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all others similarly situated, and on behalf of the general public

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ALAMEDA**

CHRISTOPHER RAMIREZ on behalf  
of himself, all others similarly situated,  
and on behalf of the general public,

Plaintiffs,

v.

NABIFIVE, LLC; and DOES 1-100,

Defendants.

Case No. **24CV081745**

**PLAINTIFF CHRISTOPHER RAMIREZ'S  
PRIVATE ATTORNEYS GENERAL ACT OF 2004  
("PAGA") COMPLAINT FILED PURSUANT TO  
CALIFORNIA LABOR CODE § 2698, ET. SEQ.**

- 1. Violation of the PAGA for Failure to Pay  
Straight Time Wages;**
- 2. Violation of the PAGA for Failure to Pay All  
Overtime Wages;**
- 3. Violation of PAGA for Failure to Provide Meal  
Periods;**
- 4. Violation of PAGA for Failure to Provide Rest  
Periods;**
- 5. Violation of PAGA for Failure to Pay Wages  
Due at Termination of Employment;**
- 6. Violation of PAGA for Knowing and  
Intentional Failure to Comply with Itemized  
Employee Wage Statements;**
- 7. Violation of PAGA for Failure to Adopt a  
Compliant Sick Pay/Paid Time Off Policy and  
Failure to Provide Written Notice Setting Forth  
Amount of Sick Leave Available; and**
- 8. Violation of PAGA for Failure to  
Reimburse/Illegal Deductions.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff CHRISTOPHER RAMIREZ (hereinafter referred to as “Plaintiff”), on behalf himself  
2 and all other non-exempt, hourly employees who worked for Defendant and/or DOES in California  
3 (hereinafter referred to as the “Aggrieved Employees”), files this Complaint against Defendant  
4 Nabifive, LLC (hereinafter referred to as “Defendant” or “NABIFIVE”) and/or DOES 1-100.

5 **I. INTRODUCTION**

6 1. This is a representative action seeking recovery of penalties under the California Labor Code  
7 Private Attorneys General Act of 2004 (“PAGA”), California Labor Code Sections 2698 et.  
8 seq., against Defendant and/or DOES 1-100. The PAGA permits an “aggrieved employee” to  
9 bring a lawsuit on behalf of himself and other current and former employees to address an  
10 employer’s violations of the *California Labor Code*.

11 2. Defendant is a cannabis wholesale platform.

12 3. Defendant is a California corporation.

13 4. At all times mentioned herein, Defendant and/or DOES have conducted business in Alameda  
14 County and elsewhere within California.

15 5. At all times mentioned herein, Defendant and/or DOES, within the State of California, have,  
16 among other things, employed current and former hourly, non-exempt employees to run its  
17 business.

18 6. Defendant and/or DOES have maintained uniform policies that violate the wage and hour  
19 rights of Plaintiff and similarly situated non-exempt, hourly employees in the manner  
20 complained of herein.

21 7. This action is brought on behalf of Plaintiff and all other Aggrieved Employees of Defendant  
22 and/or DOES who: worked a shift of at least five (5) hours without receiving a meal period;  
23 worked four (4) hours, or a major fraction thereof, without receiving a ten (10) minute net rest  
24 break; were not provided accurate itemized wage statements; were not paid compensation for  
25 all time worked at the straight or overtime rate; were not paid waiting time penalties; were not  
26 provided with paid sick leave / paid time off and/or a written notice setting forth the amount  
27 of sick leave available; and were not reimbursed for all business expenses. Plaintiff seeks  
28 penalties on behalf of himself and all other Aggrieved Employees of Defendant and/or DOES

as provided herein. This Complaint also seeks attorneys' fees and costs under the PAGA, *California Labor Code* section 2699(g)(1).

8. At all times mentioned herein, Plaintiff and the other Aggrieved Employees were not classified as "exempt" or primarily employed in an executive, professional, or administrative capacity. Thus, under California law, Plaintiff and the Aggrieved Employees should be: paid compensation for all time worked at the regular or overtime rate; provided meal periods; authorized and permitted to take rest periods; paid one hour of premium pay for all unprovided meal periods; paid one hour of premium pay for all rest periods that were not authorized and/or permitted; paid penalties for not being provided itemized wage statements; paid compensation for all time worked at the regular or overtime rate; paid penalties for not being paid timely at the time of termination; and provided with sick pay in compliance with California law.

9. At all times mentioned herein, Defendant and/or DOES control the working conditions of Plaintiff and the Aggrieved Employees including, but not limited to, having the authority to hire and fire Plaintiff and the Aggrieved Employees, setting the wages of Plaintiff and the Aggrieved Employees, and instructing Plaintiff and the Aggrieved Employees when and/or where to work. In addition, Defendant and/or DOES developed, wrote, dictated, approved and/or authorized wage and hour policies and/or practices that Plaintiff and the Aggrieved Employees labored under. These policies and/or practices included, but were not limited to, policies and/or practices regarding meal periods, straight-time, rest periods, wage statements, paying compensation at time of termination, timing of payment, sick pay/paid time off, and business reimbursements. Further, Defendant and/or DOES had the ability to prevent Plaintiff and the Aggrieved Employees from working.

## **II. JURISDICTION AND VENUE**

10. Plaintiff is an individual residing in California. At all times relevant to this action, Plaintiff was employed by Defendant and/or DOES in California. Plaintiff, and each of the Aggrieved Employees, were employees of Defendant and/or DOES, and/or its operating divisions and subsidiaries, within the State of California. Plaintiff and each of the Aggrieved Employees were subject to the unlawful policies beginning one (1) year prior to the date Plaintiff sent

- 1 Notice to the State of California Labor and Workforce Development Agency (LWDA).
- 2 11. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
- 3 and/or DOE operate industrial facilities, employ hourly employees, conduct business, and
- 4 commit *California Labor Code* violations within Alameda County and California. Each
- 5 Defendant and/or DOE is within the jurisdiction of this Court for service of process purposes.
- 6 The unlawful acts alleged herein have a direct effect on Plaintiff and the other aggrieved
- 7 employees situated within the State of California and within Alameda County. Defendant
- 8 and/or DOES employ numerous aggrieved employees in California and/or Alameda County.
- 9 12. Plaintiff brings this action on behalf of himself and the Aggrieved Employees of Defendant
- 10 and/or DOES pursuant to the PAGA. Plaintiff, as a personal representative of the general
- 11 public, will and does seek to recover any and all penalties for each and every violation shown
- 12 to exist or to have occurred during the one (1) year period before Plaintiff filed Notice with the
- 13 LWDA of his intent to bring this action, in an amount according to proof, as to those penalties
- 14 that are otherwise only available to public agency enforcement actions. Funds recovered will
- 15 be distributed in accordance with the PAGA, with at least seventy-five (75) percent of the
- 16 penalties recovered being reimbursed to the State of California and the LWDA.
- 17 13. There is no federal question at issue as the issues herein are based solely upon California
- 18 statutes and law, including the *California Labor Code*, IWC Wage Orders, *Code of Civil*
- 19 *Procedure*, and *Civil Code*.
- 20 14. The California Superior Court also has jurisdiction in this matter because the penalties sought
- 21 exceed the minimum jurisdictional limits of the Superior Court and will be established at trial,
- 22 according to proof. Defendant and/or DOES either own, maintain offices, transact business,
- 23 have an agent or agents, and/or otherwise are found within the County of Alameda, California.

24 **III. THE PARTIES**

25 **A. Plaintiff**

- 26 15. Throughout the relevant time period, Plaintiff is and was a resident of California. During the
- 27 relevant time period, Plaintiff was employed by Defendant and/or DOES in California and
- 28 performed work in Alameda County. Plaintiff was employed by Defendant and/or DOES until

on or about September 28, 2023.

16. Plaintiff and the Aggrieved Employees were and are employed in the State of California by the Defendant and/or DOES as non-exempt, hourly employees.

17. A notice correspondence showing compliance with *Labor Code* Section 2699.3 was sent to the LWDA and Defendant on November 20, 2023. This notice demonstrates that Plaintiff is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. The violations alleged in this notice also form the basis for the allegations herein. No notice of cure by Defendant and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notices of the action. Accordingly, Plaintiff files this action as a “Representative Action” as authorized by *Labor Code* section 2699.3(a)(2)(C).

**B. Defendants**

18. Defendant is a cannabis wholesale platform.

19. Defendant is a California corporation.

20. Defendant employed Plaintiff and similarly situated hourly non-exempt employees in California.

21. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are now, and/or at all times mentioned in this Complaint were doing business in the State of California and/or throughout the United States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

22. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

23. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners, agents, owners, and/or shareholders of Defendants and/or DOES and were acting on behalf of Defendants and/or DOES at all times.

**IV. GENERAL ALLEGATIONS**

24. During all, or a portion, of the one (1) year period before Plaintiff filed notice of his claims with the LWDA, Plaintiff and each of the Aggrieved Employees were employed by Defendant and/or DOES in the State of California. Plaintiff and the Aggrieved Employees are composed of all current and former non-exempt, hourly employees of Defendant and/or DOES, or any of its operating divisions and/or subsidiaries, who worked for Defendant and/or DOES in California.

25. At all times mentioned herein, Defendant and/or DOES have not paid Plaintiff and the Aggrieved Employees for all time they were performing work and/or are subject to Defendant's and/or DOES' control. Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly situated Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not paid for this time. For example, Plaintiff and similarly situated Aggrieved employees clocked in for their shifts once they reached the packaging floor. As such, Plaintiff and the Aggrieved employees were not paid for the time it took them to enter the facility and walk to their work area prior to clocking in. Thus, Plaintiff and the Aggrieved Employees are owed wages for the unpaid time during which they are subject to Defendant's and/or DOES' control and/or during which they are not free from all work duties.

26. At all times mentioned herein, Defendant and/or DOES have had a consistent policy and/or practice of not paying Plaintiff and the Aggrieved employees for all hours worked in that Defendant and/or DOES continuously and consistently clocked Plaintiff and the Aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Plaintiff and the Aggrieved employees work through their meal periods, were unable to take meal periods, and/or were not free of all work duties and employer controls

- 1 during meal periods. Thus, NABIFIVE and/or DOES shave/steal earned wages from Plaintiff  
2 and the Aggrieved employees every day they work without a meal period and have time  
3 deducted.
- 4 27. At all times mentioned herein, Defendant and/or DOES have had a consistent policy of  
5 requiring hourly, non-exempt employees within the State of California, including Plaintiff, to  
6 work through meal periods and work at least five (5) hours without a meal period and failing  
7 to pay such employees one (1) hour of pay at the employees' regular rate of compensation for  
8 each workday that the meal period is not provided, or other compensation, as required by  
9 California's state wage and hour laws.
- 10 28. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that  
11 Plaintiff and the Aggrieved Employees were entitled to be provided legally compliant meal  
12 periods in a timely manner or payment of one (1) hour of pay as additional compensation at  
13 Plaintiff's and the aggrieved employees' regular rate of pay when they did not receive a timely,  
14 uninterrupted meal period.
- 15 29. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift  
16 of at least five (5) hours worked per day by Plaintiff and all Aggrieved Employees, and by  
17 failing to provide compensation for these unprovided meal periods, Defendant and/or DOES  
18 willfully violate the provisions of *California Labor Code* section 226.7, IWC Wage Order No.  
19 4-2001, and California Code of Regulations, Section 11040(11). In addition, Defendant and/or  
20 DOES fail to provide Plaintiff and the Aggrieved Employees with another duty-free meal  
21 period of not less than thirty (30) minutes for every shift of more than ten (10) hours per day.
- 22 30. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that  
23 Plaintiff and the Aggrieved Employees were entitled to be authorized and/or permitted to take  
24 legally compliant rest periods in a timely manner or payment of one (1) hour of pay as  
25 additional compensation at Plaintiff's and the Aggrieved Employees' regular rate of pay when  
26 they were not authorized and/or permitted to take a legally compliant rest period.
- 27 31. By failing to provide paid ten (10) minute rest periods for every four (4) hours or major fraction  
28 thereof, worked per day by Plaintiff and all Aggrieved Employees and by failing to provide

1 compensation for these periods, Defendant and/or DOES willfully violate the provisions of  
2 *California Labor Code* section 226.7, IWC Wage Order No. 4-2001, and California Code of  
3 Regulations, Section 11040(12).

4 32. At all times mentioned herein, Defendant and/or DOES fail to pay all wages owed to Plaintiff  
5 and to other terminated or resigned Aggrieved Employees and failed to timely pay wages  
6 during employment.

7 33. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that  
8 Plaintiff and the Aggrieved Employees were entitled to receive complete and accurate pay  
9 statements in accordance with California law.

10 34. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that  
11 they were not providing complete and accurate pay statements in accordance with California  
12 law to Plaintiff and the Aggrieved Employees.

13 35. At all times mentioned herein, Defendant and/or DOES have had a consistent policy and/or  
14 practice of failing to itemize the amount of accrued/available sick leave hourly, non-exempt  
15 employees have on wage statements each pay period.

16 36. At all times mentioned herein, Defendant and/or DOES have failed to comply with IWC Wage  
17 Order 4-2001(7) by failing to maintain accurate time records showing hourly compensation,  
18 when the employee begins and ends each workday, when meal periods are taken, and total  
19 daily hours worked by itemizing in wage statements and accurately reporting total hours  
20 worked by Plaintiff and Aggrieved Employees.

21 37. Defendant's and/or DOES' failure to retain accurate records of total hours worked and meal  
22 periods taken by Plaintiff and the Aggrieved Employees was willful and deliberate, was a  
23 continuous breach of Defendant's and/or DOES' duty owed to Plaintiff and the Aggrieved  
24 Employees.

25 38. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that  
26 they had a duty to compensate Plaintiff and the Aggrieved Employees in accordance with  
27 California law, and that Defendant and DOES had the ability to pay such compensation, but  
28 willfully and intentionally failed to do so, and Defendant and DOES falsely represented to



Plaintiff and the Aggrieved Employees that they were properly compensating Plaintiff and the Aggrieved Employees.

39. At all times mentioned herein, Defendant and/or DOES knowingly and intentionally fail to pay all wages owed to non-exempt, hourly employees in a timely manner at the time non-exempt, hourly employees terminated their employment – either voluntarily or involuntarily – with Defendant and/or DOES. Defendant and/or DOES have a policy and practice of willfully failing to pay final wages to terminated employees in a timely manner because Defendant and/or DOES have a policy and practice of paying employees their final wages on the next regularly scheduled pay date and not within the timeframes outlined in *California Labor Code* sections 201 and 202.

40. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that Plaintiff and the Aggrieved Employees were entitled to timely wages at the time of termination. Defendant and/or DOES did not pay all timely wages owed, straight-time wages owed, meal period premiums, and/or rest period premiums owed at the time of termination.

41. At all times mentioned herein, Defendant and/or DOES fail to pay Plaintiff and the Aggrieved Employees a sum certain at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter.

42. At all times mentioned herein, Defendant and/or DOES and/or their officers and/or managing agents have had a consistent policy and/or practice of failing to reimburse Plaintiff and hourly, non-exempt employees for business expenses incurred in the discharge of their duties. These expenses include, but are not limited to, having to use their personal cell phones for business purposes. *California Labor Code* section 2802(a) entitles Defendant and/or DOES to reimbursement for said necessary expenditures, plus interest and expenses.

43. Plaintiff brings this action on behalf of himself and all Aggrieved Employees defined as all Defendant's non-exempt, hourly employees who worked for Defendant and/or DOES in California beginning one year prior to the date Plaintiff sent notice to the LWDA.

44. Plaintiff reserves the right to amend or modify the definition of Aggrieved Employees with respect to the issues or in any other way.

**FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the  
PAGA for Failure to Pay Straight Time Wages (California Labor Code §2698 et. seq.).**

45. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

46. Defendant and/or DOES have had a continuous policy of not paying Plaintiff and the Aggrieved Employees for all hours worked.

47. It is fundamental that an employer must pay its employees for the time worked. *California Labor Code* section 222 prohibits the withholding on part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* sections 1194-1197.1 prohibit the payment of less than the minimum wage. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not in effect reduce the agreed upon wage.

48. Section 1197.1 of the *California Labor Code* states “[a]ny employer or other person acting individually as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties pursuant to Section 203.”

49. Plaintiff and those similarly situated Aggrieved Employees were employed by Defendant and/or DOES at all relevant times. Defendant and/or DOES were required to compensate Plaintiff for all hours worked and were prohibited from making deductions that had the effect of reducing the agreed upon wage.

50. Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly situated Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not paid for this time. For example, Plaintiff and Aggrieved employees clocked in for their shifts

1 once they reached the packaging floor. As such, Plaintiff and the Aggrieved employees were  
2 not paid for the time it took them to enter the facility and walk to their work area prior to  
3 clocking in. Thus, Plaintiff and the Aggrieved Employees are owed wages for the unpaid time  
4 during with they are subject to Defendant's and/or DOES' control and/or during which they  
5 are not free from all work duties.

6 51. Further, Defendant and/or DOES have a continuous and consistent policy of failing to pay full  
7 wages to Plaintiff and the Aggrieved Employees by deducting a portion of the wages earned  
8 by Plaintiff and the Aggrieved Employees when they worked through their meal periods, are  
9 not relieved of all work duties during their meal periods and/or when Defendant recorded a  
10 meal period for Plaintiff and the Aggrieved Employees when no meal period was taken.

11 52. Defendant and/or DOES have a continuous and consistent policy of clocking-out Plaintiff and  
12 those similarly situated for a thirty (30) minute meal period and/or otherwise recording a meal  
13 period, even though Plaintiff and Aggrieved Employees work through their meal periods  
14 and/or were subject to Defendant's control during meal periods. Thus, Defendant and/or DOES  
15 do not pay Plaintiff and each and every Aggrieved Employee for all time worked each and  
16 every day they work without a meal period and have time deducted.

17 53. Failing to pay for all hours worked while under Defendant's and/or DOES' control and/or  
18 while suffered or permitted to work has resulted in Plaintiff and the Aggrieved Employees  
19 being deprived of straight time wages.

20 54. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial  
21 unpaid wages, and lost interest on such wages, and expenses.

22 55. Plaintiff and the Aggrieved Employees were employed by Defendant and/or DOES at all  
23 relevant times. Defendant and/or DOES were required to compensate Plaintiff and the  
24 Aggrieved Employees for all hours worked and were prohibited from making deductions that  
25 had the effect of reducing the agreed upon wage.

26 56. Defendant and/or DOES commit the acts alleged herein knowingly and willfully, with the  
27 wrongful and deliberate intention of injuring Plaintiff and the Aggrieved Employees.  
28 Defendant and/or DOES act with malice or in conscious disregard of Plaintiff's and the

Aggrieved Employees' rights.

57. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant and/or DOES in California.

58. Plaintiff, as a former "non-exempt" employee of Defendant and/or DOES who Defendant and/or DOES fail to pay all wages, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

59. Plaintiff, as a representative of the people of the State of California, seeks any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

60. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

61. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

**SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the PAGA for Failure to Pay All Overtime Wages Owed**

62. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

63. *California Labor Code* section 510 states that 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.
64. *California Labor Code* section 510 dictates that 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.
65. Defendant and/or DOES fail to pay overtime when employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week. Defendant and/or DOES fail to pay Plaintiff and the Aggrieved Employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week.
66. Plaintiff and the Aggrieved Employees were deprived of wages for all overtime hours worked because Defendant and/or DOES fail to pay them overtime wages for all overtime hours worked. This resulted in Plaintiff and the Aggrieved Employees not being paid all overtime wages owed to them.
67. Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly situated Aggrieved Employees for all overtime hours worked because Defendant and/or DOES have a continuous policy of not paying Plaintiff and those similarly situated Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not paid for this time. For example, Plaintiff and the Aggrieved employees clocked in for their shifts once they reached the packaging floor. As such, Plaintiff and Aggrieved employees were not paid for the time it took them to enter the facility and walk to their work area prior to clocking in. When Plaintiff and the Aggrieved Employees work over eight (8) hours in a shift, these unpaid hours must be compensated at an overtime rate. Because Plaintiff and the Aggrieved Employees were

typically scheduled to work shifts lasting nine (9) to twelve (12) hours long, the majority of these unpaid hours would qualify for the overtime rate.

68. Additionally, Defendant and/or DOES have had a continuous policy of not paying Plaintiff and the Aggrieved employees for all hours worked in that Defendant and/or DOES continuously and consistently clocked Plaintiff and the Aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Plaintiff and the Aggrieved employees work through their meal periods, were unable to take meal periods, and/or were not free from all work duties and employer controls during meal periods. Thus, Defendant and/or DOES shave/steal earned wages from Plaintiff and the Aggrieved employees every day they work without a meal period and have time deducted. Because Plaintiff and the Aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

69. Furthermore, Plaintiff and the Aggrieved employees were deprived of wages for all overtime hours worked because Defendant and/or DOES failed to pay Plaintiff and the Aggrieved employees at the appropriate regular rate of pay for all overtime hours worked.

70. Plaintiff and those similarly situated Aggrieved Employees were employed by Defendant and/or DOES at all relevant times. Defendant and/or DOES were required to compensate Plaintiff and the Aggrieved Employees for all overtime hours worked and were prohibited from making deductions that had the effect of reducing the agreed upon wage.

71. Plaintiff and the Aggrieved Employees are informed and believe and thereon allege that Defendant and/or DOES breach the legal duty to pay full wages to Plaintiff by failing to pay Plaintiff and similarly aggrieved employees for meal period time when Plaintiff and the Aggrieved Employees were not relieved of all duties and employer control.

72. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

73. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant and/or DOES in California.

74. Plaintiff, as a representative of the people of the State of California, will seek any and all

- 1 penalties otherwise capable of being collected by the Labor commission and/or the Department  
2 of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.
- 3 75. Plaintiff, as a representative of the people of the State of California, will seek all penalties  
4 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes  
5 each of the following, as set forth in *California Labor Code* section 2699.5, which provides  
6 that section 2699.3(a) applies to any alleged violation of the following provisions: sections  
7 222, 223 and 510.
- 8 76. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on  
9 behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil  
10 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the  
11 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars  
12 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per  
13 *California Labor Code* section 2699(f)(2).
- 14 77. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other  
15 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for  
16 violations pursuant to this chapter or any provisions regulating hours and days of the week of  
17 the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and  
18 558(a)(2).

19 **THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/DOES: Violation of the PAGA**  
20 **for Failure to Provide Meal Periods (California Labor Code §2698 et. seq.).**

- 21 78. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein  
22 as if fully plead.
- 23 79. Under *California Labor Code* section 512, and IWC Wage Order 4-2001(11), no employer  
24 shall employ any person for a work period of more than five (5) hours without providing a  
25 meal period of not less than thirty (30) minutes. During this meal period of not less than thirty  
26 (30) minutes, the employee is to be completely free of the employer's control and must not  
27 perform any work for the employer. If the employee does perform work for the employer  
28 during the thirty (30) minute meal period, the employee has not been provided a meal period

1 in accordance with the law. Also, the employee is to be compensated for any work performed  
2 during the thirty (30) minute meal period.

3 80. In addition, an employer may not employ an employee for a work period of more than ten (10)  
4 hours per day without providing the employee with a second meal period of not less than thirty  
5 (30) minutes.

6 81. Under *California Labor Code* section 226.7, if the employer does not provide an employee a  
7 meal period in accordance with the above requirements, the employer shall pay the employee  
8 one (1) hour of pay at the employee's regular rate of compensation for each workday that the  
9 meal period is not provided.

10 82. Defendant and/or DOES fail to provide thirty (30) minute, uninterrupted meal periods to  
11 Plaintiff and Aggrieved Employees who worked for work periods of more than five (5)  
12 consecutive hours. As such, Plaintiff and Aggrieved Employees were required to work over  
13 five (5) consecutive hours at a time without being provided a thirty (30) minute uninterrupted,  
14 duty-free meal period within that time.

15 83. Defendant and/or DOES breach the legal duty to provide meal periods to employees by failing  
16 to provide employees with meal periods within the timeframes outlined by California law.  
17 Specifically, Defendant and/or DOES fail to provide Plaintiff and the Aggrieved Employees  
18 with meal periods within the first five continuous hours of work. Defendant and/or DOES  
19 schedule Plaintiff's and the Aggrieved employees' meal periods through a phone application,  
20 "Deputy App." Plaintiff and the Aggrieved employees have to take meal periods in accordance  
21 with this application unless otherwise specified by their supervisor or manager. As such, if  
22 Plaintiff's and the Aggrieved employees' time records show late meal periods, this is because  
23 that is when the meal period was provided to Plaintiff and the Aggrieved employees.

24 84. Alternatively, Defendant and/or DOES breach the legal duty to provide meal periods to  
25 employees by imposing a continuous and consistent policy requiring Plaintiff and the  
26 Aggrieved Employees to work through their meal periods to satisfy the demanding workload  
27 duties imposed by Defendant and/or DOES, thereby denying Plaintiff and the Aggrieved  
28 Employees of the right to be completely free from employer control under California law.



1 85. Defendant and/or DOES have a consistent policy and/or practice of not providing second meal  
2 periods to Plaintiff and the Aggrieved Employees and/or providing compensation in lieu  
3 thereof. Specifically, Plaintiff and the Aggrieved Employees were not provided with second  
4 meal periods when they worked shifts over ten (10) hours long.

5 86. By failing to provide statutory first and/or second meal periods, and by failing to provide  
6 compensation for unprovided meal periods, as alleged above, Defendant and/or DOES  
7 willfully violated the provisions of the *California Labor Code* section 226.7 and 512.

8 87. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant  
9 and/or DOES in California.

10 88. By failing to provide statutory first and/or second meal periods, and by failing to provide  
11 compensation for unprovided meal periods, as alleged above, Defendant and/or DOES  
12 willfully violate the provisions of *California Labor Code* sections 226.7 and 512, and IWC  
13 Wage Order No. 4-2001.

14 89. As a result of the unlawful acts of Defendant and/or DOES, Plaintiff and the Aggrieved  
15 Employees have been deprived of premium wages and/or other compensation in amounts to  
16 be determined at trial, and are entitled to recovery of such amounts, plus interest, attorneys'  
17 fees, and costs.

18 90. During the relevant time period, Plaintiff and the Aggrieved Employees who were scheduled  
19 to work for a period of time in excess of six (6) hours were required to work for periods longer  
20 than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

21 91. During the relevant time period, Plaintiff and the Aggrieved Employees who were scheduled  
22 to work for a period of time in excess of ten (10) hours and/or (12) hours, and who did not  
23 waive their legally-mandated meal periods by mutual consent were required to work in excess  
24 of ten (10) hours and/or twelve (12) hours without receiving a second uninterrupted meal  
25 period of not less than thirty (30) minutes.

26 92. During the relevant time period, Defendant and/or DOES fail to pay Plaintiff and the  
27 Aggrieved Employees all meal period premiums due pursuant to *California Labor Code*  
28 section 226.7.

1 93. Defendant's and/or DOES' conduct violates applicable IWC Wage Order 4-2001 and  
2 *California Labor Code* sections 226.7 and 512(a).

3 94. Plaintiff, as a non-exempt employee who unlawfully was deprived of first and second meal  
4 periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff  
5 has satisfied all prerequisites to serve as a representative of the general public to enforce  
6 California's labor laws, and the penalty provisions identified in *California Labor Code* section  
7 2699.5.

8 95. Plaintiff, as a representative of the people of the State of California, will seek all penalties  
9 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes  
10 each of the following, as set forth in *California Labor Code* section 2699.5, which provides  
11 that section 2699.3(a) applies to any alleged violation of the following provisions: sections  
12 226.7 and 512.

13 96. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on  
14 behalf of himself and the other aggrieved employees, seeks recovery of applicable civil  
15 penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the  
16 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars  
17 (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per  
18 *California Labor Code* section 2699(f)(2).

19 97. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved  
20 employees, seeks penalties pursuant to *California Labor Code* Section 558 for violations  
21 pursuant to this chapter or any provisions regulating hours and days of the week of the  
22 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

23 **FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**  
24 **PAGA for Failure to Provide Rest Periods (*California Labor Code* §2698 et. seq.).**

25 98. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein  
26 as if fully plead.

27 99. Industrial Welfare Commission Order No. 4-2001 section 12(A) states "[e]very employer shall  
28 authorize and permit all employees to take rest periods, which insofar as practicable shall be

1 in the middle of each work week period. The authorized rest period time shall be based on the  
2 total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major  
3 fraction thereof.”

4 100. At all times mentioned herein, Defendant and/or DOES fail to authorize and/or permit rest  
5 period time based upon the total hours worked daily at the rate of ten (10) minutes net rest time  
6 per four (4) hours or major fraction thereof.

7 101. Defendant and/or DOES have a consistent policy and/or practice of not providing duty free,  
8 net-ten minute, paid rest periods to Plaintiff and all Aggrieved Employees and/or providing  
9 compensation in lieu thereof.

10 102. Defendant and/or DOES breach the legal duty to provide rest periods to employees by failing  
11 to provide employees with rest periods within the timeframes outlined by California law.  
12 Specifically, Defendant and/or DOES do not provide Plaintiff and the Aggrieved employees  
13 with rest periods consisting of a net ten (10) minutes, nor does Defendant and/or DOES provide  
14 them with a rest period per four (4) hours worked or major fraction thereof.

15 103. Alternatively, Defendant and/or DOES breach the legal duty to provide rest periods to  
16 employees by imposing a continuous and consistent policy of requiring Plaintiff and all  
17 Aggrieved Employees to work through their rest periods to satisfy the demanding workload  
18 duties imposed by Defendant and/or DOES, thereby denying Plaintiff and all Aggrieved  
19 Employees of the right to be completely free from employer control under California law.

20 104. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per  
21 day by Plaintiff and the Aggrieved Employees, and by failing to provide compensation for  
22 these unprovided rest periods, as alleged above, Defendant and/or DOES willfully violate the  
23 provisions of *California Labor Code* section 226.7.

24 105. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant  
25 and/or DOES in California.

26 106. Plaintiff, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest  
27 periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff  
28 has satisfied all prerequisites to serve as a representative of the general public to enforce

- California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226.7.
107. Plaintiff, as a non-exempt employee who was unlawfully deprived of paid ten (10)-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.
108. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7.
109. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).
110. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

**FIFTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the PAGA for Failure to Pay Wages Due at Termination and During Employment (California Labor Code §2698 et. seq.).**

111. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

- 1 112. Defendant and/or DOES and/or their officers and/or managing agents willfully failed to pay,  
2 in a timely manner, wages owed to Plaintiff and the Aggrieved Employees who left  
3 Defendant's and/or DOES' employ or who were terminated.
- 4 113. Plaintiff and the Aggrieved Employees who ended their employment with Defendant and/or  
5 DOES during the last year were entitled to be promptly paid all lawful compensation, and other  
6 premiums, as required by *California Labor Code* sections 201 through 203.
- 7 114. At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer  
8 discharges an employee, the wages earned and unpaid at the time of discharge are due and  
9 payable immediately, and if an employee quits his or her employment, his or her wages shall  
10 become due and payable no later than seventy-two (72) hours thereafter, unless the employee  
11 has given seventy-two (72) hours' notice of his or her intention to quit, in which case the  
12 employee is entitled to his or her wages at the time of quitting.
- 13 115. During the relevant time period, Defendant and/or DOES intentionally and willfully fail to pay  
14 the Aggrieved Employees who are no longer employed by Defendant and/or DOES their  
15 wages, that were earned and unpaid, within seventy-two (72) hours of their leaving  
16 Defendant's and/or DOES' employ.
- 17 116. Plaintiff CHRISTOPHER RAMIREZ'S employment with Defendant and/or DOES was  
18 terminated on or about September 28, 2023. Defendant and/or DOES failed to provide Plaintiff  
19 CHRISTOPHER RAMIREZ his final wages in accordance with *California Labor Code*  
20 sections 201 through 203.
- 21 117. Defendant and/or DOES have a continuous policy of not providing final wages to employees  
22 who are fired at the time of termination or who quit within seventy-two (72) hours of their  
23 leaving Defendant's and/or DOES' employ.
- 24 118. As outlined above, Defendant and/or DOES have a continuous policy of not paying Plaintiff  
25 and the Aggrieved Employees for all hours worked. Specifically, Defendant and/or DOES have  
26 a continuous and consistent policy of requiring employees to work before clocking in, after  
27 clocking out, and during meal periods. Plaintiff and the Aggrieved Employees are not paid for  
28 this time. For example, Plaintiff and the Aggrieved employees clocked in for their shifts once

1 they reached the packaging floor. As such, Plaintiff and the Aggrieved employees were not  
2 paid for the time it took them to enter the facility and walk to their work area prior to clocking  
3 in. Thus, Plaintiff and the Aggrieved Employees are owed wages for the unpaid time during  
4 with they are subject to Defendant's and/or DOES' control and/or during which they are not  
5 free from all work duties. Failing to pay for all hours worked while under Defendant's and/or  
6 DOES' control and/or while suffered or permitted to work resulted in hourly, non-exempt  
7 employees being deprived of straight time and/or overtime wages.

8 119. Additionally, Defendant and/or DOES fail to pay all meal and rest period premiums owed to  
9 Plaintiff and Aggrieved Employees.

10 120. Defendant's and/or DOES' failure to pay Plaintiff and the Aggrieved Employees who are no  
11 longer employed by Defendant and/or DOES their wages, that were earned and unpaid, at the  
12 time of termination or within seventy-two (72) hours of their leaving Defendant's and/or  
13 DOES' employ, is in violation of *California Labor Code* sections 201 and 202.

14 121. *California Labor Code* section 203 provides that when an employer willfully fails to pay wages  
15 owed, in accordance with *California Labor Code* sections 201 and 202, the wages of the  
16 employee shall continue as a penalty from the due date thereof at the same rate until paid or  
17 until and action is commenced; but the wages shall not continue for more than thirty (30) days.

18 122. Plaintiff, as a non-exempt employee who Defendant and/or DOES fail to pay all wages, failed  
19 to provide a minimum statutory first and/or second meal periods, and failed to provide paid ten  
20 (10) minute rest periods, is an aggrieved employee with standing to bring an action under the  
21 PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to  
22 enforce California's labor laws, and the penalty provisions identified in *California Labor Code*  
23 section 2699.5.

24 123. Plaintiff, as a representative of the people of the State of California, seeks all penalties  
25 otherwise capable of being collected by the Labor Commission and/or the Department of Labor  
26 Standards Enforcement ("DLSE"). This includes each of the following, as set forth in  
27 *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any  
28 alleged violation of the following provisions: sections 201 through 203.

1 124. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant  
2 and/or DOES in California.

3 125. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on  
4 behalf of himself and the other Aggrieved Employees, seeks recovery of applicable civil  
5 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the  
6 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars  
7 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per  
8 *California Labor Code* section 2699(f)(2).

9 126. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other  
10 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for  
11 violations pursuant to this chapter or any provisions regulating hours and days of the week of  
12 the Industrial Welfare Commission under *California Labor Code* section 558(a)(1) and  
13 558(a)(2).

14 **SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**  
15 **PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage**  
16 **Statement Provisions (California Labor Code §2698 et. seq.).**

17 127. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein  
18 as if fully plead.

19 128. *California Labor Code* section 226(a) requires Defendant and/or DOES to itemize in wage  
20 statements all deductions from payment of wages and to accurately report total hours worked  
21 by Plaintiff and the Aggrieved Employees. *California Labor Code* section 226(a) requires  
22 Defendant and/or DOES, at the time of each payment of wages, to “furnish each of her or her  
23 employees, either as an detachable part of the check, draft, or voucher paying the employee’s  
24 wages, or separately when wages are paid by personal check or cash, an accurate itemized  
25 statement in writing showing (1) gross wages earned, (2) total hours worked by the  
26 employee...(3) the number of piece-rate units earned and any applicable piece rate if the  
27 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made  
28 on written orders of the employee may be aggregated and shown as one item, (5) net wages

1 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of  
2 the employee and only the last four digits of his or her social security number or an employee  
3 identification number other than the social security number, (8) the name and address of the  
4 legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period  
5 and the corresponding number of hours worked at each hourly rate and the corresponding  
6 number of hours worked at each hourly rate by the employee....”

7 129. *California Labor Code* section 226, subdivision (a) also requires that “deductions made from  
8 payment of wages shall be recorded in ink or other indelible form, properly dated, showing the  
9 month, day and year, and a copy of the statement and the record of the deductions shall be kept  
10 on file by the employer for at least three years at the place of employment or at a central  
11 location within the State of California.”

12 130. In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in  
13 excess of the normal work period shall be paid no later than the payday for the next regular  
14 payroll period.” An employer complies with section 226(a) “if hours worked in excess of the  
15 normal work period during the current pay period are itemized as corrections on the paystub  
16 for the next regular pay period. Any corrections set out in the subsequently issued paystub shall  
17 state the inclusive dates of the pay period for which the employer is correcting its initial report  
18 of hours worked.”

19 131. Defendant and/or DOES have knowingly and intentionally failed to comply with *California*  
20 *Labor Code* section 226(a) on each and every wage statement provided to Plaintiff and the  
21 Aggrieved Employees.

22 132. In every pay period during the period of the relevant statute of limitations, Defendant and/or  
23 DOES knowingly and intentionally did not itemize the total hours worked on wage statements  
24 as *California Labor Code* section 226 (a), requires. In every pay period during the period of  
25 the relevant statute of limitations, Defendant and/or DOES knowingly and intentionally did  
26 not include the total hours worked on wage statements and failed to include this information  
27 accurately. Defendant and/or DOES therefore knowingly and intentionally fail to itemize the  
28 total hours worked on Plaintiff’s and the Aggrieved Employees’ wage statements.



- 1 133. Defendant and/or DOES knowingly and intentionally did not include the gross wages earned  
2 on wage statements. Defendant and/or DOES therefore knowingly and intentionally fail to  
3 itemize the gross wages earned on Plaintiff's and the Aggrieved Employees' wage statements.
- 4 134. In every pay period during the period of the relevant statute of limitations, Defendant and/or  
5 DOES knowingly and intentionally did not itemize the total hours worked on wage statements  
6 as *California Labor Code* section 226 (a), requires. Defendant and/or DOES have a continuous  
7 policy of not paying Plaintiff and the Aggrieved Employees for all hours worked. Specifically,  
8 Defendant and/or DOES have a continuous and consistent policy of requiring employees to  
9 work before clocking in, after clocking out, and during meal periods. Plaintiff and the  
10 Aggrieved Employees are not paid for this time. For example, Plaintiff and Aggrieved  
11 employees clocked in for their shifts once they reached the packaging floor. As such, Plaintiff  
12 and Aggrieved employees were not paid for the time it took them to enter the facility and walk  
13 to their work area prior to clocking in. Thus, Plaintiff and the Aggrieved Employees are owed  
14 wages for the unpaid time during which they are subject to Defendant's and/or DOES' control  
15 and/or during which they are not free from all work duties.
- 16 135. In addition, Defendant and/or DOES fail to include all overtime hours worked by Plaintiff and  
17 the Aggrieved employees on wage statements and itemize those overtime hours at the proper  
18 regular rate.
- 19 136. In every pay period during the period of the relevant statute of limitations, Defendant and/or  
20 DOES knowingly and intentionally did not include all meal and rest period premiums owed on  
21 wage statements. Defendant and/or DOES therefore knowingly and intentionally fail to itemize  
22 all meal and rest period premiums owed on Plaintiff's and the Aggrieved employees' wage  
23 statements throughout the relevant statute of limitations.
- 24 137. Defendant and/or DOES also did not itemize the amount of sick pay accrued on wage  
25 statements.
- 26 138. Throughout the relevant time period, because of the knowing and intentional failure by  
27 Defendant and/or DOES to comply with itemized employee wage statement provisions,  
28 Plaintiff and the Aggrieved Employees have been able to reconstruct only a reasonable

1 estimate of the hours worked and have, therefore, not received full compensation.

2 139. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant  
3 and/or DOES in California.

4 140. Plaintiff, as a non-exempt employee who Defendant and/or DOES fail to provide accurate and  
5 itemized wage statements, is an aggrieved employee with standing to bring an action under the  
6 PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to  
7 enforce California's labor laws, and the penalty provisions identified in *California Labor Code*  
8 section 2699.5.

9 141. Plaintiff, as a representative of the people of the State of California, will seek all penalties  
10 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes  
11 each of the following, as set forth in *California Labor Code* section 2699.5, which provides  
12 that section 2699.3(a) applies to any alleged violation of the following provisions: sections  
13 226, 1174, 1199.

14 142. Pursuant to Labor Code section 2699(f), Plaintiff, as an aggrieved employee, on behalf of  
15 himself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one  
16 hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation  
17 per Labor Code section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved  
18 Employee per pay period for each subsequent violation, per *California Labor Code* section  
19 2699(f)(2).

20 143. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other  
21 Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for  
22 violations pursuant to this chapter or any provisions regulating hours and days of the week of  
23 the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and  
24 558(a)(2).

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**SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy and Failure to Provide Written Notice Setting Forth the Amount of Sick Leave Available (California Labor Code §2698 et. seq.).**

144. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

145. Section 246(a)(1) of the *California Labor Code* states: “An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.”

146. *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, “an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.”

147. *California Labor Code* section 246(k) provides that, “[a]n employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.”

148. Section 246(c) of the Labor Code states: “An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.”

149. Section 233(c) of the *California Labor Code* states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5.”

150. Section 233(d) of the *California Labor Code* provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

- 1 151. Section 234 of the *California Labor Code* further forbids employers from adopting an “absence  
2 control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead  
3 to or result in discipline, discharge, demotion, or suspension is a per se violation of Section  
4 233. An employee working under this policy is entitled to appropriate legal and equitable relief  
5 pursuant to Section 233.”
- 6 152. NABIFIVE and/or DOES operate under an absence control policy that counts sick leave taken  
7 pursuant to Section 233 as an unauthorized absence that may result in discipline, discharge,  
8 demotion, or termination. Thus, NABIFIVE and/or DOES’ sick pay policy punishes Plaintiff  
9 and Aggrieved Employees by way of suspension and/or termination for use of protected and  
10 appropriate sick leave. Plaintiff and the Aggrieved Employees are entitled to actual damages  
11 or one day’s pay pursuant to Labor Code Section 233(d).
- 12 153. Further, NABIFIVE’s and/or DOES’ sick pay policy fails to pay sick pay for all appropriate  
13 and protected purposes enumerated in Labor Code section 233, 234, and 246.
- 14 154. Section 246(i) of the California Labor Code states, “[a]n employer shall provide an employee  
15 with written notice that sets forth the amount of sick leave available, or paid time off an  
16 employer provides in lieu of sick leave, for use on either the employee’s itemized wage  
17 statement described in Section 226 or in a separate writing provided on the designated pay date  
18 with the employee’s payment of wages.”
- 19 155. NABIFIVE and/or DOES fail to itemize sick leave available, or paid time off an employer  
20 provides in lieu of sick leave, for us on Plaintiff’s and the Aggrieved Employees’ itemized  
21 wage statements or in a separate writing provided on the designated pay date with the  
22 employee’s payment of wages.
- 23 156. NABIFIVE’s and/or DOES’ sick pay policy fails to pay sick pay for all appropriate and  
24 protected purposes enumerated in Labor Code sections 233, 234, 246, and 246.5, and  
25 NABIFIVE and/or DOES fail to itemize the amount of accrued/available sick leave employees  
26 have on wage statements each pay period.
- 27 157. As a result of the unlawful acts of Defendant NABIFIVE and/or DOES, Plaintiff and the  
28 Aggrieved Employees he seeks to represent have been incurred damages, in amounts to be

determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 233(e).

158. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant and/or DOES in California.

159. Plaintiff, as a non-exempt employee who was subject to Defendant's and/or DOES' unlawful sick pay/paid time off policy, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of the *California Labor Code* sections 233, 234, 246, and 246.5.

160. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

**SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Reimburse/Illegal Deductions (California Labor Code §2698 et. seq.).**

161. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

162. Section 2802(a) of the *California Labor Code* requires "[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

163. Plaintiff and the Aggrieved Employees incurred expenses in the discharge of their duties without receiving reimbursement from Defendant and/or DOES.

164. SUNBELT and/or DOES fail to reimburse Plaintiff and Aggrieved Employees for all necessary expenses incurred in the performance of their jobs.

165. Plaintiff and Aggrieved employees incurred expenses in the discharge of their duties without

1 receiving reimbursement from Defendant and/or DOES. These expenses include, but are not  
2 limited to, having to use their personal cell phones for business purposes. Defendant and/or  
3 DOES require Plaintiff and the Aggrieved employees to clock in and out for work through an  
4 application on their personal cell phones. Plaintiff and the Aggrieved employees also have to  
5 use an application on their personal cell phones called "Open Pass" to gain access to  
6 Defendant's and/or DOES' facility and then to the work area. Defendant and/or DOES the  
7 application "Deputy App" to schedule Plaintiff's and the Aggrieved employees' time,  
8 including meal periods.

9 166. *California Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to  
10 reimbursement for said necessary expenditures, plus interest and expenses.

11 167. These claims are on behalf of all non-exempt, hourly employees who worked for Defendant  
12 and/or DOES in California.

13 168. Plaintiff, as a non-exempt employee who incurred business expenses which Defendants and/or  
14 DOES fail to reimburse, is an aggrieved employee with standing to bring an action under the  
15 PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public  
16 to enforce California's labor laws, and the penalty provisions identified in *California Labor*  
17 *Code* section 2699.5.

18 169. Plaintiff, as a representative of the people of the State of California, seeks all penalties  
19 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes  
20 each of the following, as set forth in *California Labor Code* section 2699.5, which provides  
21 that section 2699.3(a) applies to any alleged violation of the following provisions: for  
22 violations of the *California Labor Code* section 2802.

23 170. Pursuant to *Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of  
24 herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one  
25 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation  
26 per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved  
27 employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

28 ///

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all other Aggrieved Employees, prays for relief and judgment against Defendant and/or DOES, jointly and severally, as follows:

- A. For penalties as provided under *California Labor Code* sections 558(a)(1) and 558(a)(2).
- B. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide compliant meal periods;
- C. For all statutory penalties for each pay period during which an employee was underpaid due to failure to provide compliant meal periods;
- D. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide all rest periods;
- E. For all statutory penalties provided under *California Labor Code* for each pay period during which an employee was underpaid due to failure to provide paid rest periods;
- F. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to timely pay wages at separation;
- G. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide compensation at the regular and overtime rate for all time worked;
- H. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide compensation at the minimum wage;
- I. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide accurate, itemized wage statements;
- J. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to adopt a lawful sick pay policy;
- K. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to reimburse business expenses; and
- L. For reasonable attorneys' fees and costs under the PAGA, *California Labor Code* section 2699(g)(1).

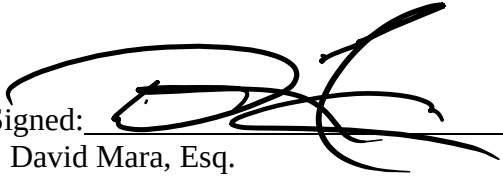
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**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial as to liability.

**MARA LAW FIRM, PC**

Date: January 29, 2024

Signed:   
David Mara, Esq.  
Jill Vecchi, Esq.  
Attorneys for Plaintiff CHRISTOPHER  
RAMIREZ, on behalf of himself and all others  
similarly situated, and on behalf of the general  
public