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Case #26CV500785

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

HECTOR FARIAS, an individual, on behalf of
himself and the State of California, as a private
attorney general,

Plaintiff,

v.

J. HARRIS INDUSTRIAL WATER
TREATMENT, INC., a California Corporation
Which Does Business as Puretec Industrial
Water; and DOES 1 TO 50,

Defendants.

Case Number: 26CV500785

Representative Action Complaint For:

1. Penalties Pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”) for Violations of California Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and Other Provisions of the California Labor Code.

1 Plaintiff Hector Farias (“Plaintiff”), on behalf of himself and the State of California, as a private
2 attorney general, complains and alleges of defendants J. Harris Industrial Water Treatment, Inc. and
3 Does 1 to 50 (collectively, “Defendants”), and each of them, as follows:

4 **I. INTRODUCTION**

5 1. This action is a representative action brought pursuant to the California Labor Code
6 Private Attorneys General Act of 2004 (“PAGA”), codified at California Labor Code sections 2698
7 through 2699.8.

8 2. The “PAGA Period” as used herein, is defined as the period from June 5, 2025, and
9 continuing into the present and ongoing.

10 3. This PAGA action is brought on behalf of Plaintiff, the State of California as private
11 attorney general, and on behalf of the following aggrieved employees: *All individuals who are or were*
12 *employed by Defendants as non-exempt employees in California during the PAGA Period* (the
13 “Aggrieved Employees”).

14 4. Plaintiff is informed and believes and thereon alleges that the California Industrial
15 Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case are IWC Wage Orders
16 4-2001, 9-2001, and/or 16-2001 (the “Applicable Wage Orders”) and possibly others that may be
17 applicable. (Cal. Code of Regs., tit. 8, §§ 11040, 11090, 11160.) Plaintiff reserves the right to amend
18 or modify the definition of “Applicable Wage Orders” with greater specificity or add additional IWC
19 Wage Orders if additional applicable wage orders are discovered in litigation.
20

21 **II. JURISDICTION & VENUE**

22 5. This Court has subject matter jurisdiction over all causes of action asserted herein
23 pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure section
24 410.10 because this is a civil action in which the matter in controversy, exclusive of interest, exceeds
25 \$25,000, and because each cause of action asserted arises under the laws of the State of California or
26 is subject to adjudication in the courts of the State of California.

27 6. This Court has personal jurisdiction over Defendants because Defendants have caused
28 injuries in the County of Santa Clara and the State of California through their acts, and by their violation

1 of the California Labor Code and California state common law. Defendants transact millions of dollars
2 of business within the State of California. Defendants own, maintain offices, transact business, have an
3 agent or agents within the County of Santa Clara, and/or otherwise are found within the County of
4 Santa Clara, and Defendants are within the jurisdiction of this Court for purposes of service of process.

5 7. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the
6 Code of Civil Procedure. Defendants operate within California and do business within Santa Clara
7 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all of
8 Defendants' employees identified above within Santa Clara County and surrounding counties where
9 Defendants may remotely operate. (See *Crestwood Behavioral Health, Inc. v. Superior Court of*
10 *Alameda County* (2021) 60 Cal.App.5th 1069, 1075 ["We hold that venue is proper in any county in
11 which an aggrieved employee worked and Labor Code violations allegedly occurred."].)

12 **III. THE PARTIES**

13 **A. PLAINTIFF**

14 8. At all relevant times, Plaintiff, who is over the age of 18, was and currently is a citizen
15 of California residing in the State of California. Defendants employed Plaintiff as a non-exempt hourly
16 employee in the County of Santa Clara.

17 9. Plaintiff brings this action on behalf of himself and the State of California, as a private
18 attorney general, and on behalf of the following group of aggrieved employees: *All individuals who*
19 *are or were employed by Defendants as non-exempt employees in California during the PAGA Period*
20 *(the "Aggrieved Employees")*.

21 10. The Aggrieved Employees, at all times pertinent hereto, are or were employees of
22 Defendants during the relevant statutory period.

23 **B. DEFENDANTS**

24 11. Plaintiff is informed and believes and thereon alleges that Defendants were authorized
25 to and doing business in Santa Clara County and is and/or was the legal employer of Plaintiff and the
26 other Aggrieved Employees during the applicable statutory periods. Plaintiff and the other Aggrieved
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1 Employees were, and are, subject to Defendants' policies and/or practices complained of herein and
2 have been deprived of the rights guaranteed to them by: California Labor Code sections 201, 202, 203,
3 204, 210, 226, 226.3, 226.7, 246, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5,
4 1199, and others that may be applicable; and the Applicable Wage Orders (Cal. Code of Regs., tit. 8,
5 §§ 11040, 11090, 11160).

6 12. Plaintiff is informed and believes, and based thereon alleges, that during the PAGA
7 Period, Defendants did (and continue to do) business in the State of California, County of Santa Clara.

8 13. Plaintiff does not know the true names or capacities, whether individual, partner, or
9 corporate, of the defendants sued herein as Does 1 to 50, inclusive, and for that reason, said defendants
10 are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this
11 complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and
12 thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were
13 responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff
14 and the other Aggrieved Employees to be subject to the unlawful employment practices, wrongs,
15 injuries, and damages complained of herein.

16 14. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
17 herein, Defendants were and/or are the employers of Plaintiff and the other Aggrieved Employees. At
18 all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
19 alleged to have been done by the named Defendants. Furthermore, the Defendants, and each of them,
20 were the agents, representatives, and employees of each and every one of the other Defendants, and at
21 all times herein mentioned were acting within the course and scope of said agency, representation, and
22 employment. Defendants, and each of them, approved of, condoned, or otherwise ratified every one of
23 the acts or omissions complained of herein.

24 15. Plaintiff is further informed, and believes, and thereon alleges, that at all times
25 mentioned herein, that Defendants, and each of them, are the alter egos of one another and that there
26 existed and now exists a unity of interest and ownership between them such that the individuality and
27 separateness of each of them has ceased. Plaintiff is further informed, and believes, and thereon alleges,
28 that at all times mentioned herein, that Defendants, and each of them, have been and now are mere

1 shells and naked frameworks that their principal uses for the conduct of that Defendant's own business,
2 property, and affairs, for which Defendants, and each of them, have concealed and misrepresented their
3 identities as the entities responsible for their ownership, management, and financial interests.

4 16. Plaintiff is further informed, and believes, and thereon alleges, that at all times
5 mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture,
6 partnership, and common enterprise, and acting within the course and scope of and in pursuance of said
7 joint venture, partnership, and common enterprise. Further, Plaintiff is informed, and believes, and
8 thereon alleges, that all Defendants were joint employers for all purposes of Plaintiff and the other
9 Aggrieved Employees.

10 **IV. COMMON FACTS & ALLEGATIONS**

11 17. Plaintiff and the other Aggrieved Employees (collectively, the "Aggrieved Employees")
12 are, and were at all relevant times, employed by the Defendants within the State of California.

13 18. The Aggrieved Employees are, and were, at all relevant times, non-exempt employees
14 for the purposes of minimum wages, overtime, rest breaks, meal periods, and the other claims alleged
15 in this complaint.

16 **A. PLAINTIFF'S PERSONAL EXPERIENCES**

17 19. Plaintiff's employment with Defendants began March 23, 2022, and continued through
18 at least April 8, 2026. Plaintiff was employed by Defendants as an hourly, non-exempt route technician.
19 Plaintiff earned approximately \$24 per hour at the time of hire, which increased over the course of his
20 employment to \$31.83 per hour. In this role, Plaintiff was responsible for operating a 26-foot commer-
21 cial delivery truck and other company vehicles to transport and deliver deionization ("DI") water-treat-
22 ment tanks to multiple customer sites along assigned routes within California. Plaintiff's principal du-
23 ties were transportation and delivery: he loaded DI tanks onto his truck, drove them to customer loca-
24 tions, delivered and hooked up the tanks, performed light troubleshooting to confirm the systems were
25 operational, removed and transported spent tanks, and maintained logs of his transportation work.
26 Plaintiff spent the majority of each workday operating his delivery vehicle and traveling on the road
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1 between customer locations. All of Plaintiff's driving and deliveries were performed solely intrastate,
2 within the State of California.

3 20. At all relevant times, Plaintiff was a non-exempt employee fully entitled to the mini-
4 mum wage, overtime, meal period, and rest period protections of the California Labor Code and the
5 Applicable Wage Orders. Nevertheless, Plaintiff was frequently prevented from taking a meal period
6 until the conclusion of his 8-to-12 hour shifts. Specifically, Plaintiff was often required to be on the
7 road and to a destination at a certain time, rendering a compliant meal period impossible. As such,
8 Plaintiff was required to perform his work and then log a meal period when he would clock out for the
9 day. These were meal periods in name only, however, because Plaintiff was effectively taking them
10 while heading home from his shift.

11 21. On the rare occasions when Plaintiff's schedule permitted him to take a meal period
12 before the end of his fifth hour of work, that meal period was at times interrupted to move the truck or
13 assist a customer. In addition, Defendants' Human Resources employees verbally instructed Plaintiff
14 that he was required to waive meal period premiums by checking a box on his timecards. Moreover,
15 on occasion, Defendants' employees checked this box for him without his authorization. Lastly, despite
16 working up to twelve-hour days, Plaintiff almost never received a second meal period.

17 22. For the same reasons, Plaintiff also was frequently not permitted to take rest periods.
18 Plaintiff estimates that he received, at most, four ten-minute rest periods per week, despite being enti-
19 tled to many more.

20 23. While Plaintiff periodically received meal period premium pay, those premiums fell far
21 short of the total amount of premiums to which Plaintiff was entitled. Moreover, Plaintiff never re-
22 ceived a rest period premium.

23 24. Plaintiff also was required to work several hours of off-the-clock three to four times per
24 month to complete mandatory online trainings. In addition, Plaintiff received calls and text messages
25 from supervisors and co-workers seeking updates and instructions while he was off the clock. Plaintiff
26 estimates this off-the-clock work totaled approximately thirty minutes per week.

27 25. Plaintiff's wage statements also reflect bonuses, prevailing wages, and other forms of
28 pay that were not properly included in the regular rate of pay. As a result, Plaintiff has not been paid

1 the proper overtime wages, and other forms of wages relying on calculations of Plaintiff's regular rate
2 of pay, such as sick pay and meal period premiums. Plaintiff further alleges that he was not adequately
3 paid the proper prevailing wage throughout his employment when such wages were owed.

4 26. Defendants also failed to properly accrue and track paid sick leave for Plaintiff and the
5 other Aggrieved Employees. Plaintiff's wage statements did not reflect the amount of paid sick leave
6 available to him. While the wage statements reported accrual balances for other categories of leave—
7 such as "Paid Time Off," "Wellness Day Off," "Family Day," "Birthday Off," "Bereavement," "Jury
8 Duty," and "Volunteer Time Off"—they reflected no accrual, balance, or availability of California paid
9 sick leave. Moreover, to the extent any sick time or other paid leave was paid out to Plaintiff at all, it
10 was paid at Plaintiff's base hourly rate rather than at his regular rate of pay. Plaintiff regularly earned
11 additional, non-discretionary remuneration—including on-call pay, on-call bonuses, family day bo-
12 nuses, wellness bonuses, prevailing wages, and similar payments—that Defendants failed to incorpo-
13 rate when calculating the rate at which paid sick time and other paid leave were compensated. As a
14 result, Plaintiff was underpaid for sick time and other paid leave, and Plaintiff's wage statements failed
15 to accurately reflect his paid sick leave accrual and the wages owed to him.

16 27. Plaintiff's experiences in this section are provided by way of example and do not repre-
17 sent the sum total of Labor Code violations experienced by Plaintiff, which are further detailed below.
18 Nor were these violations unique to Plaintiff. Rather, they were regularly experienced by the other
19 Aggrieved Employees, who were subject to the same uniform policies and practices.

20 **B. MINIMUM WAGE VIOLATIONS**

21 28. Labor Code section 1197 requires employees to be paid at least the minimum wage fixed
22 by the IWC, and any payment of less than the minimum wage is unlawful. Likewise, the Applicable
23 Wage Orders also obligate employers to pay each employee minimum wages for all hours worked.
24 (Cal. Code of Regs., tit. 8, §§ 11040, 11090, 11160.) Labor Code section 1198 makes unlawful the
25 employment of an employee under conditions that the IWC Wage Orders prohibit.

26 29. These minimum wage standards apply to each hour that employees work. Therefore, an
27 employer's failure to pay for any particular time worked by an employee is unlawful, even if averaging
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1 an employee's total pay over all hours worked, paid or not, results in an average hourly wage above
2 minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.)

3 30. Here, Defendants failed to fully conform their pay practices to the requirements of the
4 law during the relevant statutory periods. The Aggrieved Employees were not compensated for all
5 hours worked including, but not limited to, all hours they were subject to the control of Defendants
6 and/or suffered or permitted to work under the California Labor Code and the Applicable Wage Orders.
7 Among other violations, the Aggrieved Employees were subject to the control of Defendants while off-
8 the-clock and did not receive minimum wage for each hour worked.

9 31. Additionally, the Aggrieved Employees were not paid all wages for all hours worked
10 due to Defendants' uniform payroll policies and practices that unfairly rounded employees' wages to
11 the detriment of the Aggrieved Employees. This rounding policy routinely failed to capture the entirety
12 of the hours the Aggrieved Employees worked and was structured in a way that favored underpayment.
13 (See *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 907.) As a result, the
14 Aggrieved Employees suffered periodic shortages in the hours for which they were compensated. This
15 uncompensated time violated California's requirement that employees be compensated for all hours
16 worked. As a result of this practice, the Aggrieved Employees were not compensated their minimum
17 wages for all hours worked.

18 32. Labor Code section 1197.1 authorizes employees who are paid less than the minimum
19 wage fixed by an applicable state or local law, or by an order of the IWC, a civil penalty, among other
20 damages, as follows:

21 (1) "For any initial violation that is intentionally committed, one hundred
22 dollars (\$100) for each underpaid employee for each pay period for
23 which the employee is underpaid."

24 (2) "For each subsequent violation for the same specific offense, two
25 hundred fifty dollars (\$250) for each underpaid employee for each pay
26 period for which the employee is underpaid regardless of whether the
27 initial violation is intentionally committed." (Lab. Code, § 1197.1, subd.

28 (a).)

1 33. As set forth above, Defendants failed to fully compensate the Aggrieved Employees for
2 all minimum wages. Accordingly, through PAGA and to the extent permitted by law, Plaintiff and the
3 Aggrieved Employees are entitled to recover penalties pursuant to California Labor Code section
4 1197.1 in addition to any other applicable penalties.

5 **C. OVERTIME VIOLATIONS**

6 34. Labor Code section 510 requires employers to compensate employees who work more
7 than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on
8 the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee.
9 (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate
10 employees at no less than twice the regular rate of pay when an employee works more than twelve
11 hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510,
12 subd. (a).) These rules are also reflected in the Applicable Wage Orders.

13 35. In accordance with Labor Code section 1194 and the Applicable Wage Orders, the
14 Aggrieved Employees could not then agree and cannot now agree to work for a lesser wage than the
15 amount provided by Labor Code sections 510 or the Applicable Wage Orders.

16 36. Here, Defendants violated their duty to accurately and completely compensate the
17 Aggrieved Employees for all overtime worked. The Aggrieved Employees periodically worked hours
18 that entitled them to overtime compensation under the law but were not fully compensated for those
19 hours.

20 37. Moreover, during the relevant statutory periods, Defendants had a policy and practice
21 of failing to pay overtime wages at the proper rate when it actually paid overtime. Specifically, when
22 Defendants paid overtime wages to the Aggrieved Employees, Defendants failed to include all
23 compensation when calculating the regular rate of pay used in overtime calculations and when paying
24 overtime.

25 38. For instance, the Aggrieved Employees would often receive, along with their hourly
26 rates of pay for their working hours, additional remuneration and/or non-discretionary bonus pay.
27 Defendants, however, calculated the regular rate of pay for the Aggrieved Employees without factoring
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1 into the regular rate of pay all other non-hourly pay earnings received during the pay period. As a result,
2 the Aggrieved Employees were underpaid overtime wages when they worked in excess of eight hours
3 in any workday and/or forty hours in a workweek when such additional forms of remuneration were
4 earned. By their practice of periodically requiring the Aggrieved Employees to work in excess of eight
5 hours in a workday and/or forty hours in a workweek without compensating them at the rate of one and
6 one-half (1½) their regular rate of pay, Defendants willfully violated the provisions of Labor Code
7 sections 510, 1194, and 1199.

8 39. These actions were and are in clear violation of California’s overtime laws as set forth
9 in Labor Code sections 510, 1194, 1199, and the Applicable Wage Orders. (Cal. Code of Regs., tit. 8,
10 §§ 11040, 11090, 11160.) As a result of Defendants’ faulty policies and practices, the Aggrieved
11 Employees were not compensated for all hours worked or paid accurate overtime compensation.

12 **D. REST BREAK VIOLATIONS**

13 40. Pursuant to Labor Code section 226.7 and the Applicable Wage Orders, Defendants
14 were and are required to provide the Aggrieved Employees with compensated, duty-free rest periods
15 of not less than ten minutes for every major fraction of four hours worked. Under the Applicable Wage
16 Orders, an employer must authorize and permit all employees to take ten minute duty free rest periods
17 for every major fraction of four hours worked. (Cal. Code of Regs., tit. 8, §§ 11040, 11090, 11160.)

18 41. Likewise, Labor Code section 226.7 provides that “[a]n employer shall not require an
19 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute,
20 or applicable regulation, standard, or order of the Industrial Welfare Commission” (Lab. Code, §
21 226.7, subd. (b).) Labor Code section 226.7 also provides that employers must pay their employees one
22 additional hour of pay at the employee’s regular rate for each workday that a “meal or rest or recovery
23 period is not provided.” (Lab. Code, § 226.7, subd. (c).) The “regular rate” for these purposes must
24 factor in all nondiscretionary payments for work performed by the employee, including non-
25 discretionary bonuses, commissions, and other forms of wage payments exceeding the employees’ base
26 hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.) Thus, the Wage
27 Orders set when and for how long the rest period must take place and the Labor Code establishes that
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1 violations of the IWC Wage Orders are unlawful and sets forth the premium pay employer must pay
2 their employees when employers fail to provide rest periods.

3 42. The California Supreme Court has held that, during required rest periods, “employers
4 must relieve their employees of all duties and relinquish any control over how employees spend their
5 break time.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.) Relinquishing
6 control over employees during rest periods requires that employees be “free to leave the employer’s
7 premises” and be “permitted to attend to personal business.” (*Id.* at p. 275.) The *Brinker* Court
8 explained in the context of rest breaks that employer liability attaches from adopting an unlawful
9 policy:

10 “An employer is required to authorize and permit the amount of rest break time
11 called for under the wage order for its industry. If it does not—if, for example,
12 it adopts a uniform policy authorizing and permitting only one rest break for
13 employees working a seven-hour shift when two are required—it has violated
14 the wage order and is liable.” (*Brinker Rest. Corp. v. Superior Court* (2012) 53
15 Cal.4th 1004, 1033.)

16 43. Here, Defendants periodically did not permit the Aggrieved Employees to take
17 compliant duty-free rest breaks, free from Defendants’ control as required by Labor Code section
18 226.7, the Applicable Wage Orders, and applicable precedent. (See *Augustus v. ABM Security Services,*
19 *Inc.* (2016) 2 Cal.5th 257, 269 [concluding that “during rest periods employers must relieve employees
20 of all duties and relinquish control over how employees spend their time.”].) At all relevant times, the
21 Aggrieved Employees were periodically not provided with legally-compliant and timely rest periods
22 of at least ten minutes for each four hour work period, or major fraction thereof due to Defendants’
23 unlawful rest period policies/practices. The Aggrieved Employees were often expected and required to
24 continue working through rest periods to meet the expectations of Defendants and finish the workday.
25 In some cases when the Aggrieved Employees worked more than ten hours in a shift, Defendants failed
26 to authorize and/or permit a third mandated rest period. As a result, the Aggrieved Employees were
27 periodically unable to take compliant rest periods.
28

1 44. In such cases where Defendants did not offer the Aggrieved Employees the opportunity
2 to receive a compliant off-duty rest period, “the court may not conclude employees voluntarily chose
3 to skip those breaks.” (*Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 410 [“If
4 an employer fails to provide legally compliant meal or rest breaks, the court may not conclude
5 employees voluntarily chose to skip those breaks.”]; *Brinker Rest. Corp. v. Superior Court, supra*, 53
6 Cal.4th at p. 1033 [“No issue of waiver ever arises for a rest break that was required by law but never
7 authorized; if a break is not authorized, an employee has no opportunity to decline to take it.”].)

8 45. In addition to failing to authorize and permit compliant rest periods, the Aggrieved
9 Employees were not compensated with one hour’s worth of pay at their regular rate of compensation
10 when they were not provided with a compliant rest period in accordance with Labor Code section
11 226.7, subdivision (c). Thus, Defendants have violated Labor Code section 226.7 and the Applicable
12 Wage Orders.

13 **E. MEAL BREAK VIOLATIONS**

14 46. Labor Code section 512 and the Applicable Wage Orders require employers to provide
15 employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of
16 work. (Lab. Code, § 512, subd. (a) [“An employer shall not employ an employee for a work period of
17 more than five hours per day without providing the employee with a meal period of not less than 30
18 minutes”]; Cal. Code of Regs., tit. 8, §§ 11040, 11090, 11160 [“No employer shall employ any
19 person for a work period of more than five (5) hours without a meal period of not less than 30
20 minutes”].) Additionally, an employee who works more than ten hours per day is entitled to
21 receive a second thirty-minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a)
22 [“An employer shall not employ an employee for a work period of more than 10 hours per day without
23 providing the employee with a second meal period of not less than 30 minutes”].)

24 47. “An on-duty meal period is permitted only when the nature of the work prevents an
25 employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal
26 break.” (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must
27 include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California
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1 Department of Industrial Relations, Division of Labor Standards Enforcement (“DLSE”) and courts
2 have “found that the nature of the work exception applies: (1) where the work has some particular
3 external force that requires the employee to be on duty at all times, and (2) where the employee is the
4 sole employee of a particular employer.” (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v.*
5 *U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) “[I]t is the employer’s obligation
6 to determine whether the nature of the work prevents an employee from being relieved before requiring
7 an employee to take an on-duty meal period.” (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th at
8 p. 946.)

9 48. Here, the Aggrieved Employees were never asked to sign any enforceable document
10 agreeing to an on-duty meal period. Moreover, nothing in the nature of their work involved the kind of
11 “external force” that might justify on-duty meal breaks. (*Lubin v. The Wackenhut Corp.*, *supra*, 5
12 Cal.App.5th at p. 945.) Nevertheless, Defendants periodically did not provide compliant off-duty meal
13 periods within the first five hours of work for the Aggrieved Employees.

14 49. As with rest breaks, meal breaks must be duty-free. (*Brinker Restaurant Corp. v.*
15 *Superior Court* (2012) 53 Cal.4th 1004, 1035 [“The IWC’s wage orders have long made a meal period’s
16 duty-free nature its defining characteristic.”].) Relinquishing control over employees during meal
17 periods requires that employees be “free to leave the employer’s premises” and be “permitted to attend
18 to personal business.” (*Augustus v. ABM Security Services, Inc.*, *supra*, 2 Cal.5th at p. 275.) Under
19 Labor Code section 512, if an employer maintains a uniform policy that does not authorize and permit
20 the amount of meal time called for under the law (as specified in the Labor Code and/or applicable
21 IWC Wage Order), “it has violated the wage order and is liable.” (*Brinker Restaurant Corp. v. Superior*
22 *Court*, *supra*, 53 Cal.4th at p. 1033.)

23 50. During the applicable statutory periods here, the Aggrieved Employees were
24 periodically denied legally-compliant and timely off-duty meal periods of at least thirty minutes due to
25 Defendants’ unlawful meal period policy and practices. As a result of Defendants’ uniform meal period
26 policies and practices, the Aggrieved Employees were often not permitted to take compliant first meal
27 periods before the end of the fifth hour of work. The Aggrieved Employees were also periodically not
28 permitted to take second meal periods for shifts in excess of ten hours. Defendants thus violated Labor

1 Code section 512 and the Applicable Wage Orders by failing to advise, authorize, or permit the
2 Aggrieved Employees to receive thirty-minute, off-duty meal periods within the first five hours of their
3 shifts.

4 51. Labor Code section 226.7 provides that “[a]n employer shall not require an employee
5 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
6 applicable regulation, standard, or order of the Industrial Welfare Commission.” (Lab. Code, § 226.7,
7 subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Orders further obligate
8 employers to pay employees one additional hour of pay at the employee’s regular rate of compensation
9 for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of
10 Regs., tit. 8, §§ 11040, 11090, 11160 [“If an employer fails to provide an employee a meal period in
11 accordance with the applicable provisions of this order, the employer shall pay the employee one (1)
12 hour of pay at the employee’s regular rate of compensation for each workday that the meal period is
13 not provided.”].) The “regular rate” for these purposes must factor in all nondiscretionary payments for
14 work performed by the employee, including non-discretionary bonuses, commissions, and other forms
15 of wage payments exceeding the employees’ base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC*
16 (2021) 11 Cal.5th 858, 878.)

17 52. Accordingly, for each day that the Aggrieved Employees did not receive compliant meal
18 periods, they were and are entitled to receive meal period premiums pursuant to Labor Code section
19 226.7 and the Applicable Wage Orders. Defendants, however, failed to pay the Aggrieved Employees
20 applicable meal period premiums for many workdays that the employees did not receive a compliant
21 meal period. Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage
22 Orders.

23 **F. UNTIMELY WAGES DURING EMPLOYMENT**

24 53. Labor Code section 204 expressly requires employers who pay employees on a weekly,
25 biweekly, or semimonthly basis to pay all wages “not more than seven calendar days following the
26 close of the payroll period.” Labor Code section 210, subdivision (a), makes employers who violate
27 Labor Code section 204 subject to a penalty of:
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1 “(1) For any initial violation, one hundred dollars (\$100) for each failure to
2 pay each employee.

3 “(2) For each subsequent violation, or any willful or intentional violation, two
4 hundred dollars (\$200) for each failure to pay each employee, plus 25
5 percent of the amount unlawfully withheld.” (Lab. Code, § 210, subd.
6 (a).)

7 54. Notably, the penalty provided by Labor Code section 210 is “[i]n addition to, and
8 entirely independent and apart from, any other penalty provided in this article” (Lab. Code, § 210,
9 subd. (a).)

10 55. Due to Defendants’ failure to pay the Aggrieved Employees the wages described above,
11 along with rest and meal break premiums, Defendants failed to timely pay the Aggrieved Employees
12 within seven calendar days following the close of payroll in accordance with Labor Code section 204
13 on a regular and consistent basis. (See *Parson v. Golden State FC, LLC* (N.D. Cal., May 2, 2016, No.
14 16-CV-00405-JST) 2016 WL 1734010, at p. *3–5, 2016 U.S. Dist. LEXIS 58299 [finding that a failure
15 to pay rest period premiums can support claims under Labor Code sections 203 and 204].)

16 **G. UNTIMELY WAGES AT SEPARATION**

17 56. Labor Code section 203 provides “if an employer willfully fails to pay . . . any wages
18 of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty”
19 for up to thirty days. (Lab. Code § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.) As a result
20 of Defendants’ failure to pay the Aggrieved Employees for the wages described above, along with rest
21 and meal break premiums, Defendants violated and continue to violate Labor Code section 203.

22 57. Due to Defendants’ faulty pay policies, those Aggrieved Employees whose employment
23 with Defendants concluded were not compensated for each and every hour worked at the appropriate
24 rate. Defendants have failed to pay formerly-employed Aggrieved Employees whose sums were certain
25 at the time of termination within at least seventy-two hours of their resignation and have failed to pay
26 those sums for thirty days thereafter.
27
28

1 **H. WAGE STATEMENT VIOLATIONS**

2 58. Defendants also failed to provide accurate itemized wage statements in accordance with
3 Labor Code section 226, subdivisions (a)(1), (2), (5), and (9). Labor Code section 226, subdivision (a),
4 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage
5 statement in writing showing:

- 6 (1) The gross wages earned;
- 7 (2) The total hours worked by the employee;
- 8 (3) The number of piece-rate units earned and any applicable piece rate if
9 the employee is paid on a piece rate basis;
- 10 (4) All deductions, provided that all deductions made on written orders of
11 the employee may be aggregated and shown as one item;
- 12 (5) The net wages earned;
- 13 (6) The inclusive dates of the period for which the employee is paid;
- 14 (7) The name of the employee and only the last four digits of his or her social
15 security number or an employee identification number other than a social
16 security number;
- 17 (8) The name and address of the legal entity that is the employer; and
- 18 (9) All applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the
20 employee.

21 59. Due to Defendants' failure to pay the Aggrieved Employees properly as described
22 above, the wage statements issued do not indicate the correct amount of gross wages earned, total hours
23 worked, or the net wages earned, or the applicable hourly rates in effect during the pay period and the
24 corresponding number of hours worked at each hourly rate. Thus, Defendants have violated Labor
25 Code section 226, subdivisions (a)(1), (2), (5), and (9).

26 60. Defendants also failed to include the accrued sick hours on the wage statements
27 provided to the Aggrieved Employees as required by Labor Code section 246, subdivision (i).
28

1 61. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and
2 intentionally failed to provide the Aggrieved Employees with accurate itemized wage statements in
3 violation of Labor Code section 226, subdivision (e). Defendants knew that they were not providing
4 the Aggrieved Employees with wage statements required by California law but nevertheless failed to
5 correct their unlawful practices and policies. (See *Garnett v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d
6 1121, 1134 [finding the defendant knowingly and intentionally violated Labor Code section 226
7 because the “[d]efendant knew that it was not providing total hours worked to plaintiff or other
8 employees paid on commission” even though it believed that employees paid solely on commission or
9 commission and salary “are exempt and therefore we do not record hours on a wage statement.”].)

10 **I. RECORDKEEPING VIOLATIONS**

11 62. Labor Code section 226, subdivision (a), requires employers to keep an accurate record
12 of, among other things, all hours worked by employees. Labor Code section 226.3 provides, in pertinent
13 part, as follows:

14 “Any employer who violates subdivision (a) of Section 226 shall be subject to a
15 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
16 violation in an initial citation and one thousand dollars (\$1,000) per employee
17 for each violation in a subsequent citation, for which the employer fails to
18 provide the employee a wage deduction statement or fails to keep the records
19 required in subdivision (a) of Section 226. The civil penalties provided for in
20 this section are in addition to any other penalty provided by law.” (Lab. Code, §
21 226.3, emphasis added.)

22 63. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including
23 Defendants, to:

24 “Keep, at a central location in the state or at the plants or establishments at which
25 employees are employed, payroll records showing the hours worked daily by
26 and the wages paid to, and the number of piece-rate units earned by and any
27 applicable piece rate paid to, employees employed at the respective plants or
28

1 establishments. These records shall be kept in accordance with rules established
2 for this purpose by the commission, but in any case shall be kept on file for not
3 less than three years. An employer shall not prohibit an employee from
4 maintaining a personal record of hours worked, or, if paid on a piece-rate basis,
5 piece-rate units earned.” (Lab. Code, § 1174, subd. (d), emphasis added.)

6 64. As explained in detail above, Defendants failed to provide the Aggrieved Employees
7 with accurate itemized wage statements. Defendants did so, in part, because they failed to accurately
8 track hours worked by the Aggrieved Employees. Defendants have thus failed to keep accurate records
9 of the “total hours worked by the employee[s]” in violation of Labor Code section 226, subdivision (a),
10 and are therefore subject to the penalties provided by Labor Code section 226.3. These penalties are
11 “in addition to any other penalty provided by law.” (Lab. Code, § 226.3.)

12 65. The failure to accurately track hours worked also resulted in a failure of Defendants to
13 keep a record of all “payroll records showing the hours worked daily by” Defendants’ employees,
14 including Plaintiff, in violation of Labor Code section 1174, subdivision (d).

15 **J. SICK PAY VIOLATIONS**

16 66. Labor Code section 246 provides that every employee who works in California for the
17 same employer for 30 or more days within a year from the commencement of employment is entitled
18 to paid sick days. (Lab. Code, § 246, subd. (a).) These paid sick days generally accrue at a rate of not
19 less than one hour per every 30 hours worked, and must be paid out using the employees’ regular rate
20 of pay. (Lab. Code, § 246, subds. (b), (l).) The “regular rate of pay” for these purposes must factor in
21 all nondiscretionary payments for work performed by the employee, including non-discretionary
22 bonuses, commissions, and other forms of wage payments exceeding the employees’ base hourly rate.
23 (Lab. Code, § 246, subds. (l)(1), (2); see, e.g., *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th
24 858, 878.)

25 67. Here, Defendants employed the Aggrieved Employees for 30 or more days within a year
26 from the commencement of employment. Defendants nevertheless failed to fully pay the Aggrieved
27 Employees for all sick pay that was lawfully earned and accrued.
28

1 68. By failing to fully pay accrued sick time, Defendants have underpaid the Aggrieved
2 Employees and have violated California Labor Code provisions including, but not limited to, section
3 246.

4
5 **V. EXHAUSTION OF REMEDIES**

6 69. Plaintiff has fully and completely exhausted administrative remedies under PAGA prior
7 to proceeding with the PAGA claims stated in this complaint. On June 5, 2026, Plaintiff filed a PAGA
8 notice online with the Labor and Workforce Development Agency (“LWDA”) and sent a letter by
9 certified mail to Defendants setting forth the facts and theories of the violations alleged against
10 Defendants, as prescribed by PAGA. (Lab. Code, §§ 2698–2699.8.)

11 70. As required by PAGA, Plaintiff submitted the \$75.00 filing fee to the LWDA with the
12 online filing of the PAGA notice. (Lab. Code, § 2699.3, subd. (a)(1)(B).) Pursuant to Labor Code
13 section 2699.3, subdivision (a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing
14 its intention to investigate within sixty-five calendar days of the postmark date of the PAGA notice.
15 Plaintiff is therefore entitled to commence and proceed with a civil action pursuant to Labor Code
16 section 2699. Plaintiff is an aggrieved employee within the meaning of Labor Code section 2699,
17 subdivision (c)(1), because Plaintiff was employed by Defendants and personally suffered each of the
18 violations alleged on behalf of the Aggrieved Employees within the period prescribed by section 340
19 of the Code of Civil Procedure.

20 **VI. CAUSES OF ACTION**

21
22 **First Cause of Action**

23 *Penalties Pursuant to PAGA for Violations of Labor Code Sections 201, 202, 203,*
24 *204, 210, 226, 226.3, 226.7, 246, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1,*
25 *1198, 1198.5, 1199, and Other Provisions of the California Labor Code*
26 *(Against All Defendants)*

27 71. Plaintiff realleges and incorporates by reference all previous paragraphs.
28

1 72. Based on the above allegations incorporated by reference, Defendants violated Labor
2 Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510, 512, 1174, 1185, 1194, 1194.2,
3 1197, 1197.1, 1198, 1198.5, 1199, and others that may be applicable; and the Applicable Wage Orders
4 (Cal. Code of Regs., tit. 8, §§ 11040, 11090, 11160), and others that may be applicable.

5 73. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code sections
6 2698 through 2699.8 because of Defendants' violation of Labor Code sections 201, 202, 203, 204, 210,
7 226, 226.3, 226.7, 246, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and
8 others that may be applicable; and the Applicable Wage Orders (Cal. Code of Regs., tit. 8, §§ 11040,
9 11090, 11160), and others that may be applicable.

10 74. Under Labor Code sections 2699 and 2699.5, for each such violation, Plaintiff and the
11 Aggrieved Employees are entitled to recover civil penalties for each aggrieved employee per pay
12 period, in the amounts provided by Labor Code section 2699 or as otherwise specifically provided by
13 the Labor Code, in a total amount to be shown at the time of trial.

14 75. These penalties must be allocated sixty-five percent to the Labor and Workforce
15 Development Agency ("LWDA") and thirty-five percent to the aggrieved employees. (Lab. Code, §
16 2699, subd. (m).) With limited exceptions provided in Labor Code section 2699, subdivision (i), these
17 penalties may be stacked separately for each of Defendants' violations of the California Labor Code.
18 (*Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th 773, 780–781 [citing with approval *Stoddart*
19 *v. Express Services, Inc.* (E.D. Cal., Sept. 16, 2015, No. 2:12-CV-01054-KJM) 2015 WL 5522142, at
20 *9, for the proposition that plaintiff could pursue separate claims for penalties under Labor Code
21 section 226, subdivision (e), and penalties for Labor Code section 226, subdivision (a), violations]; see
22 also *Hernandez v. Towne Park, Ltd.* (C.D. Cal., June 22, 2012, No. CV 12-02972 MMM JCGX) 2012
23 WL 2373372, at *17 fn. 70 [noting that federal courts applying California law have found that "PAGA
24 penalties can be stacked, i.e., multiple PAGA penalties can be assessed for the same pay period for
25 different Labor Code violations.'], internal quotation marks omitted).

26 76. For violations of Labor Code section 226, subdivision (a), Plaintiff seeks the civil
27 penalty provided by Labor Code section 226.3. Labor Code section 226.3 provides that "[a]ny
28 employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount

1 of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand
2 dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails
3 to provide the employee a wage deduction statement or fails to keep the records required in subdivision
4 (a) of Section 226.” Accordingly, through PAGA and to the extent permitted by law Plaintiff and the
5 Aggrieved Employees are entitled to recover penalties pursuant to Labor Code section 226.3 and seeks
6 default PAGA penalties for each of Defendants’ numerous violations of Labor Code section 226,
7 subdivision (a).

8 77. Labor Code section 210 provides that “in addition to, and entirely independent and apart
9 from, any other penalty provided in this article, every person who fails to pay the wages of each
10 employee as provided in Sections . . . 204 . . . shall be subject to a civil penalty as follows: (1) For any
11 initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
12 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure
13 to pay each employee, plus 25% of the amount unlawfully withheld.” As a result of the faulty
14 compensation policies and practices, Plaintiff and the Aggrieved Employees are also entitled to recover
15 civil penalties under Labor Code section 210 or, in the alternative, the default civil penalties provided
16 by Labor Code section 2699, subdivision (f), through PAGA.

17 78. Labor Code section 1197.1 authorizes a civil penalty in the amount of: (1) one hundred
18 dollars (\$100) for any initial violation that is intentionally committed for each underpaid employee for
19 each pay period for which the employee is underpaid, and (2) two hundred fifty dollars (\$250) for each
20 subsequent violation for the same specific offense for each underpaid employee for each pay period for
21 which the employee is underpaid regardless of whether the initial violation is intentionally committed.
22 Accordingly, through PAGA and to the extent permitted by law, Plaintiff and the Aggrieved Employees
23 are entitled to recover pursuant to Labor Code section 1197.1.

24 79. Plaintiff was compelled to retain the services of counsel to file this action to protect his
25 interests and those of the Aggrieved Employees, and to assess and collect the wages and penalties owed
26 by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which Plaintiff is also entitled
27 to recover under Labor Code section 2699, subdivision (k)(1).
28

1 **VII. PRAYER FOR RELIEF**

2 Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought
3 against Defendants, as follows:

- 4 **1.** For the failure to maintain accurate employment records, penalties pursuant to Labor
5 Code sections 226.3, 1174.5, and others that may be applicable;
- 6 **2.** For the claim of penalties pursuant to PAGA and other provisions of the California
7 Labor Code, civil penalties in the amounts provided by Labor Code section 2699 or as
8 otherwise specifically provided by the Labor Code, together with injunctive relief as
9 authorized by Labor Code section 2699, subdivision (k)(1), in the representative action
10 brought on behalf of Plaintiff and the Aggrieved Employees pursuant to the Labor Code
11 Private Attorneys General Act of 2004, and for civil penalties available under Labor
12 Code section 210;
- 13 **3.** Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6
14 and Civil Code sections 3287 and 3289;
- 15 **4.** On all causes of action for which attorneys' fees may be available, for attorneys' fees
16 and costs as provided by Labor Code sections 218.5, 226, 2699, subdivision (k)(1) Code
17 of Civil Procedure section 1021.5, and others as may be applicable;
- 18 **5.** For an order enjoining Defendants, and each of them, and their agents, servants, and
19 employees, and all persons acting under, in concert with, or for them, from acting in
20 derogation of any rights or duties adumbrated in this complaint; and
- 21 **6.** For such other and further relief, this Court may deem just and proper.

22 Dated: August 10, 2026

MELMED LAW GROUP P.C.

23
24 

25 **KYLE D. SMITH**

26 Attorneys for Plaintiff and the Aggrieved Employees
27
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