclusive,

Defendants.

Case No. 30-2024-01383072-CU-OE-CXC

**COMPLAINT FOR VIOLATIONS
OF THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED

1 Plaintiff, OLGA TAPIA (hereafter “Plaintiff”), on behalf of herself, the State of
2 California, and the other Aggrieved Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action under the Labor Code Private Attorneys
5 General Act of 2004, § 2698, *et seq.* (“PAGA”) based on alleged violations of the California
6 Labor Code and Industrial Welfare Commission Order Nos. 1-2001/4-2001 (hereafter “the Wage
7 Order”), against Defendants Phillips Connect Technologies, LLC, and DOES 1 to 25, inclusive
8 (collectively “PHILLIPS” or “Defendants”).

9 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
10 her, the State of California, and the Aggrieved Employees (defined below), for civil penalties and
11 other related relief. These claims are based on Defendants’ failures to: 1) pay all wages, including
12 minimum, regular, overtime, and doubletime wages earned for all hours worked at the correct
13 rates of pay; 2) provide meal periods or pay correctly-calculated premium wages in lieu thereof;
14 3) authorize and permit rest periods or pay correctly-calculated premium wages in lieu thereof;
15 4) indemnify for business expenses; 5) issue only accurate and complete itemized wage
16 statements; 6) timely pay wages during employment; 7) timely pay wages upon separation from
17 employment; and 8) maintain accurate employment records. Accordingly, Plaintiff now seeks to
18 recover civil penalties and related relief through this representative action.

19 **JURISDICTION AND VENUE**

20 3. Jurisdiction and Venue are proper in this Court and this action is properly filed in
21 the County of Orange in this judicial district because Defendants Phillips Connect Technologies,
22 LLC and DOES 1 to 25, inclusive, do business in the County of Orange and because Defendants’
23 obligations and liabilities arise therein, and because the work that was performed by Plaintiff and
24 the Aggrieved Employees in the County of Orange is the subject of this action. Moreover, the
25 aggregate claims of Plaintiff and the Aggrieved Employees, inclusive of all relief, place more
26 than \$25,000 in controversy.

27 **THE PARTIES**

28 4. Plaintiff Olga Tapia is resident of Orange County, California.

1 5. Defendant Phillips Connect Technologies, LLC is a Delaware limited liability
2 company which employed Plaintiff in Orange County, California. As such, it is a citizen of
3 California based on Plaintiff's information and belief.

4 6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
5 participation in the conduct alleged herein of the Defendants sued as DOES 1-25, inclusive, but
6 is informed and believes and thereon alleges that said Defendants are legally responsible for the
7 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
8 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
9 when ascertained.

10 7. The "Aggrieved Employees" are all individuals the Defendants have employed or
11 otherwise contracted with in California as hourly, non-exempt employers, during the period
12 beginning one year before the Plaintiff's notice of November 1, 2023 to the California Labor and
13 Workforce Development Agency ("LWDA") and ending on the date judgment is entered.

14 8. Plaintiff is informed and believes and thereon alleges that, at all relevant times
15 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
16 remaining defendants, and in doing the things hereinafter alleged, were acting within the course
17 and scope of such agency or employment, and with the approval and ratification of each of the
18 other Defendants.

19 9. At all relevant times, in perpetrating the acts and omissions alleged herein,
20 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
21 of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved
22 Employees in accordance with applicable California labor laws as alleged herein.

23 10. Plaintiff is informed and believes and thereon alleges that each and every one of
24 the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants,
25 each acting as agents and/or employees, and/or under the direction and control of each of the other
26 defendants, and that said acts and failures to act were within the course and scope of said agency,
27 employment, and/or direction and control.

28 ///

1 **FACTUAL ALLEGATIONS**

2 11. IWC Wage Order 1-2001 applies to “all persons employed in the manufacturing
3 industry whether paid on a time, piece rate, commission, or other basis[.]” § 1. IWC Wage Order
4 4-2001 applies to “all persons employed in professional, technical, clerical, mechanical, and
5 similar occupations whether paid on a time, piece rate, commission, or other basis[.]” § 1. At all
6 relevant times, PHILLIPS is and was a business involved in the manufacture and sales of
7 telematics products and developing intelligent transportation technology. Accordingly, Plaintiff
8 and the Aggrieved Employees are entitled to the protections afforded by the Wage Orders.

9 12. PHILLIPS began to employ Plaintiff in or around September 2019 at its facility
10 located at 1919 Alton Parkway in Irvine, California. Plaintiff’s latest job title was “Production
11 Lead”. Plaintiff’s employment ended on or around September 22, 2023.

12 13. At all relevant times, PHILLIPS issued wages to Plaintiff and all of the other
13 Aggrieved Employees on a biweekly basis and paid them by the hour. At all relevant times,
14 PHILLIPS classified Plaintiff and all of the other Aggrieved Employees as non-exempt
15 employees entitled to the protections of the Labor Code and the Wage Order. During her
16 employment tenure, Plaintiff’s work hours fluctuated based on the needs of the company. Plaintiff
17 generally worked five days a week, Monday – Friday (sometimes Saturdays) and would start her
18 shift anywhere from 2:00 a.m. (during busy time) or 5:00 a.m./6:00 a.m./8:00 a.m. until
19 approximately 4:30/5:00 p.m. Plaintiff’s latest rate of pay was approximately \$22.88 per hour.

20 14. PHILLIPS failed to pay Plaintiff and other Aggrieved Employees for all time
21 worked or subject to its control. Such “off the clock” work included Plaintiff receiving emails and
22 text messages on her personal cell phone from management, including Production Manager,
23 Armando Molina, outside of her regular work hours to discuss work-related issues, including
24 coverage and production. Furthermore, and to the extent that Plaintiff and others worked through
25 their meal periods while “off the clock”, they were not compensated for all hours worked, which
26 would be akin to a minimum wage violation.

27 15. Due to the above “off the clock” violations, PHILLIPS failed to pay Plaintiff and
28 the Aggrieved Employees properly-calculated overtime wages. The Aggrieved Employees’ actual

1 work hours, which included the “off the clock” work as described above, entitled them to
2 overtime, however, it was not company policy to keep accurate track of all hours worked and to
3 pay employees the accurate amount of overtime, especially since the “off the clock” work was
4 not factored into the equation. Furthermore, any incentive payments and/or bonus payments were
5 not factored into employees’ regular rate of pay for purposes of deciphering the correct overtime
6 rate of pay. PHILLIPS assigned Plaintiff and the Aggrieved Employees individual “goals” in the
7 work app and paid such non-discretionary bonuses to Plaintiff and the other Aggrieved
8 Employees when they met their production goals. In addition, any bonus and/or incentive
9 payments were not factored into the correct meal and rest break premium pay *per Ferra v. Loews*
10 *Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

11 16. PHILLIPS failed to provide all compliant meal periods and authorize and permit
12 all compliant rest periods to which Plaintiff and the other Aggrieved Employees were entitled.
13 Plaintiff and other Aggrieved Employees were entitled to take off-duty, uninterrupted 30-minute
14 meal periods before the fifth and tenth hours of work and to take uninterrupted 10-minute rest
15 periods for every four hours or major fraction thereof worked. However, Plaintiff and the
16 Aggrieved Employees did not always receive timely and uninterrupted meal periods. On work
17 days when Plaintiff started her shift at 2:00 a.m./5:00 a.m./6:00 a.m., PHILLIPS would instruct
18 Plaintiff to clock out of her shift before the fifth hour of work (to avoid providing a meal period
19 and/or paying a meal period premium) and continue working (and take a meal break at 12:00 p.m.
20 with the rest of the employees that arrived at 8:00 a.m.). When Aggrieved Employees would be
21 clocked out for a meal period or would be on their rest breaks, other PHILLIPS employees and/or
22 management would interrupt them with questions about work related matters. Similarly, Plaintiff
23 and the other Aggrieved Employees would not always receive timely and duty free rest breaks
24 due to the work load/ press of business. On information and belief, PHILLIPS did not provide
25 premium wages for these meal and rest break violations; if PHILLIPS did provide premium
26 wages, they were not paid at the correct rate, as explained above.

27 17. PHILLIPS failed to reimburse Plaintiff and the other Aggrieved Employees for
28 business expenses they incurred in direct consequence of the discharge of their duties. PHILLIPS

1 required Plaintiff and the other Aggrieved Employees to download an app and use their own
2 personal cell phones to communicate with management concerning work matters. PHILLIPS did
3 not provide Plaintiff and the other Aggrieved Employees with a mobile phone and did not
4 reimburse Plaintiff or the other employees for their mobile phone expenses. Accordingly,
5 PHILLIPS was in violation of California Labor Code sections 2800 and 2802.

6 18. PHILLIPS failed to pay its employees all wages due to them within any time
7 period specified by California Labor Code section 204, including the minimum wages and
8 overtime as described above as well as meal/rest break premiums. PHILLIPS did not provide
9 Plaintiff and other Aggrieved Employees accurate, itemized wage statements. Wage statements
10 must include, among other things, total hours worked by the employee. Labor Code § 226(a)(2).
11 PHILLIPS issued wage statements that inaccurately reflected total hours worked, gross and net
12 wages earned, and the number of hours worked at each hourly rate because of PHILLIPS's failure
13 to properly pay wages as explained herein. Labor Code §§ 226(a)(1), (2), (5), (9). PHILLIPS'
14 failure to maintain accurate records as to the hours worked daily by employees also constitutes a
15 violation of Labor Code section 1174(d).

16 19. Finally, because PHILLIPS did not properly pay all wages earned as explained
17 herein, PHILLIPS also failed to pay final wages owed to Plaintiff and other Aggrieved Employees
18 in violation of Labor Code section 203. These earned but unpaid wages include minimum wages
19 and compensation for all hours worked, overtime compensation, premium pay for missed meal
20 and rest breaks, and business expense reimbursement, among others.

21 20. PHILLIPS has also violated Labor Code section 558 and engaged in business
22 practices which violate Business and Professions Code Section 17200.

23 21. Accordingly, Plaintiff now seeks civil penalties on behalf of herself and the
24 Aggrieved Employees based on Defendants' alleged violations of the California Labor Code and
25 the Wage Order.

26 ///

27 ///

28 ///

1 **FIRST (AND ONLY) CAUSE OF ACTION**

2 **CIVIL PENALTIES**

3 **(Lab. Code §§ 2698, et seq.)**

4 **(By Plaintiff, on behalf of herself and the other Aggrieved Employees, against all**
5 **Defendants)**

6 22. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

7 23. At all relevant times, Plaintiff and the Aggrieved Employees have been non-
8 exempt employees entitled to the protections of both the Labor Code and the Wage Order.

9 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
10 **THE CORRECT RATES OF PAY**

11 24. Wage Order 1-2001/4-2001, sections 2(G) and 2(K) respectively, define “hours
12 worked” as “the time during which an employee is subject to the control of an employer, and
13 includes all the time the employee is suffered or permitted to work, whether or not required to do
14 so.”

15 25. Section 3 of the Wage Order states:

16 The following overtime provisions are applicable to employees 18 years of age or
17 over and to employees 16 or 17 years of age who are not required by law to attend
18 school and are not otherwise prohibited by law from engaging in the subject work.
19 Such employees shall not be employed more than eight (8) hours in any workday
20 or more than 40 in a workweek unless the employee receives one and one half
21 (1½) times such employee’s regular rate of pay for all hours worked over 40 hours
22 in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment
23 beyond eight (8) hours in any workday or more than six (6) days in any workweek
24 is permissible provided the employee is compensated for such overtime at not less
25 than:

26 (a) One and one-half (1½) times the employee’s regular rate of pay for all
27 hours worked in excess of eight (8) hours up to and including twelve (12)
28 hours in any workday, and for the first eight (8) hours worked on the
seventh (7th) consecutive day of work in a workweek;

(b) Double the employee’s regular rate of pay for all hours worked in excess
of 12 hours in any workday and for all hours worked in excess of eight (8)
hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt
full-time salaried employee shall be computed by using the employee’s
regular hourly salary as one fortieth (1/40) of the employee’s weekly

salary.

26. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consists of all hours that an employer has actual or constructive knowledge that employees are working.

27. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

28. Labor Code section 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

29. Labor Code section 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

30. Labor Code section 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

31. In conjunction, these provisions of the Labor Code require employers to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including unrecorded hours when the employer knew or reasonably should have known that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.)

32. At all relevant times during the applicable limitations period, Defendants failed to compensate Plaintiff and the Aggrieved Employees for all hours worked, including, but not limited to overtime wages for all overtime hours they worked at the correct rates of pay.

33. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to compensate Plaintiff and the other Aggrieved Employees for all hours worked as

required by California law.

B. FAILURE TO PROVIDE MEAL PERIODS

34. In relevant part, California Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

35. In relevant part, In relevant part, California Labor Code § 512 states:

An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.

An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

36. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the

employee's regular rate of compensation for each work day that the meal period is not provided.

37. In relevant part, California Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal period or rest period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

38. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the Aggrieved Employees were entitled to uninterrupted meal periods of at least 30 minutes for each day they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

39. Defendants intentionally failed to provide Plaintiff and the Aggrieved Employees with all required timely 30-minute meal periods free from any work duties in accordance with the Wage Order.

40. At all relevant times, Defendants failed to provide Plaintiff and the Aggrieved Employees with all timely and uninterrupted meal periods. Furthermore, Defendants failed to pay premium wages for days on which they failed to provide Plaintiff and the other Aggrieved Employees with timely meal periods.

41. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not providing the and the Aggrieved Employees with all off-duty meal periods required by California law.

///

1 **C. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

2 42. In relevant part, California Labor Code § 1198 states:

3 The maximum hours of work and the standard conditions of labor
4 fixed by the commission shall be the maximum hours of work and
5 the standard conditions of labor for employees. The employment
of any employee for longer hours than those fixed by the order or
under conditions of labor prohibited by the order is unlawful.

6 43. In relevant part, Section 12 of the Wage Order states:

7 Rest Periods:

8 (A) Every employer shall authorize and permit all employees to take
9 rest periods, which insofar as practicable shall be in the middle of
10 each work period. The authorized rest period time shall be based
11 on the total hours worked daily at the rate of ten (10) minutes net
12 rest time per four (4) hours or major fraction thereof. However, a
13 rest period need not be authorized for employees whose total daily
work time is less than three and one-half (3 ½) hours. Authorized
rest period time shall be counted as hours worked for which there
shall be no deduction from wages.

14 (B) If an employer fails to provide an employee a rest period in
15 accordance with the applicable provisions of this order, the
16 employer shall pay the employee one (1) hour of pay at the
17 employee's regular rate of compensation for each workday
that the rest period is not provided.

18 44. In relevant part, California Labor Code § 226.7 states:

19 (b) An employer shall not require an employee to work during
20 a meal or rest period mandated pursuant to an applicable
21 statute, or applicable regulation, standard, or order of the
22 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.

23 (c) If an employer fails to provide an employee a meal period
24 or rest period in accordance with a state law, including, but
25 not limited to, an applicable statute or applicable
26 regulation, standard, or order of the Industrial Welfare
Commission, the Occupational Safety and Health
27 Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
28 additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest

period is not provided.

45. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

46. Defendants intentionally failed to authorize and permit Plaintiff and the Aggrieved Employees to take all 10-minute rest periods free from any work duties in accordance with the Wage Order.

47. At all relevant times, Defendants failed to authorize and permit Plaintiff and the Aggrieved Employees to take all timely rest periods. Furthermore, Defendants failed to pay premium wages to Plaintiff and the Aggrieved Employees for days on which they failed to authorize and permit Plaintiff and the other Aggrieved Employees to take timely rest periods.

48. At all relevant times, due to high workload, Defendants failed to authorize and permit Plaintiff and the Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. Defendants did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Moreover, Defendants failed to pay Plaintiff and the Aggrieved Employees premium wages on workdays they failed to authorize and permit them to take 10-minute rest periods every four hours worked or major fraction thereof.

49. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not authorizing and permitting Plaintiff and the Aggrieved Employees to take all rest breaks required by California law.

D. FAILURE TO INDEMNIFY

50. In pertinent part, California Labor Code section 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

51. Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

52. At all relevant times during the applicable limitations period, as a condition for employment, Defendants required Plaintiff and the Aggrieved Employees to incur certain business expenses. These costs include, but are not limited to, use of their own personal cell

1 phones to communicate with management concerning work matters. However, Defendants did
2 not reimburse Plaintiff and the others for these business expenses.

3 53. Therefore, Defendants failed to indemnify Plaintiff and the Aggrieved Employees
4 for expenditures incurred as a direct consequence of discharging their duties in violation of
5 California Labor Code sections 2800 and 2802.

6 54. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
7 Defendants maintained a policy and/practice, or lack thereof, which resulted in Defendants'
8 failure to indemnify Plaintiff and the Aggrieved Employees for the reasonable expenses they
9 incurred during the course of performing their duties.

10 **E. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
11 **STATEMENTS**

12 55. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved
13 Employees were entitled to receive, bi-weekly or at the time of each payment of wages, an
14 accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable
15 hourly rates in effect during the pay period; and d) the corresponding number of hours worked at
16 each hourly rate by the employee.

17 56. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
18 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
19 the employer fails to provide accurate and complete information as required by California Labor
20 Code § 226(a) and the employee cannot "promptly and easily determine" from the wage statement
21 alone one or more of the following:

22 A. The amount of the gross wages or net wages paid to the employee during
23 the pay period or any of the other information required to be provided on the itemized wage
24 statement pursuant to California Labor Code § 226(a);

25 B. Which deductions the employer made from gross wages to determine the
26 net wages paid to the employee during the pay period;

27 C. The name and address of the employer and, if the employer is a farm labor
28 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
and address of the legal entity that secured the services of the employer during the pay period;

D. The name of the employee and only the last four digits of his or his social
security number or an employee identification number other than a social security number; and

E. The number of piece-rate units earned and the piece rate.

57. “Promptly and easily determine,” as stated in California Labor Code § 226(e), means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

58. As alleged herein, at all relevant times during the applicable limitations period, Defendants violated California Labor Code section 226 because they did not properly and accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the employee and other requirements of California Labor Code section 226. Defendants failed to state in the wage statements they issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock (as described above).

59. Defendants’ failure to provide Plaintiff and the other Aggrieved Employees with accurate wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally provided wage statements that Defendants knew were not accurate.

60. As a result of being provided with inaccurate wage statements by Defendants, Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive accurate wage statements were violated and they were misled about the amount of wages they had actually earned and were owed. In addition, the absence of accurate information on their wage statements prevented immediate challenges to Defendants’ unlawful pay practices, has required discovery and mathematical computations to determine the amounts of wages owed, has caused difficulty and expense in attempting to reconstruct time and pay records and/or has led to the submission of inaccurate information about wages to state and federal government agencies. Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage statements whether Defendants complied with their obligations under California Labor Code section 226(a).

F. UNTIMELY WAGES DURING EMPLOYMENT

61. Labor Code § 204 states:

- (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each

1 calendar month, on days designated in advance by the
2 employer as the regular paydays. Labor performed
3 between the 1st and 15th days, inclusive, of any calendar
4 month shall be paid for between the 16th and the 26th day
5 of the month during which the labor was performed, and
labor performed between the 16th and the last day,
inclusive, of any calendar month, shall be paid for
between the 1st and 10th day of the following month. ...

6 (b) (1) Notwithstanding any other provision of this
7 section, all wages earned for labor in excess of the normal
8 work period shall be paid no later than the payday for the
next regular payroll period.

9 (2) An employer is in compliance with the
10 requirements of subdivision (a) of Section 226
11 relating to total hours worked by the employee, if
12 hours worked in excess of the normal work period
13 during the current pay period are itemized as
14 corrections on the paystub for the next regular pay
15 period. Any corrections set out in a subsequently
issued paystub shall state the inclusive dates of
the pay period for which the employer is
correcting its initial report of hours worked.

16 (c) However, when employees are covered by a collective
17 bargaining agreement that provides different pay
18 arrangements, those arrangements shall apply to the
covered employees.

19 (d) The requirements of this section shall be deemed satisfied
20 by the payment of wages for weekly, biweekly, or
21 semimonthly payroll if the wages are paid not more than
seven calendar days following the close of the payroll
period.

22 62. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all
23 hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff
24 and the Aggrieved Employees with all meal and rest periods in compliance with California laws.
25 Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages
26 on workdays they failed to provide them with one or more meal or rest periods in compliance
27 with California laws. As a result, Defendants failed to timely pay all earned minimum, overtime,
28 and premium wages due during employment within the time periods set by California Labor Code

1 section 204.

2 **G. UNTIMELY FINAL WAGES**

3 63. Labor Code § 201 provides that all earned and unpaid wages of an employee who
4 is discharged are due and payable immediately at the time of discharge.

5 64. Labor Code § 202 provides that all earned and unpaid wages of an employee who
6 quits after providing at least 72-hours notice before quitting are due and payable at the time of
7 quitting and that all earned and unpaid wages of an employee who quits without providing at least
8 72-hours notice before quitting are due and payable within 72 hours.

9 65. By failing to pay earned minimum and premium wages to Plaintiff and the
10 Aggrieved Employees, Defendants failed to timely pay them all earned and unpaid wages in
11 violation of Labor Code § 201 or § 202.

12 66. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
13 and the Aggrieved Employees all of their earned and unpaid wages (described above) have been
14 willful in that, at all relevant times, Defendants have deliberately maintained policies and
15 practices that violate the requirements of the Labor Code and the Wage Order, even though at all
16 relevant times, they have had the ability to comply with those legal requirements.

17 **H. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

18 67. Labor Code § 1174 states:

19 Every person employing labor in this state shall:

20 ...

21 (c) Keep a record showing the names and addresses of all employees
22 employed and the ages of all minors.

23 (d) Keep, at a central location in the state or at the plants or establishments
24 at which employees are employed, payroll records showing the hours
25 worked daily by and the wages paid to, and the number of piece-rate
26 units earned by and any applicable piece rate paid to, employees
27 employed at the respective plants or establishments. These records shall
28 be kept in accordance with rules established for this purpose by the
commission, but in any case shall be kept on file for not less than three
years. An employer shall not prohibit an employee from maintaining a
personal record of hours worked, or, if paid on a piece-rate basis, piece-
rate units earned.

1 68. Labor Code § 1174.5 states:

2 Any person employing labor who willfully fails to maintain the records required
3 by subdivision (c) of Section 1174, or to allow any member of the commission
4 or employees of the division to inspect records pursuant to subdivision (b) of
5 Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

6 69. Section 7 of the Wage Order states:

7 (A) Every employer shall keep accurate information with respect to
8 each employee including the following:

9 (1) Full name, home address, occupation and social security
10 number.

11 (2) Birth date, if under 18 years, and designation as a minor.

12 (3) Time records showing when the employee begins and ends
13 each work period. Meal periods, split shift intervals and
14 total daily hours worked shall also be recorded. Meal
15 periods during which operations cease and authorized rest
16 periods need not be recorded.

17 (4) Total wages paid each payroll period, including value of
18 board, lodging, or other compensation actually furnished to
19 the Employee.

20 (5) Total hours worked in the payroll period and applicable
21 rates of pay. This information shall be made readily
22 available to the employee upon reasonable request.

23 (6) When a piece rate or incentive plan is in operation, piece
24 rates or an explanation of the incentive plan formula shall
25 be provided to employees. An accurate production record
26 shall be maintained by the employer.

27 70. Labor Code § 1198 prohibits employers from employing their employees under
28 conditions prohibited by the Wage Order.

 71. On information and belief, Defendants have willfully failed to maintain the records
 required by § 1174 and Wage Order, including, but not limited to, the total premium wages earned
 for missed meal and rest periods, and records pertaining to all unpaid hours worked by Plaintiff
 and the Aggrieved Employees.

 72. Accordingly, Plaintiff seeks an award of civil penalties against the Defendants on

1 behalf of herself and all of the other Aggrieved Employees as follows: (1) \$500 for each aggrieved
2 employee for each violation of Labor Code section 1174 (penalties set by Labor Code
3 section 1174.5); and (2) \$100 for each aggrieved employee for each initial violation of Labor
4 Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per
5 pay period (penalties set by Labor Code section 2699(f)(2)).

6 **I. CIVIL PENALTIES SOUGHT**

7 73. During the applicable time period, Defendants violated California Labor Code
8 §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, and 2802, and
9 related Labor Code statutes.

10 74. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
11 behalf of themselves and other current or former employees, to bring a civil action to recover civil
12 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

13 75. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved
14 Employees are entitled to recover civil penalties for each of the Defendants' violations of
15 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 558.1, 1174, 1194, 1197,
16 1198, and 2802 during the applicable limitations period in the following amounts:

17 A. For violations of California Labor Code § 204, one hundred dollars
18 (\$100.00) for each aggrieved employee for each initial violation and two hundred dollars
19 (\$200.00) for each aggrieved employee for each subsequent, willful or intentional violation
20 (penalty amounts established by California Labor Code § 210).

21 B. For violations of California Labor Code § 226, two hundred fifty dollars
22 (\$250.00) per employee for initial violation and one thousand dollars (\$1,000.00) per employee
23 for each subsequent violation (penalty amounts established by California Labor Code § 226.3).

24 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
25 (\$50.00) for each aggrieved employee for each initial violation for pay period for which the
26 employee was underpaid and one hundred dollars (\$100.00) for each underpaid employee for
27 each pay period for which the employee was underpaid (penalty amounts established by
28 California Labor Code § 558).

1 D. For violations of California Labor Code § 1174, five hundred dollars
2 (\$500.00) for each Aggrieved Employee for each initial violation (penalty amounts established
3 by Labor Code § 1174.5).

4 E. For violations of California Labor Code § 1197, one hundred dollars
5 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred
6 fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
7 (regardless of whether the initial violations were intentionally committed) (penalty amounts
8 established by California Labor Code § 1197.1).

9 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
10 1198, and 2802, one hundred dollars (\$100.00) for each aggrieved employee per pay period for
11 each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay
12 period for each subsequent violation (penalty amounts established by California Labor Code
13 § 2699(f)(2)).

14 **J. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS**

15 76. Plaintiff has complied with the procedures for bringing suit specified in California
16 Labor Code § 2699.3. By letter dated November 1, 2023, Plaintiff gave written notice by certified
17 mail to the Labor and Workforce Development Agency (“LWDA”) and Defendants of the specific
18 provisions of the California Labor Code alleged to have been violated, including the facts and
19 theories to support the alleged violations. The LWDA has failed to take action in response within
20 65 days of Plaintiff’s notice.

21 77. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
22 Employees are entitled to an award of civil penalties, reasonable attorneys’ fees, and costs in
23 connection with their claims for civil penalties.

24 **PRAYER FOR RELIEF**

25 78. WHEREFORE, Plaintiff, on behalf of herself and the Aggrieved Employees,
26 prays for relief and judgment against Defendants as follows:

- 27 A. Civil penalties;
28 B. Costs of suit;
C. Reasonable attorneys’ fees; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

D. Such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and all other Aggrieved Employees, hereby demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: February 29, 2024

MM LAW, APC

By: Maralle Messrelan
Maralle Messrelan, Esq.
Attorney for Plaintiff,
OLGA TAPIA, and all others similarly
situated