

Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 9/11/2026 12:49 PM
Reviewed By: M. Arechiga
Env. #25146542

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Case #26CV503298

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8 as an Aggrieved Employee, and on behalf of all other
9 Aggrieved Employees

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SANTA CLARA**
12

13 PATRICIA SMITH, as an Aggrieved
14 Employee, and on behalf of all other Aggrieved
15 Employees under the Labor Code Private
16 Attorneys' General Act of 2004,

17 Plaintiff

18 v.

19 WORKFORCE AS A SERVICE, INC., a
20 Delaware corporation doing business as
21 WorkWhile; HABITAT FOR HUMANITY
22 EAST BAY/SILICON VALLEY, INC., a
23 California nonprofit corporation; and DOES 1
24 through 100, inclusive,

25 Defendants.
26
27
28

CASE NO.: 26CV503298

REPRESENTATIVE ACTION

**COMPLAINT UNDER THE LABOR
CODE PRIVATE ATTORNEYS'
GENERAL ACT OF 2004 FOR CIVIL
PENALTIES UNDER LABOR CODE
SECTIONS 210, 226.3, 558, 1174.5, 1197.1
and 2699**

[Amount in Controversy Greater Than
\$35,000.00]

1 Plaintiff PATRICIA SMITH (“Plaintiff”), as an Aggrieved Employee, and on behalf of all
2 other Aggrieved Employees under the Labor Code Private Attorneys’ General Act of 2004, alleges
3 as follows:

4 **INTRODUCTION**

5 1. This is a representative action, pursuant to the Labor Code Private Attorneys General
6 Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against WORKFORCE AS A
7 SERVICE, INC., a Delaware corporation, doing business as WorkWhile and any of its respective
8 subsidiaries or affiliated companies within the State of California (“WORKFORCE AS A
9 SERVICE”), and HABITAT FOR HUMANITY EAST BAY/SILICON VALLEY, INC., a
10 California nonprofit corporation; and any of its respective subsidiaries or affiliated companies
11 within the State of California (“HABITAT FOR HUMANITY EAST BAY”) (hereinafter,
12 collectively, with DOES 1 through 100, as further defined below, “Defendants”) as a proxy of the
13 Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of
14 Plaintiff and all Aggrieved Employees that worked for Defendants during the PAGA Period.
15 Specifically, in connection with any alleged claims for failure to comply with Labor Code sections
16 200, 202, 203, 204, 210, 226, 226.3, 432, 1198, 1198.5, including restraints on competition,
17 whistleblowing and freedom of speech and applicable Wage Orders, Plaintiff seeks to represent all
18 current and former employees that worked for Defendants during the PAGA Period. On all other
19 claims mentioned herein, Plaintiff seeks to represent only non-exempt current and former employees
20 that worked for Defendants during the PAGA Period. Collectively, these employees are herein
21 referred to as “Aggrieved Employees.” The “PAGA Period” refers to one year preceding the date
22 notice was submitted to the LWDA, continuing past the date of notice to the LWDA until judgement
23 is entered.

24 **PARTIES**

25 2. Plaintiff PATRICIA SMITH is a resident of the State of California. At all relevant
26 times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 employed Plaintiff as a non-exempt employee. Plaintiff worked as a Customer Service
28 Representative with duties that included, but were not limited to, customer service, greeting

1 customers, operating the cash register, answering store phones, cleaning and preparing donated
2 furniture for sale, assembling items such as shelves when needed, and taking photographs of
3 incoming merchandise to determine original retail pricing so items could be priced accordingly for
4 resale. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff PATRICIA
5 SMITH worked for Defendants from approximately October of 2025 through approximately
6 October of 2025.

7 3. Plaintiff is informed and believes and based thereon alleges that defendant
8 WORKFORCE AS A SERVICE is, and at all times relevant hereto was, a corporation existing under
9 and by virtue of the laws of the State of Delaware and doing business in the County of Santa Clara,
10 State of California. At all relevant times herein, WORKFORCE AS A SERVICE employed Plaintiff
11 and Aggrieved Employees within the State of California.

12 4. Plaintiff is informed and believes and based thereon alleges that defendant
13 HABITAT FOR HUMANITY EAST BAY is, and at all times relevant hereto was, a nonprofit
14 corporation existing under and by virtue of the laws of the State of California and doing business in
15 the County of Santa Clara, State of California. At all relevant times herein, HABITAT FOR
16 HUMANITY EAST BAY employed Plaintiff and Aggrieved Employees within the State of
17 California.

18 5. The true names and capacities, whether individual, corporate, associate, or otherwise,
19 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,
20 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.
21 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated
22 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.
23 Plaintiff will seek leave of court to amend this complaint to reflect the true names and capacities of
24 the defendants designated hereinafter as DOES when such identities become known.

25 **JOINT LIABILITY ALLEGATIONS**

26 6. Plaintiff is informed and believes, and based thereon alleges, that each defendant
27 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint
28 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are

1 legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made
2 to "Defendants," it shall include WORKFORCE AS A SERVICE, HABITAT FOR HUMANITY
3 EAST BAY, and any of their parent, subsidiary, or affiliated companies within the State of
4 California, as well as DOES 1 through 100 identified herein.

5 7. Plaintiff is informed and believes and based thereon alleges that all the times
6 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
7 representative, joint venture or co-conspirator of each of the other defendants, either actually or
8 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
9 employment, joint venture, and conspiracy.

10 8. All of the acts and conduct described herein of each and every corporate defendant
11 was duly authorized, ordered, and directed by the respective and collective defendant corporate
12 employers, and the officers and management-level employees of said corporate employers. In
13 addition thereto, said corporate employers participated in the aforementioned acts and conduct of
14 their said employees, agents, and representatives, and each of them; and upon completion of the
15 aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant
16 corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded,
17 acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the
18 aforementioned corporate employees, agents and representatives.

19 9. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
20 thereon alleges that Defendants, and each of them, are joint employers.

21 **JURISDICTION**

22 10. Jurisdiction exists in the Superior Court of the State of California pursuant to Code
23 of Civil Procedure section 410.10.

24 11. Venue is proper in Santa Clara County, California pursuant to Code of Civil
25 Procedure sections 392, *et seq.* because, among other things, Santa Clara County is where the causes
26 of action complained of herein arose; the county in which the employment relationship began; the
27 county in which performance of the employment contract, or part of it, between Plaintiff and
28 Defendants was due to be performed; the county in which the employment contract, or part of it,

1 between Plaintiff and Defendants was actually performed; and the county in which Defendants, or
2 some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff
3 and Aggrieved Employees in Santa Clara County, and Defendants employ Aggrieved Employees in
4 Santa Clara County.

5 **PAGA REPRESENTATIVE ALLEGATIONS**

6 12. Plaintiff is an “Aggrieved Employee” under PAGA, as Plaintiff was employed by
7 Defendants during the PAGA Period and suffered the Labor Code violations set forth herein.
8 Accordingly, Plaintiff seeks to recover civil penalties under PAGA, plus reasonable attorneys’ fees
9 and costs, for Plaintiff and all other Aggrieved Employees of Defendants during the PAGA Period.

10 13. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
11 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
12 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
13 PAGA allegations described herein is not required.

14 14. Labor Code section 2699, subdivisions (a) and (g), authorizes Aggrieved Employees
15 such as Plaintiff to bring a civil action to recover civil penalties pursuant to the procedures specified
16 in Labor Code section 2699.3 on behalf of Plaintiff and all other Aggrieved Employees within the
17 PAGA Period.

18 15. Pursuant to Labor Code section 2699.3, on or around June 15, 2026, Plaintiff
19 provided written notice of Defendants’ violation of various provisions of the Labor Code to the
20 LWDA online and by certified mail, with return receipt requested, to Defendants (“PAGA Notice”).

21 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
22 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
23 calendar days of the PAGA Notice.

24 17. To the extent Defendants, or either of them, previously used the notice and cure
25 provision of Labor Code section 2699.3 within the last twelve months, under section 2699.3(d), then
26 Defendants, or those who have availed themselves of the cure provisions validly, are not eligible to
27 cure the violations discussed herein under section 2699.3 or otherwise use the early evaluation
28 conference process pursuant to section 2699.3(f).

18. In the event that Defendants, or either of them, is/are determined to have satisfied sections 2699(g), 2699(h), or otherwise 2699(d)(1), Defendants, or any that is determined to have satisfied sections 2699(g), 2699(h), is also, in the alternative, liable for civil penalties pursuant to Labor Code sections 2699(j), 2699(e)(2), and 2699(f)(2).

19. In the event that Defendants, or either of them, is/are determined to have, prior to this notice or a request for records pursuant to Labor Code section 226, 432, or 1198.5, from Plaintiff and/or Plaintiff's counsel, adequately taken all reasonable steps to be in compliance with all provisions identified in this notice, said defendant(s) is/are still liable for civil penalties pursuant to section 2699(g)(1)-(3).

20. In the event that Defendants, or either of them is/are deemed to have adequately taken all reasonable steps to be in compliance with all provisions identified in this notice within sixty (60) days of receiving this notice, said defendant(s) is/are still liable for civil penalties pursuant to Labor Code section 2699(h)(1)-(3).

21. In the event, the LWDA and/or a court issued a finding or determination to the Defendants, or either of them, that within five (5) years preceding the date of the PAGA Notice the policies or practices which gave rise to the violations alleged herein were unlawful, Defendants, or any of them, would be subject to heightened penalties pursuant to Labor Code sections 2699(f)(2)(B)(i), 2699(g)(3) and 2699(h)(3) and **not** eligible for reduced penalties under either Labor Code sections 2699(g) or 2699(h) for remedying violations either prior to or after the serving of the PAGA Notice. Regardless, Plaintiff alleges Defendants' conduct giving rise to the violations as detailed herein was and is malicious, fraudulent, and/or oppressive. Thus, Defendants, or any of them, are further subject to increased penalties under Labor Code section 2699(f)(2)(B)(ii) and lack eligibility for reduced penalties under either Labor Code sections 2699(g) or 2699(h).

FACTUAL ALLEGATIONS

22. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew, or should have known, that Plaintiff and Aggrieved Employees are entitled to receive wages for all time worked, including regular, overtime, and double times wages, and that Plaintiff and Aggrieved Employees were not receiving all wages owed for work that was required to be performed.

1 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
2 and have a policy or practice of requiring Plaintiff and other Aggrieved Employees to work more
3 than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
4 workweek (in violation of Labor Code sections 551 and 552) without paying them proper overtime
5 wages.

6 24. Upon information and belief, Defendants failed to accurately track and/or pay for all
7 minutes actually worked by Plaintiff and Aggrieved Employees at the proper rates of pay.
8 Defendants also engaged, suffered, or permitted Aggrieved Employees to work off the clock,
9 including, without limitation, by requiring Plaintiff and Aggrieved Employees to clock out for meal
10 periods and continue working to assist customers or stock inventory. Additionally, Plaintiff was not
11 paid for approximately 40 hours of work for a full week of employment with Defendants.

12 25. Moreover, upon information and belief, Defendants detrimentally edited and/or
13 manipulated time entries, so the hours recorded were less than the hours actually worked. By way
14 of example, Plaintiff experienced issues with Defendants' timekeeping application which resulted
15 in inaccurately recorded time-in and time-out shift entries.

16 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 violated, without limitation, Labor Code sections 223, 510, 551, 552, 1197, 1182.12, and applicable
18 Wage Orders based on its continued failure to pay minimum and overtime wages for all hours
19 worked. Thus, Plaintiff and other Aggrieved Employees are entitled to actual and liquidated
20 damages under, without limitation, Labor Code sections 1194, 1194.2, and 1198. Plaintiff is further
21 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
22 violations and was malicious, fraudulent, or oppressive. Defendants would also be liable for civil
23 penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558, 1197.1,
24 1198 and 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further
25 be liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

26 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
27 each of them, had and have a policy or practice of compelling Plaintiff and other Aggrieved
28 Employees during the PAGA Period to work every day in excess of five (5) and ten (10) hours per

1 day, without being afforded uninterrupted, timely, and complete 30-minute meal periods or
2 compensation in lieu thereof. By way of example, Defendants regularly denied Plaintiff and
3 Aggrieved Employees lawful meal periods by, without limitation, interrupting meal periods; failing
4 to provide meal periods all together; and not providing timely meal periods. For example, Plaintiff
5 would often be unable to take a timely lunch due to customer volume inside the store and to assist
6 customers or restock merchandise. Plaintiff and other Aggrieved Employees personally suffered
7 these violations. Consequently, Plaintiff is informed and believes, and based thereon alleges, that
8 Defendants violated Labor Code sections 512 and 1198 each day for each Aggrieved Employee
9 during the PAGA Period, and thus each Aggrieved Employee was owed one hour of premium pay
10 at their regular rate of pay for each day worked during the PAGA Period under Labor Code section
11 226.7. However, Plaintiff is informed and believes that those premium payments under Labor Code
12 section 226.7 were not made for these non-compliant meal periods, either at all or at the proper
13 regular rate of pay. Defendants would thus be liable for civil penalties pursuant to Labor Code
14 sections 210 (for failure to timely pay these wages), 558, 1198 and 2699 for both failing to authorize
15 the taking of compliant meal periods and for failing to provide premium pay under Labor Code
16 section 226.7, or injunctive relief under sections 2699(e)(1) and 2699(k). Plaintiff is further
17 informed and believes, and based thereon alleges, that Defendants' conduct that gave rise to such
18 violations and was malicious, fraudulent, or oppressive. As such, Defendants are further liable for
19 civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

20 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 maintain policies or practices of compelling Plaintiff and other Aggrieved Employees every day to,
22 including, without limitation, work over four-hour periods (or major fractions thereof) without
23 authorizing and permitting Plaintiff and other Aggrieved Employees to take uninterrupted, timely,
24 and complete ten-minute rest periods in which the employees are completely relieved of all of their
25 duties. By way of example, Defendants regularly denied Plaintiff and Aggrieved Employees lawful
26 rest periods by, without limitation, interrupting rest periods; by failing to provide rest periods all
27 together; and not providing rest periods in a timely fashion. For example, Plaintiff estimates she did
28 not receive at least half of her rest periods while employed with Defendants due to high customer

1 demand and volume. Plaintiff and other Aggrieved Employees personally suffered these violations.
2 Consequently, Plaintiff is informed and believes, and based thereon alleges, that Defendants
3 violated the applicable Wage Order(s) each day for each Aggrieved Employee during the PAGA
4 Period, and that, thus each Aggrieved Employee was owed one hour of premium pay at their regular
5 rate of pay for each day worked during the PAGA Period under Labor Code section 226.7.
6 However, Plaintiff is informed and believes that those premium payments under Labor Code section
7 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper regular
8 rate of pay, in violation of Labor Code sections 226.7 and 1198. Defendants would thus be liable
9 for civil penalties pursuant to Labor Code sections 210 (for failure to timely pay these wages), 558,
10 1198 and 2699 for both failing to authorize the taking of compliant rest periods and for failing to
11 provide premium pay under Labor Code section 226.7, or injunctive relief under sections 2699(e)(1)
12 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
13 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. As such,
14 Defendants are further liable for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

15 29. As a result of, among other things, Defendants' herein-described policy or practice
16 of failing to: accurately record time; failing to pay overtime and minimum wages; failing to provide
17 meal periods; failing to provide rest periods; and failing to provide compensation in lieu of meal or
18 rest periods, as described above, and due to independent failures in connection therewith, Plaintiff
19 is informed and believes, and based thereon alleges, that Defendants also intentionally failed and
20 continues to fail to furnish Plaintiff and Aggrieved Employees with itemized wage statements that
21 accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; the
22 inclusive dates of the period for which the employee is paid; the name of the employee and only the
23 last four digits of their social security number or an employee identification number other than a
24 social security number; all deductions; all applicable hourly rates in effect during the pay period and
25 the corresponding number of hours worked at each hourly rate by the employee; the legal name and
26 address of the employer, and other such information as required by Labor Code section 226,
27 subdivision (a). Specifically, Defendants intentionally failed to furnish employees with itemized
28 wage statements that accurately reflect the hours worked by Plaintiff and other Aggrieved

1 Employees and the rates of pay at which they were or should have been paid, thus resulting in a
2 failure to reflect gross and net wages earned and paid at each rate, as well. Consequently, Plaintiff
3 is informed and believes, and based thereon alleges, that Defendants violated Labor Code sections
4 226, and 1198 each day for each Aggrieved Employee during the PAGA Period, and that, thus
5 Plaintiff and each Aggrieved Employee personally suffered these violations and was owed penalties
6 under Labor Code section 226 for each pay period worked during the PAGA Period. Plaintiff is
7 informed and believes that those penalties under Labor Code section 226 were not paid for these
8 violations of Labor Code section 226. Defendants would thus be liable for civil penalties pursuant
9 to Labor Code sections 226.3, 558, 1198, and 2699, or injunctive relief under sections 2699(e)(1)
10 and 2699(k). Plaintiff is further informed and believes, and based thereon alleges, that Defendants'
11 conduct above gave rise to such violations and was malicious, fraudulent, or oppressive. Thus,
12 Defendants would further be liable for civil penalties pursuant to Labor Code section
13 2699(f)(2)(B)(ii).

14 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants also
15 willfully or intentionally failed and refused, and continue to fail and refuse, to timely pay
16 compensation to Plaintiff and other terminated or resigned employees, including but not limited to,
17 failing to pay all overtime wages owed; all minimum wages; and all premium pay owed as set forth
18 above, among other things. For example, Plaintiff has not been paid for approximately 40 hours of
19 work for a full week worked for Defendants. Plaintiff and Plaintiff's store manager reported this
20 failure to Defendants via email without any response or resolution from Defendants. Consequently,
21 Plaintiff is informed and believes, and based thereon alleges, that Defendants violated Labor Code
22 sections 201, 202 203, and 1198 each pay period for each Aggrieved Employee during the PAGA
23 Period, and thus Plaintiff and each Aggrieved Employee personally suffered these violations and
24 was owed penalties under Labor Code section 203 for each pay period worked during the PAGA
25 Period. However, Plaintiff is informed and believes that those penalties under Labor Code section
26 203 were not made for these violations of Labor Code sections 201, 202, and 203. Defendants would
27 thus be liable for civil penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive
28 relief under sections 2699(e)(1) and 2699(j). Plaintiff is further informed and believes, and based

1 thereon alleges, that Defendants' conduct above gave rise to such violations and was malicious,
2 fraudulent, or oppressive. As such, Defendants would further be liable for civil penalties pursuant
3 to Labor Code section 2699(f)(2)(B)(ii).

4 31. Plaintiff is informed and believes, and based thereon alleges that Defendants also
5 failed and refused, and continue to fail and refuse, to reimburse employees, including, without
6 limitation, Plaintiff and other Aggrieved Employees, with their costs incurred for the use of a
7 personal cellular phone for work purposes including photographing merchandise, researching the
8 cost of merchandise, to inventory donations, and to use Defendants' timekeeping app to track her
9 hours and location, in direct consequence of the discharge of their duties, or of their obedience to
10 the directions of Defendants, as required by Labor Code sections 1198, 2800, 2802, and other
11 statutory and common law offenses. As a result, Plaintiff and other Aggrieved Employees have
12 personally suffered these violations and Defendants are liable to reimburse Plaintiff and other
13 Aggrieved Employees for these costs incurred in furtherance of work duties. Defendants would thus
14 be liable for civil penalties pursuant to Labor Code sections 558, 1198 and 2699, or injunctive relief
15 under sections 2699(e)(1) and 2699(k). Plaintiff is further informed and believes, and based thereon
16 alleges, that Defendants' conduct above gave rise to such violations and was malicious, fraudulent,
17 or oppressive. As such, Defendants would further be liable for civil penalties pursuant to Labor
18 Code section 2699(f)(2)(B)(ii).

19 32. Plaintiff is informed and believes, and based thereon alleges that Defendants had and
20 have a policy or practice of failing to pay Aggrieved Employees their wages in accordance with
21 Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days,
22 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
23 which the labor was performed, and labor performed between the 16th and the last day, inclusive of
24 any calendar month, shall be paid for between the 1st and 10th day of the following month." Plaintiff
25 is informed and believes and based thereon alleges that Defendants did not and do not pay Plaintiff
26 and other Aggrieved Employees all wages owed every day and every workweek in accordance with
27 Labor Code sections 204 and 1198. Plaintiff is informed and believes, and based thereon alleges,
28 that Defendants violated Labor Code section 204 and that Plaintiff and other Aggrieved Employees

1 have personally suffered these violations. As such, Defendants would be liable for civil penalties
2 pursuant to Labor Code sections 210, 558, 1198 and 2699, or injunctive relief under sections
3 2699(e)(1) and 2699(k). Plaintiff further informed and believes, and based thereon alleges, that
4 Defendants' conduct above gave rise to such violations and was malicious, fraudulent, or
5 oppressive. Therefore, Defendants would further be liable for civil penalties pursuant to Labor Code
6 section 2699(f)(2)(B)(ii).

7 33. In addition to the above, Plaintiff is informed and believes, and based thereon alleges
8 that Defendants failed and continue to fail to keep adequate or accurate time records including wage
9 statements and similar payroll documents under Labor Code section 226, documents signed to
10 obtain or hold employment under Labor Code section 432, personnel records under Labor Code
11 section 1198.5, time records under Labor Code section 1174, making it difficult for Plaintiff and
12 other Aggrieved Employees to calculate their unpaid wages and/or premium payments. Defendants
13 also failed to provide these documents to Plaintiff and other Aggrieved Employees upon request
14 April 30, 2026, in violation of these Labor Code sections. Plaintiff and the Aggrieved Employees
15 personally suffered these violations, which in turn would entitle Plaintiff and other Aggrieved
16 Employees to penalties prescribed by Labor Code sections 226 and 1198.5. Defendants would also
17 be liable for civil penalties pursuant to Labor Code sections 558, 1174.5, and 2699. Plaintiff further
18 informed and believes, and based thereon alleges, that Defendants' conduct above gave rise to such
19 violations and was malicious, fraudulent, or oppressive. Defendants would further be liable for civil
20 penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

21 34. Plaintiff is further informed and believes, and based thereon alleges that Defendants
22 failed and refused, and continue to fail and refuse, to comply with the notice requirements of Labor
23 Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing
24 to provide Plaintiff and other Aggrieved Employees with the rates of pay and overtime rates of pay
25 applicable to their employment; any allowances claimed as part of the minimum wage; the regular
26 payday designated by Defendants; the name of the employer, including any "doing business as"
27 names used by the employer; the physical address of the employer's main office and the telephone
28 number of the employer; the name, address and telephone number of the workers' compensation

1 insurance carrier; information regarding paid sick leave; and other pertinent information required to
2 be disclosed by Defendants under Labor Code section 2810.5. Plaintiff is informed and believes that
3 Defendants' failure to provide such information, including rates of pay that are in effect, has
4 permitted Defendants to pay employees at rates of pay that were not agreed upon and violate
5 minimum wage and overtime wage laws in California. Plaintiff is informed and believes that
6 Defendants violated Labor Code sections 1198 and 2810.5. Plaintiff and other Aggrieved
7 Employees personally suffered these violations. Plaintiff is further informed and believes, and based
8 thereon alleges, that Defendants' conduct above gave rise to such violations and was malicious,
9 fraudulent, or oppressive. Among other relief, employees may collect from Defendants in
10 connection with these violations' civil penalties pursuant to Labor Code sections 558, 1198 and
11 2699, or injunctive relief under sections 2699(e)(1) and 2699(k). Defendants would further be liable
12 for civil penalties pursuant to Labor Code section 2699(f)(2)(B)(ii).

13 35. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor
14 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate
15 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
16 Employees pursuant to PAGA.

17 **FIRST AND ONLY CAUSE OF ACTION**

18 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

19 36. Plaintiff re-alleges and incorporates by reference all of the allegations set forth in the
20 preceding paragraphs as though fully set forth hereat.

21 **Civil Penalties Under Labor Code § 210**

22 37. At all relevant times herein, Labor Code section 204, requires and required that:
23 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for
24 between the 16th and 26th day of the month during which the labor was performed, and labor
25 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
26 between the 1st and 10th day of the following month.”

27 38. At all relevant times herein, Labor Code section 210, subdivision (a) states and stated
28 that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this

1 article, every person who fails to pay the wages of each employee as provided in Sections 201.3,
2 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any
3 initial violation, one hundred dollars (\$100) for each failure to pay each employee” and “(2) For
4 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for
5 each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

6 39. At all relevant times herein, Defendants have had a consistent policy or practice of
7 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
8 per Labor Code section 204 including, without limitation, for the reasons and in a manner set forth
9 in the preceding paragraphs. Thus, pursuant to Labor Code section 210, Plaintiff and other
10 Aggrieved Employees are entitled to recover as civil penalties injunctive relief and monetary civil
11 penalties in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
12 violation per employee, and two hundred dollars (\$200) for each failure to pay each employee, plus
13 25 percent of the amount unlawfully withheld for each Aggrieved Employee for each subsequent
14 violation in connection with each payment that was made in violation of Labor Code section 204.

15 Civil Penalties Under Labor Code § 226.3

16 40. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
17 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
18 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for
19 each violation in a subsequent citation, for which the employer fails to provide the employee a wage
20 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

21 41. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
22 this section are in addition to any other penalty provided by law.”

23 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
24 and have a policy or practice of failing to comply with Labor Code section 226, subdivision (a) by
25 intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements
26 that accurately reflect gross wages earned; total hours worked; net wages earned; the name and
27 address of each employer with whom they have been placed to work; all applicable hourly rates in
28 effect during the pay period and the corresponding number of hours worked at each hourly rate; the

1 legal name of the employer; and other such information as required by Labor Code section 226,
2 subdivision (a).

3 43. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
4 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
5 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
6 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
7 period for each subsequent violation.

8 Violation of Labor Code § 558

9 44. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other person
10 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating
11 hours and days of work in any of the Industrial Welfare Commission" shall be subject to a civil
12 penalty as follows:

13 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each
14 pay period for which the employee was underpaid in addition to an amount sufficient
15 to recover underpaid wages;

16 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
17 employee for each pay period for which the employee was underpaid in addition to
18 an amount sufficient to recover underpaid wages;

19 (3) Wages recovered pursuant to this section shall be paid to the affected employee."

20 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
21 each of them, violated, or caused to be violated, the Labor Code sections and Wage Orders
22 regulating wages, hours and days of work described herein, including but not limited to Labor Code
23 sections 201-204, 223, 226.7, 510, 511, 512, 551, 552, 1182.12, 1194, 1197, 1198, and 2802.

24 46. As a direct and proximate result of the herein-described Labor Code violations,
25 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover
26 civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars
27 (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars
28 (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

Violation of Labor Code § 1174.5

47. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

48. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

49. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall 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.”

50. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

51. Plaintiff is informed and believes, and based thereon alleges, that Defendants have willfully failed to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment

1 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
2 under Labor Code section 1174.

3 52. As a direct and proximate result of the herein-described Labor Code violations,
4 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
5 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of five
6 hundred dollars (\$500) per violation per pay period per Aggrieved Employee.

7 Violation of Labor Code § 1197.1

8 53. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
9 person acting either individually or as an officer, agent, or employee of another person, who pays
10 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
11 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
12 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
13 Section 203 as follows:

14 (1) For any initial violation that is intentionally committed, one hundred dollars
15 (\$100) for each underpaid employee for each pay period for which the
16 employee is underpaid. This amount shall be in addition to an amount
17 sufficient to recover underpaid wages, liquidated damages pursuant to Section
18 1194.2, and any applicable penalties imposed pursuant to Section 203.

19 (2) For each subsequent violation for the same specific offense, two hundred fifty
20 dollars (\$250) for each underpaid employee for each pay period for which the
21 employee is underpaid regardless of whether the initial violation is
22 intentionally committed. This amount shall be in addition to an amount
23 sufficient to recover underpaid wages, liquidated damages pursuant to Section
24 1194.2, and any applicable penalties imposed pursuant to Section 203.

25 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to
26 Section 203, recovered pursuant to this section shall be paid to the affected
27 employee."

28 54. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused

1 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants
2 routinely failing to accurately track and/or pay for all minutes actually worked by Plaintiff and
3 Aggrieved Employees at the proper rates of pay, as described above.

4 55. As a direct and proximate result of the herein-described Labor Code violations,
5 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
6 recover civil penalties for Defendants' herein-described Labor Code violations in the amount of one
7 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
8 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
9 subsequent violation.

10 Civil Penalties Under Labor Code § 2699

11 56. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
12 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
13 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
14 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
15 action brought by an Aggrieved Employee on behalf of himself or herself and other current or former
16 employees pursuant to the procedures specified in Labor Code section 2699.3.

17 57. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
18 each of them, violated the Labor Code sections described in the preceding paragraphs.

19 58. As such, Plaintiff and Aggrieved Employees are entitled to injunctive relief, one
20 hundred dollars (\$100) for each Aggrieved Employee for each pay period in the PAGA Period, and
21 two hundred dollars (\$200) for each Aggrieved Employee for each pay period in the PAGA Period
22 to the extent Defendants' conduct is found to be malicious, fraudulent and/or oppressive.

23 Moreover, Plaintiff and other Aggrieved Employees within the State of California whom Plaintiff
24 seeks to represent are entitled to an award of reasonable attorneys' fees and costs in connection with
25 their herein-described claims for civil penalties.

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1 **PRAYER**

2 **WHEREFORE**, on behalf of Plaintiff and Aggrieved Employees, Plaintiff prays for
3 judgment against Defendants as follows:

- 4 A. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
5 1174.5, 1197.1, and 2699;
- 6 B. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
7 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- 8 C. For equitable, including, without limitation, injunctive relief;
- 9 C. Pre-judgment and post-judgment interest;
- 10 D. For costs of suit incurred herein; and
- 11 E. Such other and further relief as the Court deems just and proper.

12 Dated: September 11, 2026

BIBIYAN LAW GROUP, P.C.

13
14 BY: /s/ Bevin Pike

15 BEVIN PIKE

16 Attorneys for Plaintiff PATRICIA SMITH and
17 on behalf of all other Aggrieved Employees
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