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SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA

RANDY GOAD, on behalf of the State of
California and all Aggrieved Employees,

Plaintiff,

v.

SRG OPERATING, INC., a Delaware
Corporation; SENIOR RESOURCE GROUP
LLC, a Delaware Limited Liability
Company; SRG PARTNERS, LLC, a
Delaware Limited Liability Company; SRG
PARTNERS COMMUNITIES
INVESTMENT CO, LLC, a Delaware
Limited Liability Company; and DOES 1-
100, inclusive,

Defendants.

CASE NO. 24CV00643

Assigned for All Purposes to:
Hon. Donna D. Geck
Dept. 4

**DECLARATION OF SEPIDEH
ARDESTANI IN SUPPORT OF MOTION
FOR APPROVAL OF SETTLEMENT
UNDER PRIVATE ATTORNEYS
GENERAL ACT**

Date: September 12, 2025
Time: 10: 00 a.m.
Dept.: 4

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1. I am an attorney duly licensed to practice in California and before this Court, and I am a partner with Crosner Legal, PC, counsel of record for plaintiff. I make this declaration in support of Plaintiff's Motion for Approval of Settlement under the Private Attorneys General Act. If called to testify as to the within facts, I would and could competently do so.
2. Attached hereto as Exhibit 1 is a true and correct, fully-executed copy of the Parties' PAGA Settlement Agreement (the "Settlement Agreement"). Attached hereto as Exhibit 2 is a true and correct copy of Plaintiff's notice letter to the Labor & Workforce Development Agency ("LWDA") and proof of submission. Attached hereto as Exhibit 3 is proof of submission of the proposed settlement to the LWDA via its online portal.
3. I am unaware of any other cases or matters that may be related to this matter or that may have overlapping claims or classes.

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4. Defendant SRG and its affiliates own and operate skilled nursing facilities throughout the United States, including 8 locations in California alone. Plaintiff Goad worked as a kitchen helper and a security guard at Defendant's Santa Barbara location, from about August 2019 through May 2023. As a kitchen helper, his duties included cleaning dishes, cleaning the dining room, setting up buffet tables, and assisting in food preparation. He typically worked 3-5 shifts per week, from 12:00 p.m. to 9:00 p.m., and he sometimes worked a double shift. As a security guard, his duties included patrolling the property indoors and outdoors, ensuring doors were locked, and documenting any suspicious activity.

5. After notice to the LWDA and Defendant, and exhausting administrative remedies, on February 5, 2024 Plaintiff filed a representative complaint seeking PAGA civil penalties for Defendant's alleged failure to pay all minimum wages, overtime wages, premium wages in lieu of late, short, or denied meal and rest periods, all wages due upon separation of employment, failure to furnish accurately itemized wage statements, and failure to reimburse business expenses to Plaintiff.

1 and Aggrieved Employees defined as “all current and former non-exempt employees employed by
2 Defendants in California at any time during the PAGA Period (December 2, 2022 to the present).” On
3 March 6, 2024, this Court granted the Parties’ stipulation to submit Plaintiff’s individual PAGA claim
4 to arbitration and stay the non-individual PAGA claim. On or about March 21, 2024, Plaintiff filed his
5 arbitration demand with JAMS.

6 6. The Parties subsequently began meeting and conferring regarding discovery,
7 potential law and motion, and other case and arbitration management issues, and eventually
8 agreed to attempt early mediation. They also agreed to and did informally exchange information
9 to permit both sides to evaluate Plaintiff’s allegations. Through this informal discovery,
10 Defendant provided Plaintiff with information including, inter alia, Plaintiff’s personnel file, the
11 number of potential Aggrieved Employees, the number of aggregate pay periods, pay stubs and
12 time records for a sampling of the Aggrieved Employees, and relevant policy documents
13 regarding Defendant’s time keeping and reporting policies and meal and rest break policies,
14 among other pertinent materials.

15 7. On February 5, 2025, the Parties mediated the case with Daniel Turner, Esq., a
16 respected professional neutral with extensive PAGA/wage and hour experience. Before and
17 during the mediation, Plaintiff and his counsel analyzed, researched, and investigated the
18 potential issues, including matters related to the calculation of damages, trial, and appellate issues
19 and risks. During mediation, the Parties vigorously debated the likelihood of Plaintiff’s ability to
20 proceed on a representative basis as to the PAGA claims, the legal grounds for Plaintiff’s claims
21 and Defendant’s defenses, and the Parties’ data analyses and conclusions based on data provided
22 by Defendant. After a contentious day of negotiations, the Parties reached agreement and
23 subsequently formalized their tentative settlement in the Settlement Agreement now before the
24 Court for approval.

25 **SUMMARY OF SETTLEMENT TERMS**

26 8. Under the settlement, Defendant will pay a non-reversionary settlement amount of
27 \$675,000 (the “Gross Settlement Amount” or “GSA”). The GSA is inclusive of payments to the
28 LWDA and Aggrieved Employees, costs of settlement administration (estimated at no more than

1 \$5,500.00), a modest service award to Plaintiff, and reasonable attorney's fees and costs
2 (Plaintiff's counsel requests 1/3 of the GSA (\$225,000.00) in fees and costs of \$18,118.69, and
3 Plaintiff requests a modest service award of \$1,000.00). After payment of settlement
4 administration costs, Plaintiff's service award, and reasonable attorney's fees and costs from the
5 GSA, Plaintiff presently estimates about \$425,311.31 will remain (the "Net Settlement Amount"
6 or "NSA"). Seventy-five percent of the NSA (about \$318,983.48) will go to the LWDA, and the
7 remaining 25% (about \$106,327.83) will be distributed to the Aggrieved Employees in proportion
8 to the total number of Pay Periods each individual worked during the PAGA Period of December
9 1, 2022 to April 15, 2025, with an average award currently estimated at about \$55 per individual.

10 9. The Parties propose using Simpluris, Inc. as the Settlement Administrator.
11 Simpluris has extensive experience administering PAGA settlements, and has agreed to cap its
12 fees at \$5,500. SRG will fund the GSA within 14 days of the Effective Date, and within 14 days
13 of funding Simpluris will mail a notice and settlement check to all Aggrieved Employees via
14 regular First-Class U.S. Mail, using the most current, known mailing addresses identified in
15 SRG's records. Aggrieved Employees need not submit claim forms and will automatically receive
16 a notice and settlement check. Settlement checks will be negotiable for 180 days, after which time
17 any unclaimed residual funds will be forwarded to the California State Controller's Unclaimed
18 Property Fund.

19 10. The California Supreme Court has explained that a judgment in "a representative
20 action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of
21 2004 ... is binding not only on the named employee plaintiff but also on government agencies and
22 any aggrieved employee not a party to the proceeding." Arias v. Superior Court (2009) 46 Cal.4th
23 969, 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only civil
24 penalty claims brought under PAGA. Under Arias, the order the Parties request the Court enter is
25 intended to be "binding not only on the named employee plaintiff but also on government
26 agencies and any aggrieved employee not a party to the proceeding." The Settlement Agreement
27 protects the rights of the Aggrieved Employees to bring their own individual claims should they
28 wish. For these reasons, the Parties contend the release narrowly applies only to the PAGA claims

1 alleged, and the Settlement Agreement specifically provides the Release is inapplicable to any
2 claims other than those brought under PAGA.

3 **THE SETTLEMENT IS FAIR, ADEQUATE AND REASONABLE, FURTHERS THE**
4 **PURPOSES UNDERLYING PAGA, AND WARRANTS APPROVAL**

5 11. Plaintiff primarily contends Defendant failed to pay all wages due because he and
6 other employees were required to wait in line to clock in and clock out for shifts as well as meal
7 periods, and Plaintiff estimates employees lost around an hour of compensable time per week as a
8 result. As the California Supreme Court recently held, time spent by employees waiting for and
9 undergoing these mandatory exit searches was compensable time. Thus, per Plaintiff, the time
10 employees spent waiting to clock in/out was compensable and resulted a failure to pay wages for all
11 hours worked by the Aggrieved Employees.

12 12. He further alleges SRG failed to provide Aggrieved Employees with compliant
13 meal periods and that even if they even received a meal period, the breaks frequently were late,
14 interrupted, and/or or lasted less than 30 minutes, largely due to the press of business and amount
15 of work to be completed. Based on the sampling provided by Defendant of time and corresponding
16 wage records for Aggrieved Employees, Plaintiff's expert calculated a **25.6% meal period violation**
17 **rate**. Thus per Plaintiff, even assuming Defendant had a compliant written meal period policy, there
18 still were numerous "de facto" violations for untimely or short meal periods, the vast majority of
19 which went uncompensated with the required one hour of premium pay. Plaintiff similarly contends
20 Defendant failed to provide Plaintiff and the Aggrieved Employees with compliant rest periods
21 for essentially the same reasons, and that rest periods regularly were late, short, or missed
22 completely (especially for third rest breaks on shifts of 10+ hours).

23 13. On the expense reimbursement claim, Plaintiff had to use his personal cell phone
24 for work purposes and regularly had to use his phone to communicate with management,
25 particularly when working in the kitchen, and that the head chef constantly was contacting him on
26 his personal phone both while clocked and while he was not working. An employer must
27 reimburse employees for use of personal devices, and if the employee has an unlimited monthly
28 plan then the employer must reimburse an amount that equates to the employee's percentage of

1 use for work.

2 14. Plaintiff also brings claims derivative of the foregoing claims, including a
3 derivative wage statement claim based on the failure to pay all wages due, and failure to pay all
4 wages due and owing upon separation of employment under Labor Code §§ 201-203.

5 15. For mediation, SRG indicated it employed approximately 1,912 non-exempt
6 employees in California during the relevant time frame, and these individuals worked
7 approximately 53,995 pay periods during that time. Based on the data provided by Defendant,
8 Plaintiff estimated Defendant's maximum PAGA exposure at approximately \$23,094,300
9 including approximately \$5,399,500 on the unpaid wage/off the clock claims, about \$1,382,300
10 on the meal period claims, \$5,399,500 on the rest period claims, \$5,399,500 on the wage
11 statement claims, \$5,399,500 on the expense reimbursement claims, and about \$114,000 in civil
12 penalties for failing to timely pay wages on separation of employment.

13 16. We calculated these amounts as follows:

14 **Unpaid Wages/Off the Clock**

15 53,995 pay periods * 100% violation rate * \$100/violation = \$5,399,500

16 **Meal Period Violations**

17 53,995 * 25.6% violation rate * \$100/violation = \$1,382,300

18 **Rest Period Violations**

19 53,995 pay periods * 100% violation rate * \$100/violation = \$5,399,500

20 **Expense Reimbursement**

21 53,995 pay periods * 100% violation rate * \$100/violation = \$5,399,500

22 **Wage Statement Violations**

23 53,995 pay periods * 100% violation rate * \$100/violation = \$5,399,500

24 **Untimely Final Wages**

25 1,140 former employees * 1 violation/employee * \$100/violation = 114,000

26 17. In response to Plaintiff's unpaid wage claim, SRG argued its time keeping and
27 rounding policies are fully compliant with California law, and that it accurately tracked and paid
28 for all hours worked by Plaintiff and the Aggrieved Employees. It also argued that its policies

1 strictly prohibited any kind of “off the clock” work and, to the extent it happened at all, it was
2 intermittent and against company policy, and done with management’s knowledge or consent.
3 Finally, Defendant strongly disputed that employees spent any measurable amount of time
4 waiting to clock in or out, and argued that there are ample time clocks available at each of its
5 locations such that an employee would rarely if ever need to wait to clock in or out.

6 18. On the meal break claims, SRG offered multiple defenses. First, it emphasized it
7 maintained fully compliant written policies, that it authorized and permitted all necessary breaks,
8 and that employees received full uninterrupted lunch periods. Defendant further argued that even
9 to the extent meal or rest breaks were missed or arguably non-compliant, it was in violation of
10 company policy and aberrational, and would require significant individual inquiries to determine
11 the reasons underlying any such alleged violations and whether it was by employee choice or
12 some other reason. Thus, per Defendant, any trial on this issue would be unmanageable because
13 of these individualized issues. Defendant also emphasized it paid thousands in meal period
14 premiums during the PAGA Period, which would further evidence its good faith efforts to comply
15 with the law.

16 19. As with meal breaks, Defendant argued the applicable rest break policies complied
17 with California law, and that it authorized and permitted employees to take all required breaks.
18 Further, per Defendant, in light of the fact that it is not required to maintain a record of rest
19 periods, any evidence of failure to authorize rest periods and/or discouragement from taking rest
20 periods would be purely anecdotal and individual issues would predominate on liability. This
21 arguably would once again make a trial unmanageable since the number of instances an employee
22 missed a rest break would have to be tested on a case by case basis to determine compliance.

23 20. For Plaintiff’s expense reimbursement claim, SRG emphasized its written policies
24 prohibited employees from using their own phones while on the clock and working. Beyond that,
25 Defendant argued there was no need for employees to use their phones while working, and if
26 they did it was purely for personal convenience and therefore it was not reimbursable as a
27 “necessary” business expense.

28 21. Plaintiff also alleged derivative violations of Labor Code § 226 (wage statement

violations) and §§ 201-203 (waiting time penalties). Both claims, since they are entirely derivative, will rise or fall along with the primary claims, in addition to being subject to “good faith” and other defenses available to Defendant. Accordingly, Plaintiff had to discount the value of these claims significantly in light of these multiple potential defenses. Defendant also contended a substantial discount should be applied to the civil penalties for these derivative (i.e., “stacked”) violations, as it would be unfair to penalize Defendant multiple times for the same violation.

22. Defendant also emphasized PAGA gives the Court wide latitude to reduce the amount of civil penalties “based on the facts and circumstances of a particular case” if “to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Labor Code § 2699(h). Several state and federal courts in California have applied significant reductions to PAGA civil penalties even after plaintiffs prevailed on the merits. I am aware of a number of state and federal courts in California that have ordered substantial reductions to PAGA penalties even after plaintiffs prevailed at trial.

23. Thus, Defendant raised various and multi-layered defenses to each of Plaintiff’s claims, anyone of which, if successful, could have derailed Plaintiff’s case. And Defendant vowed to raise all these defenses at trial. Accordingly, Plaintiff faced risky issues going forward with litigation, and it could have taken years to realize any recovery in this action along with the possibility of post-trial appeals. In addition to its merits defenses and arguing trial would be unmanageable, Defendant also intended to raise additional defenses on damages, including the proper measure of civil penalties and the appropriate discount to place on any assessment of such penalties.

24. Although Plaintiff and I believe we could have prevailed, there was no such guarantee. When the risks of overcoming a manageability defense, prevailing at trial on the merits on all claims, securing the maximum theoretical civil penalties, and appellate risks all are factored into the equation, the settlement value is reasonable and supported. Of course, to recover anywhere near the maximum penalties Plaintiff would have to shoot the moon and win both liability and maximum penalties on all claims for every single pay period at issue, which

outcome, for the reasons discussed, is unlikely. Given Defendant's various procedural and merits defenses, as well as the substantial penalty reductions ordered in the cases above – which occurred after trial – the proposed settlement is reasonable.

SUBMISSION TO THE LWDA

25. My office timely served the LWDA with the Settlement Agreement and this Motion, and notified the LWDA of this approval hearing. Accordingly, the LWDA will be able to weigh in as necessary and, importantly, many courts find it persuasive of approval if the LWDA ultimately declines to offer any comment or objection to a proposed PAGA settlement.

THE REQUESTED SERVICE AWARD IS FAIR AND REASONABLE

26. Plaintiff devoted time and resources to the litigation, provided documents, and assisted my office with investigating the claims asserted and in preparing for the mediation. Defendant will not oppose a request for an enhancement award to Plaintiff of not more than \$1,000.00 in recognition of his time spent on this matter, the risks he undertook on behalf of the State and Aggrieved Employees, and the benefit conferred to them, as addressed in his declaration filed herewith.

THE REQUESTED FEES AND COSTS ARE FAIR AND REASONABLE

27. Under the terms of the Settlement Agreement, I respectfully request an award of attorney's fees to my office equal to 1/3 of the total settlement amount, or \$225,000. A one-third common fund attorney fee award is consistent with what courts have awarded Plaintiff's counsel in other representative actions. Awarding attorney's fees of one-third of a gross settlement amount is favored by California courts when a fund established for the common benefit of others is involved, such as here.

28. There are several additional factors why I believe that the Court should award one-third of the common fund as a reasonable attorney's fee. First, our efforts resulted in a common fund settlement amount of \$675,000.00, which for the reasons explained, is fair and reasonable in light of the risks/defenses Defendant raised in litigation and threatened to raise at trial and in post-trial appeals. Further, this is a significant sum that furthers the purposes underlying PAGA such as augmenting the state's enforcement capabilities, encouraging compliance with Labor Code

1 provisions, and deterring future non-compliance. Moreover, this result was achieved by the work
2 and success of this office, who negotiated the settlement after extensive preparation, informal
3 discovery, and an adversarial mediation.

4 29. Second, Plaintiff faced significant risks going forward with the litigation. As
5 discussed above, Defendant raised various defenses to his claims, anyone of which, if successful,
6 could have decimated Plaintiff's case. Plaintiff faced risky legal issues going forward with this
7 litigation, and it would have taken several more years to realize any recovery in this action along
8 with the possibility of post-trial appeals,

9 30. Third, we are experienced class and representative action litigators, and have
10 achieved several approved PAGA settlements. This experience and expertise, combined with the
11 high quality of work performed, resulted in the settlement achieved in this case.

12 31. I graduated from the University of California, Los Angeles in 2004 with a
13 bachelor's in science, obtained my J.D. from Whittier Law School in 2009, and earned a
14 masters in law from Santa Clara University School of Law in 2010. I have been a member of
15 the California Bar since 2010 and have extensive experience in employment matters, including
16 wage and hour litigation. I worked as a wage and hour class action attorney at Gaines & Gaines,
17 APLC from 2012 through 2021 and, prior to joining Gaines & Gaines I worked at Sirkin Law
18 Group as a litigation associate from 2010-2012. I joined Crosner Legal in December 2021 and I
19 am a Partner. I have solely handled employment, wage and hour class actions, and PAGA
20 lawsuits for some 13 years. I was selected for 2020-2021 by Super Lawyers as a "Southern
21 California Rising Star" for employment and labor law.

22 32. Zach Crosner is a 2010 graduate of University San Diego School of Law, and has
23 some 14 years of experience as a practicing attorney, all of which have focused on litigation of
24 employment, labor law, consumer, and class action claims. Following graduation, he
25 immediately began working for a nationally recognized plaintiff's complex litigation firm,
26 CaseyGerry, where he had the fortune of working directly with past presidents of the consumer
27 attorneys and recipients of trial attorneys of the year awards. He also worked for former
28 CAALA and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole

1 associate attorney. During his tenure at these firms, he focused on advocating for the rights of
2 consumers and employees in class action litigation, civil rights and employment litigation,
3 catastrophic injuries, insurance bad faith and appellate litigation.

4 33. In 2013, Mr. Crosner founded the law firm of Crosner Legal, P.C. which since its
5 inception has focused almost exclusively on wage and hour class actions and other labor and
6 employment law cases representing plaintiffs. Currently, over ninety percent (90%) of his
7 practice is dedicated exclusively to the prosecution of wage and hour class actions, and Crosner
8 Legal is currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty
9 (50) wage and hour class actions and/or PAGA representative actions in both federal and state
10 courts throughout California.

11 34. Mr. Crosner currently is an executive board member of the Wage and Hour
12 Committee and the Legislative Committee for the California Employment Lawyers Association;
13 a member of the Grassroots Advocacy Team for the National Employment Lawyers
14 Association; Wage and Hour Committee member and Class Action Committee member for the
15 National Trial Lawyers; a member of the American Association for Justice; and member of the
16 Pound Civil Justice Institute. He was selected for 2018-20 by Super Lawyers as a “Southern
17 California Rising Star” for employment and labor law.

18 35. Jamie Serb is a partner with Crosner Legal and head of the firm’s Wage & Hour
19 practice group. She graduated from the University of California, San Diego in 2004 and
20 graduated from California Western School of Law in 2013, and has been a member of the
21 California Bar since 2013. She gained extensive experience in wage and hour litigation,
22 beginning work as a class action attorney in 2015 at the Mara Law Firm, PC (previously Turley
23 & Mara Law Firm, APLC; Turley Law Firm, APLC). She has handled wage and hour class
24 actions and PAGA lawsuits for some 10 years and has assisted in obtaining millions of dollars
25 for employees during her years of practice.

26 36. Branden Hamilton obtained her undergraduate degree from UCLA in 2004, and
27 her law degree from George Washington University in 2007. She has been affiliated with my
28 firm since 2017 and became Of Counsel with Crosner Legal in 2019, and her practice focuses

1 almost exclusively on wage and hour class and representative actions. She has spent her entire
2 career representing plaintiffs in employment litigation, including several years as an associate at
3 well-known plaintiff's firm Carlin & Buchsbaum.

4 37. Kiara Bramasco received her undergraduate degree, magna cum laude, from
5 Loyola Marymount University in Political Science, and then received her JD from Loyola Law
6 School in 2018. She then spent several years with well-known plaintiff's firm Moss Bollinger,
7 first as a law clerk and then as an associate, where her practice focused on employment law,
8 particularly wage and hour class action and PAGA litigation. She joined Crosner Legal in 2021.

9 38. J. Kirk Donnelly is a 1989 graduate of the College of William and Mary, and a
10 1995 graduate *cum laude* of the University of San Diego School of Law, where he was selected to
11 the Order of the Coif and the Order of Barristers. Prior to 2003, he was a litigation associate with
12 Ross Dixon & Bell, LLP (now Troutman Pepper Locke LLP), in Orange County, California,
13 where his practice focused on complex business, employment, and insurance coverage disputes.
14 In 2003, he became associated with Dostart Clapp & Coveney, LLP, then one of the premiere
15 plaintiffs' wage and hour class action firms in California. In 2008, he founded the Law Offices of
16 J. Kirk Donnelly, APC and, in January 2019, also became Of Counsel to Crosner Legal, P.C.
17 Since 2003, his practice has focused on representing plaintiffs in wage and hour and consumer
18 law matters, including both class actions and individual matters. He has served as class/lead
19 counsel in over 50 wage and hour class and PAGA actions.

20 39. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
21 action settlements while serving as lead class counsel in recent years, including but not limited to
22 a \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
23 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
24 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
25 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
26 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
27 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*
28 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and

1 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
2 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*
3 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.), a
4 \$1.15 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*,
5 Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action
6 settlement in 2020 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753
7 (Santa Clara Cty. Super Ct.); a \$2.2 million wage and hour class action settlement in 2021
8 (*Ghorchian, et al. v. West Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super.
9 Ct.)); a \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original*
10 *Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1
11 million wage and hour class action settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No.
12 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and hour class action settlement
13 in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino
14 Cty. Super. Ct.), a \$2.38 million wage and hour class action settlement in 2023 in *Michel, et al. v.*
15 *Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million
16 wage and hour class action settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No.
17 CIVDS1931464 (San Bernardino Cty. Super. Ct.); \$1.015 million wage and hour class action
18 settlement in 2023 in *Gotishan v. Kyo Autism Therapy*, Case No. CGC-21-596378 (San Francisco
19 Cty. Super. Ct); and a \$1.15 million wage and hour PAGA settlement in 2023 in *Vaughn v.*
20 *Public Health Foundation Enters., Inc.*, Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a
21 \$1.5 million wage and hour class action settlement in *McKinnie v. Iron Mountain*, Case No.
22 21STCV05707 (Los Angeles Cty. Super. Court); a \$1.3 million wage and hour class action
23 settlement in *Ellsworth, et al. v. Hallcon*, Case No. 20STCV06618 (Los Angeles Cty. Super.
24 Court); a \$1.925 million wage and hour class settlement in 224 in *Lo v. Cyberpower, Inc.*, Case
25 No. 21STCV31479 (Los Angeles Cty. Super. Ct); and a \$1.19 million dollar wage and hour class
26 action settlement in 2024 in *Herrera v. Signature Flight Support LLC*, Case No. 22STCV18367
27 (Los Angeles Cty. Super. Ct.).

28 40. Based upon the qualifications and experience set forth above, the following hourly

1 rates are reasonable for attorneys practicing in this area of the law in California: Zachary M.
2 Crosner \$800/hour, Jamie K. Serb, \$750/hour, Nikki Trenner \$700/hour, Kiara Bramasco
3 \$650/hour, J. Kirk Donnelly \$900/hour and Branden Hamilton \$600/hour.

4 41. I request the Court apply the above hourly billing rates in this case, as it reasonable
5 in the California legal market for attorneys handling wage and hour class and PAGA actions. I
6 have personal knowledge of the hourly rates charged by a number of plaintiff-side wage and hour
7 class action firms in major California legal markets for partner-level attorneys with experience
8 comparable to mine. These rates have ranged from \$750 to \$900 per hour for calendar years
9 2018-2023. Some examples include attorney Ron Makarem of Makarem & Associates in Los
10 Angeles, with 28 years of experience, \$900/hour (2023), Matthew Matern of Matern Law Group
11 in Los Angeles, with approximately 26 years of experience \$850/hour (2018); Craig Ackermann
12 of Ackermann & Tilajef, PC in Los Angeles with approximately 25 years of experience
13 \$850/hour (2021), Michael Singer and Isam Khoury of Cohelan Khoury & Singer in San Diego,
14 35 years and 45 years of experience respectively, both \$825/hour (2018), Zachary Crosner of
15 Crosner Legal PC in Los Angeles, 13 years of experience \$750/hour (2022), and James Kawahito
16 of Kawahito Law Group in Los Angeles, with approximately 16 years of experience \$750/hour
17 (2020).

18 42. The requested rates also comport with the adjusted Laffey Matrix, which provides
19 that reasonable hourly rates for attorneys with 20+ years of experience, such as Mr. Donnelly, are
20 over \$1000/hour, and hourly rates for attorneys with 10+ years of experience, such as Mr.
21 Crosner, Ms. Serb, and myself, are over \$800. The adjusted Laffey Matrix may be found at
22 <http://www.laffeymatrix.com/see.html>.

23 43. Fourth, Crosner Legal has been representing Plaintiff (and the State of California)
24 in this matter on a strictly contingent basis and as such, had to forego other financial opportunities
25 to litigate other cases, incurred the risk of non-recovery after a substantial investment of time,
26 money, and resources, and have done so since the inception of this case without any payment or
27 compensation. This is not an easy burden for a small firm. If, despite these hardships and risks,
28 the best this office could hope for is merely to be paid our customary hourly rate multiplied by the

1 number of hours worked on the case, then we would not be compensated for the hardships and
2 serious risks it faced litigating this contingency case, and would not be incentivized to take on
3 similar private attorney general cases in the future.

4 44. Fifth, the request for attorney's fees in the amount of one-third of the common
5 fund falls well within the norms accepted by state and federal courts in California in comparable
6 wage and hour actions actually handled by this office. Moreover, the award of a one-third fee
7 recovery under the common fund doctrine was recently approved by the California Supreme
8 Court in Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480. For all of the above reasons, a
9 common fund fee award here in the amount of one-third of the \$675,000 common fund, or
10 \$225,000.00, is fair and reasonable.

11 45. I have reviewed the work performed on the case and the billing inputted, and the
12 hours worked on this case total 200.7 attorney and paralegal hours. Accordingly, my firm's
13 lodestar totals approximately \$146,090.00, exclusive of time for attending the hearing on the
14 approval motion and time to be incurred thereafter to implement and administer the settlement.
15 The aggregated lodestar is summarized in Exhibit 4 hereto. On a lodestar basis, the requested fees
16 represent the base lodestar with a 1.54 upward modifier, which I submit is fully in line with
17 California precedents.

18 46. As noted, Crosner Legal has represented Plaintiff for two years with respect to this
19 matter and has expended a significant amount of time and resources in that representation. The
20 firm agreed to litigate this case on a purely contingent basis and in so doing assumed considerable
21 risk of non-payment for its fees and costs, as discussed above, and as is the case with these
22 matters in general. Under all relevant factors (as outlined herein and in the accompanying
23 memorandum), I respectfully request the Court award the requested fees of \$225,000.00 based on
24 the common fund theory with a corresponding lodestar cross-check and a modest 1.54 lodestar
25 enhancement.

26 47. I also request reimbursement of Crosner Legal's actual out-of-pocket expenses
27 incurred to prosecute this action. These expenses were incidental and necessary to the effective
28 representation of the employees.

48. Crosner Legal's costs are \$18,118.69, including court filing/service of process fees, mediation fees, expert witness charges, and postage. Notably, the requested costs do not include any and all printing and research charges. The requested costs are reasonable and uncontested and should be approved and a true and correct itemization of the costs and expenses incurred is set forth below:

Expense Category	Amount
Court Filing Fees/Service of Process/Attorney Service	\$1,892.40
Mediation Fees	\$6,450.00.00
PAGA Filing Fee	\$75.00
Postage	\$146.29
Expert Witness Fees	\$9,555.00
Total Costs and Expenses	\$18,118.69

49. For the foregoing reasons, it is respectfully requested that the Court approve the settlement.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 12, 2025, at Los Angeles, California.



Declarant

EXHIBIT

1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between plaintiff Randy Goad ("Plaintiff") and defendant SRG Operating, Inc. ("SRG"). The Agreement refers to Plaintiff and SRG collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

- 1.1. "Action" means the Plaintiff's PAGA lawsuit alleging wage and hour violations against SRG captioned *Randy Goad v. SRG Operating, Inc. et al.* initiated on February 5, 2024 and pending in Superior Court of the State of California, County of Santa Barbara, Case No. 24CV00643.
- 1.2. "Administrator" means Simpluris, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.
- 1.4. "Aggrieved Employee" means all current and former non-exempt employees employed by SRG in California at any time during the PAGA Period.
- 1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in SRG's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.8. "Court" means the Superior Court of California, County of Santa Barbara.
- 1.9. "Defense Counsel" means Noah J. Woods, Esq. and Heidi E. Hegewald, Esq. of Littler Mendelson, P.C.
- 1.10. "Effective Date" means the date by when both of the following events have occurred: (1) the Court enters a Judgment on its Order Approving the PAGA Settlement; and (2) the Judgment is final and no longer appealable. For purposes of this Agreement, "the Judgment is final and is no longer appealable" shall mean the later of: (a) the day after

the last date by which a notice of appeal, writ, or other appellate proceeding to the applicable Court of Appeal of the order and judgment approving this Agreement may be timely filed and none is filed (i.e., 61 days from notice of entry of judgment); (b) if an appeal, writ, or other appellate proceeding is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Agreement passes, and no further review is requested; or (c) if an appeal, writ, or other appellate proceeding is filed and the order approving this Agreement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Agreement is affirmed. No funding of the Settlement shall occur until after the Effective Date has passed.

- 1.11. "Gross Settlement Amount" means \$675,000.00 which is the total amount SRG agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, PAGA Representative Payment, and the Administrator's Expenses Payment.
- 1.12. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.13. "Judgment" means the judgment entered by the Court based upon the Court's approval of the settlement.
- 1.14. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.15. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.16. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, PAGA Representative Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.17. "Notice of PAGA Settlement" means the letter, substantially similar to the form attached hereto as **Exhibit A**, explaining the Settlement to the Aggrieved Employees, which will accompany each settlement check.
- 1.18. "PAGA Counsel" means Zachary M. Crosner, Esq., Jamie K. Serb, Esq., and Sepideh Ardestani, Esq. of Crosner Legal, P.C., the attorneys representing the Plaintiff in the Action.

- 1.19. "PAGA Counsel Fees Payment" means the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees incurred to prosecute the Action.
- 1.20. "PAGA Counsel Litigation Expenses Payment" means the amount allocated to PAGA Counsel for reimbursement of reasonable expenses incurred to prosecute the Action.
- 1.21. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for SRG for at least one day during the PAGA Period.
- 1.22. "PAGA Period" means the period from December 1, 2022 to April 15, 2025 or the date the Court enters an Order approving the PAGA settlement, whichever occurs sooner
- 1.23. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.24. "PAGA Notice" means Plaintiff's December 1, 2023 letter to SRG and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.25. "PAGA Penalties" means the total amount of PAGA civil penalties (\$423,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$105,875.00) and the 75% to LWDA (\$317,625.00) in settlement of PAGA claims.
- 1.26. "PAGA Representative" means the named Plaintiff in the Operative Complaint in the Action.
- 1.27. "PAGA Representative Payment" means the payment to the PAGA Representative for initiating the Action and providing services in support of the Action
- 1.28. "Plaintiff" means Randy Goad, the named plaintiff in the Action.
- 1.29. "Released PAGA Claims" means the claims being released by the Plaintiff, PAGA Counsel, the State of California, and Aggrieved Employees and as described in Paragraph 5 below.
- 1.30. "Released Parties" means: SRG and each of its former and present directors, officers, shareholders, owners, members, managing members, agents, attorneys, insurers, predecessors, successors, assigns, subsidiaries, affiliates including, but not limited to, Senior Resource Group, LLC, SRG Partners, LLC, and SRG Partners Community Investment Co, LLC.
- 1.31. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.32. "SRG " means named Defendant SRG Operating Inc.

2. RECITALS.

- 2.1. On February 5, 2024, Plaintiff commenced this Action by filing a Complaint alleging a cause of action for PAGA penalties for alleged violations of various California Labor Code provisions by SRG, including failure to pay all wages owed (including minimum wages, overtime wages, and premium wages in lieu of meal and rest periods), failure to provide meal periods, failure to provide rest periods, failure to provide suitable seating and/or resting facilities, failure to reimburse necessary business expenses, failure to issue accurate itemized wage statements, unlawful deductions from wages, inaccurate records, failure to pay reporting time pay, violations of the California "Day of Rest" laws, sick leave violations (including supplemental sick leave), failure to pay vested vacation/paid time off, unlawful criminal history inquiries, unlawful waivers of non-waivable rights, and failure to pay all wages due upon separation of employment. The Complaint is the operative complaint in the Action (the "Operative Complaint.") SRG denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to SRG and the LWDA by sending the PAGA Notice on or about December 1, 2023.
- 2.3. On February 5, 2025, the Parties participated in an all-day mediation presided over by Daniel Turner, Esq., which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery Plaintiff's personnel file, a 60% sampling of time and pay records of Aggrieved Employees, and SRG's Employee Handbooks that were in effect during the PAGA Period.
- 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, SRG promises to pay \$675,000.00 and no more as the Gross Settlement Amount. SRG has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to SRG.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

- 3.2.1. To Plaintiff: A PAGA Representative Payment to Plaintiff of not more than \$1,000.00 (in addition to any Individual PAGA Payment the Plaintiff is entitled to as an Aggrieved Employee). SRG will not oppose Plaintiff's request for a PAGA Representative Payment that does not exceed this amount. As part of the Settlement approval motion, Plaintiff and/or PAGA Counsel will request approval for PAGA Representative Payment. If the Court approves a PAGA Representative Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the PAGA Representative Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the PAGA Representative Payment.
- 3.2.2. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33.33% which is currently estimated to be \$225,000.00 and PAGA Counsel Litigation Expenses Payment of not more than \$20,000.00. SRG will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. As part of the Settlement approval motion, Plaintiff and/or PAGA Counsel will request approval for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds SRG harmless, and indemnifies SRG, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,500.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$5,500.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$423,500.00 to be paid from the Gross Settlement Amount, with 75% (\$317,625.00) allocated to the LWDA PAGA Payment and 25% (\$105,875.00) allocated to the Individual PAGA Payments.
- 3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$105,875.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay

Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Aggrieved Employee Data. Within 15 days of the date the Court enters Judgment, SRG will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. SRG has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which SRG must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.
- 4.2. Funding of Gross Settlement Amount. SRG shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.3. Payments from the Gross Settlement Amount. Within 14 days after SRG funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Representative Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
 - 4.3.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.3.2. The distribution of Individual PAGA Payments shall be accompanied by the Notice of PAGA Settlement.

- 4.3.3. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
- 4.3.4. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.3.5. The payment of Individual PAGA Payments shall not obligate SRG to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when SRG fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

- 5.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

- 5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE

CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

- 5.2 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and/or the PAGA Notice including, but not limited to Labor Code §§ 201-204, 208, 210, 212, 216, 218, 221, 222, 223, 226, 226.3, 226.6, 226.7, 227.3, 233, 245-248.5, 256, 432.5, 432.6, 432.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2802, 2810.5, California Code of Regulations, Title 8, Section 11040, Subdivision 5 (A)-(B), California Code of Regulations, Title 8 Section 1 1070 (14) (Failure to Provide Seating), and the IWC Wage Orders, that accrued at any time during the PAGA Period (“PAGA Released Claims”). The express purpose of this Agreement and the Judgment to be entered by the Court following approval of this settlement is to forever bar Plaintiff, the LWDA, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA (including all Aggrieved Employees) from asserting any of the PAGA Released Claims that occurred during the PAGA Period in any future litigation. All PAGA Members will be bound by the settlement of the PAGA claims that occurred during the PAGA Period being released herein, upon its approval by the Court, regardless of whether he or she negotiates (i.e. cashes or deposits) his or her settlement check.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA shall aver that they are not aware of any other

pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Order Granting Approval of PAGA Settlement to the Administrator.
- 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Simpluris to serve as the Administrator and verified that, as a condition of appointment, Simpluris agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

- 8.1 Based on its records, SRG estimates that, as of the date of mediation on February 5, 2025, there were approximately 1,912 Aggrieved Employees who worked approximately 53,995 Pay Periods during the PAGA Period.

8.2 The Gross Settlement Amount was agreed upon based on SRG's representations of the total number of Pay Periods in the PAGA Period. If the number of Pay Periods during the PAGA Period exceeds 53,995 by more than 10% percent (for a total that exceeds 59,394 Pay Periods), at the option of Defendant, Defendant shall either increase the Gross Settlement Amount or elect to move the end date for the PAGA Period to the latest date wherein the Pay Periods during the PAGA Period do not exceed 59,394. In the event Defendant elects to extend the PAGA Period to a date wherein the total workweeks is more than 59,394, the Gross Settlement Amount will be increased by determining the workweek value calculated based on 59,394 Pay Periods divided by the Gross Settlement Amount multiplied by the additional number of Pay Period beyond. For example, if the total number of Pay Periods by the end of the PAGA Period is 60,000 and the value is \$11.44 per Pay Period, Defendant would have to increase the Gross Settlement Amount by \$6,884.16 ($60,000 - 59,394 = 606 \times \$11.36$).

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.2 **Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment.** If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain approval of the Settlement and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the PAGA Representative Payment or any payments to PAGA Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. ADDITIONAL PROVISIONS.

- 10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by SRG that any of the allegations in the Operative Complaint have merit or that SRG has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that SRG's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, SRG reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest SRG's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and SRG, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, SRG nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended,

modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by SRG in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from SRG unless, prior to the Administrator's payment of all Settlement Funds, SRG makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Zachary M. Crosner, Esq.
zach@crosnerlegal.com
Jamie K. Serb, Esq.
jamie@crosnerlegal.com
Sepideh Ardestani, Esq.
sepideh@crosnerlegal.com
CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210

To SRG:

Noah J. Woods, Esq.
nwoods@littler.com
Heidi E. Hegewald, Esq.
hhegewald@littler.com
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
San Diego, CA 92101-3577

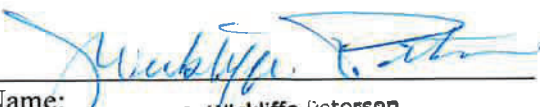
- 10.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: 04 / 16 / 2025



Plaintiff Randy Goad

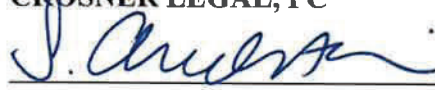
Dated: 7/30/25



Name: J. Wickliffe Peterson
Title: Executive Vice President
For Defendant SRG

Dated: April 16, 2025

CROSNER LEGAL, PC



Zachary Crosner, Esq.

Jamie Serb, Esq.

Sepideh Ardestani, Esq.

Attorneys for Plaintiff

Dated: April 30, 2025

LITTLER MENDELSON, P.C.



Noah J. Woods, Esq.

Heidi E. Hegewald, Esq.

Attorneys for Defendant

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA

|

You are receiving this Notice because you are entitled to money as a result of a court approved settlement in Randy Goad v. SRG Operating, Inc., et al. Santa Barbara County Superior Court, Case No. 24CV00643 (the “**Lawsuit**”).

What is this case about?

In the Lawsuit, Plaintiff asserted representative claims against Defendant on behalf of all current and former non-exempt employees employed by SRG Operating, Inc. in California between December 1, 2022 to April 15, 2025 or the date the Court enters an Order approving the PAGA settlement, whichever occurs sooner. (the “**Settlement Period**”). Plaintiff alleges claims for penalties pursuant to the Private Attorneys General Act of 2004 (“**PAGA**”) Labor Code section 2698 *et seq.* based on alleged violations of the California Labor Code, including the following: (1) failure to pay all wages owed (including minimum wages, overtime wages, and premium wages in lieu of meal and rest periods); (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to provide suitable seating and/or resting facilities; (5) failure to reimburse necessary business expenses; (6) failure to issue accurately itemized wage statements; (7) unlawful deductions from wages; (8) inaccurate records; (9) failure to pay reporting time pay; (10) violations of the California “Day of Rest” laws; (11) sick leave violations (including supplemental sick leave); (12) failure to pay vested vacation/paid time off; (13) unlawful criminal history inquiries; (14) unlawful waivers of non-waivable rights; and (15) failure to pay all wages due upon separation of employment. SRG denies all of the allegations, claims and contentions in the Lawsuit, denies any failure to comply with applicable laws, and denies any and all liability whatsoever. SRG contends that it compensates employees in full compliance with the law.

What are the terms of the Settlement?

Plaintiff and SRG reached a settlement which was reviewed and approved by the Court. SRG’s records show that you were employed by SRG in a covered position during the Settlement Period. Accordingly, you are entitled to an Individual Settlement Payment based on your percentage share of pay periods during the Period.

What should I do now?

You are automatically included in this Settlement. You may immediately deposit your enclosed settlement check and need not take any further action at this time.

EXHIBIT

2



Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (866) 276-7637
fax: (310) 510-6429

December 1, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAfilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

C T Corporation System
Agent for Service of Process for:
Senior Resource Group LLC
Attn: CA Registered Agent Authorized
Employees:
Amanda Garcia, Gabriela Sanchez, Daisy
Montenegro, Beatrice Casarez-Barrientez,
Jessie Gastelum, John Montijo, Diana Ruiz,
Sarai Marin, Emanuel Jacobo, Gladys
Aguilera, Vivian Imperial, Carlos Paz,
Alberto Damonte, Peter Cayetano, Elsa
Montanez, Xenia Perez, and Yesenia
Carpenter
330 N Brand Blvd #700
Glendale, CA 91203

Senior Resource Group LLC
Attn: Human Resources / Legal Department
500 Stevens Avenue
Solana Beach, CA 92075

C T Corporation System
Agent for Service of Process for:
**SRG Partners Communities Investment Co,
LLC**
Attn: CA Registered Agent Authorized
Employees:
Amanda Garcia, Gabriela Sanchez, Daisy
Montenegro, Beatrice Casarez-Barrientez,
Jessie Gastelum, John Montijo, Diana Ruiz,
Sarai Marin, Emanuel Jacobo, Gladys
Aguilera, Vivian Imperial, Carlos Paz, Alberto
Damonte, Peter Cayetano, Elsa Montanez,
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**SRG Partners Communities Investment Co,
LLC**
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Carpenter
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500 Stevens Avenue
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SRG Operating, Inc.
Attn: CA Registered Agent Authorized
Employees:
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Glendale, CA 91203

SRG Operating, Inc.
Attn: Human Resources / Legal Department
500 Stevens Avenue
Solana Beach, CA 92075

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Senior Resource Group
LLC; SRG Partners, LLC; SRG Partners Communities Investment Co, LLC; and
SRG Operating, Inc.
Date: December 1, 2023
Subject: *Randy Goad v. Senior Resource Group LLC, et. al.*

Introduction

This office represents PLAINTIFF, Randy Goad (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Senior Resource Group LLC; SRG Partners, LLC; and SRG Partners Communities Investment Co, LLC; and SRG Operating, Inc.; (hereinafter, these entities and their managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this

notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of PLAINTIFF’s claims against DEFENDANTS. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate PLAINTIFF’s reasonable attempt at settlement with DEFENDANTS. If DEFENDANTS are interested in settling this matter before a lawsuit is filed, DEFENDANTS may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which PLAINTIFF will base PLAINTIFF’s claims, PLAINTIFF requests that the LWDA regard this NOTICE as written notice of PLAINTIFF’s intent to seek civil penalties against DEFENDANTS. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative has authority to seek penalties for all known violations committed by the employer – regardless of whether the representative experienced all violations personally. *Id.* at 760-761. Moreover, under *Johnson v. Maxim Healthcare Servs., Inc.*, (2021) 66 Cal. App. 5th 924, 929, an employee may pursue a claim under PAGA even when that employee’s individual claim is time-barred.

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California

Labor Code sections 201-203, 204, 208, 216, 221-223, 226, 226.7, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

PLAINTIFF is informed and believes and thereon alleges that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF’s and other NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ rights by violating various sections of the California Labor Code. The California Legislature defines “other person acting on behalf of an employer” as “a natural person who is an owner, director, officer, or managing agent of the employer.” The “managing agent” definition mirrors that found in California’s punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, “managing agents”

are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

PLAINTIFF intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. PLAINTIFF will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. PLAINTIFF asks and demands that DEFENDANTS put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, PLAINTIFF also offers to DEFENDANTS to place those individuals on notice if DEFENDANTS voluntarily provides their contact information.

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at the senior living communities and/or other communities, properties, facilities and/or other location(s) in California, including but not limited to senior living communities and/or other communities, properties, facilities and/or locations, including but not limited to, California locations operating under the following name(s) in the following cities and/or neighborhoods in California: The Village at Sherman Oaks in Sherman Oaks, California; The Village at Northridge in Northridge, California; River's Edge in Sacramento, California; Maravilla Santa Barbara in Santa Barbara, California; La Vida Real in San Diego, California; La Vida Del Mar in Solana Beach, California; and Peninsula Del Rey in Daly City, California. DEFENDANTS, through its various locations, serve the hospitality industry.¹ Although DEFENDANTS may operate a successful company or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title(s) of security guard dishwasher, kitchen helper and/or a similar title(s) and/or position(s) from in or around 2019 through in or around May 8, 2023. PLAINTIFF worked for DEFENDANTS as a security guard and/or similar title(s) and/or position(s) for approximately three (3) to six (6) months during the relevant period. PLAINTIFF also worked for DEFENDANTS as a kitchen helper and/or dishwasher and/or similar title(s) and/or position(s) during the relevant period. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Santa Barbara, California location(s). PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) days per week. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked. PLAINTIFF was also compensated with non-discretionary bonuses/incentive pay and/or other non-discretionary compensation.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all

¹ See <https://www.srgseniorliving.com/>. Last visited on December 1, 2023.

hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continue to fail to provide suitable seating; and (15) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which allowed meal periods were provided each day.

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and

other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of DEFENDANTS' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANTS' failure to relieve PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, DEFENDANTS further failed, and continue to fail, to record the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, DEFENDANTS further failed and continue to fail, to record the true start and end times of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, DEFENDANTS failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

DEFENDANTS' failure to keep "accurate and complete" payroll records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.²

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction.” An employer’s failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee’s signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a “reasonable” amount of time, but “not later than 30 calendar days from the date the employer receives a written request.” An employer’s failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, DEFENDANTS failed to timely produce or make available a current or former employee’s personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. Based on information and belief, DEFENDANTS failed and continue to fail to timely produce complete payroll and personnel records when requested by NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee’s total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee’s total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF’s employment by DEFENDANTS.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided”).

Employers must pay employees an additional hour of wages at the employees’ regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to take late meal periods in order to complete assigned job duties.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

For example, PLAINTIFF was sometimes required to return to work while clocked out for purportedly off-duty meal periods due to the need to complete assigned job duties.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to DEFENDANTS’ premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet DEFENDANTS’ goals and expectations.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during unpaid meal periods.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their policies and practices resulted in the denial of uninterrupted meal periods which were free of DEFENDANTS' control owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

Based on information and belief, despite DEFENDANTS' failure to provide lawful meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end times of PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, DEFENDANTS did not have a compliant written meal break policy, nor did DEFENDANTS have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and

practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³ DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* At 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Moreover, under California law rest periods must be a “net” ten minutes in a suitable rest area. *Id.* At 268 (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what “net” ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufil v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the “onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.”).

DEFENDANTS did not properly authorize and provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS’ premises.

For example, based on information and belief, PLAINTIFF was sometimes if not always required to work through part or all of one or more of his owed rest periods each shift and/or was not provided rest periods that were off-duty for a “net” ten minutes in a suitable rest area. Based on information and belief, DEFENDANTS did not have a lawful policy, instruction, or practice as to the taking, timing, or duty-free nature of rest periods.

Based on information and belief, DEFENDANTS failed to authorize and permit rest periods that were a “net” ten minutes in a suitable rest area, and instead, to the extent rest periods were provided, DEFENDANTS limited PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving their workstations, in violation of California rest period law.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES’ rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, DEFENDANTS failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. DEFENDANTS either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

DEFENDANTS' locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS' facilities/locations with reasonable or no modification, but instead denied and continue to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, NON-EXEMPT AGGRIEVED

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); and All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

EMPLOYEEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS' premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide NON-EXEMPT AGGRIEVED EMPLOYEEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

DEFENDANTS' failure to provide suitable resting facilities to NON-EXEMPT AGGRIEVED EMPLOYEEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Minimum Wage Violations: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit." Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, "Every employer shall pay to each employee Not less than the applicable minimum wage for all hours worked in the payroll period..." The applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon..." *Cal. Lab. Code* § 1194.2.

DEFENDANTS failed to compensate PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEEES for all hours worked by virtue of DEFENDANTS' automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEEES were subject to DEFENDANTS' control

during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to be at their assigned workstations at the start of a scheduled shift, thereby forcing NON-EXEMPT AGGRIEVED EMPLOYEES to perform off-the-clock work tasks, including but not limited to, bestow personal items in employee lockers/storage area, retrieve and/or compile work tools/equipment, make any necessary adjustments to tools/equipment, don work clothing/uniforms and/or protective equipment, gather work-related equipment and/or safety gear, make any necessary adjustments to tools/equipment and/or perform maintenance/cleaning tasks, engage in work-related communications and/or complete other work tasks prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were required to stand in line behind other employees to access DEFENDANTS' time-keeping system and/or were required to spend time reinitiating DEFENDANTS' time-keeping system before they could clock in for the start of their shifts and/or after completing a purported meal period.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete other off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to clock out for the end of their shifts but to continue working due to the need to return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates and/or debriefings and/or participate in work meetings, respond to work-related communications and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

For example, while working as a kitchen helper, dishwasher and/or similar title(s) and/or job position(s), PLAINTIFF was frequently required to clock out for the end of his shifts but to continue completing work tasks off-the-clock, including but not limited to, cleaning the ice cream machine, resulting in at least five (5) minutes of post-shift off-the-clock work on many if not all days PLAINTIFF worked for DEFENDANTS as a kitchen helper, dishwasher and/or similar title(s) and/or position(s).

Based on information and belief, DEFENDANTS did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent donning and doffing personal protective equipment and/or uniforms (e.g., rubber gloves, hairnets, aprons, hats, utility belts, and/or face masks) during

meal periods, before the start of a scheduled shift, and/or after completing a scheduled shift, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received to their phones/mobile devices and were required to respond to, including but not limited to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform other off-the-clock work for which they were not compensated.

For example, based on information and belief, at times, DEFENDANTS' biometric/electronic employee time-keeping system malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES experienced the same issues when clocking out for shifts and/or back in for meal periods. This time spent under DEFENDANTS' control was not recorded and not compensated and resulted in unpaid minimum wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES who opened their work locations were required to first unlock the doors, turn on all the lights in the restaurant/facility and/or deactivate the alarm before clocking in for work, resulting in pre-shift off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on further information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES in charge of closing their location(s) were required to first clock out for their shifts before enabling the alarm, turning off all the lights in the facility and/or locking the doors. This resulted in additional off-the-clock post-shift work that was not compensated and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

Based on information and belief, at times, DEFENDANTS require/required NON-EXEMPT AGGRIEVED EMPLOYEES to travel between and/or around DEFENDANTS' facilities and/or locations without compensating NON-EXEMPT AGGRIEVED EMPLOYEES for the travel time. For example, based on information and belief, due to scheduling issues and/or understaffing, NON-EXEMPT AGGRIEVED EMPLOYEES were at times required after working at their scheduled facility location to cover a shift at another of DEFENDANTS' facilities/locations but were not compensated for the time spent driving to the second facility, resulting in the

underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES the applicable minimum wage for the State of California in effect during the relevant period.

For example, based on information and belief, at times during the relevant period, including but not limited to, while working as a kitchen helper, dishwasher and/or other similar title(s) and/or position(s), DEFENDANTS compensated PLAINTIFF at an hourly rate which was below the minimum wage rate in effect for the State of California. See California Labor Code Sections 1182.12(b)(1)(F) and 1182.12(c)(1) (increasing the State of California minimum wage rate to \$15 per hour effective January 1, 2022).

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES the applicable minimum wage for the county and/or city within which the NON-EXEMPT AGGRIEVED EMPLOYEE worked in California. For example, based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES working in DEFENDANTS' facilities located in the city of Los Angeles and/or within an unincorporated area of the county of Los Angeles, at the applicable minimum wage rate(s) in effect for the city and/or county of Los Angeles, and as such failed to pay all owed minimum wages.

For example, based on information and belief, DEFENDANTS paid NON-EXEMPT AGGRIEVED EMPLOYEES an hourly rate which was below the minimum wage rate in effect for the city and/or county of Los Angeles. See Section 187.02(d) of the Los Angeles Municipal Code (increasing the minimum wage rate, effective July 1, 2023, by \$.74 for a new minimum wage rate of \$16.78 per hour) and Los Angeles County Minimum Wage Ordinance section 8.100.040 (increasing the minimum wage rate for the unincorporated areas of Los Angeles to \$16.90 per hour, effective July 1, 2023).

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES working in DEFENDANTS' facilities located in the city of Daly at the applicable minimum wage rate(s) in effect for the city of Daly, and as such, failed to pay all owed minimum wages.

For example, based on information and belief, DEFENDANTS paid NON-EXEMPT AGGRIEVED EMPLOYEES an hourly rate below the minimum wage rate in effect for the city of Daly. *See*, Daly City Code of Ordinances, Title 8 - Health and Safety, Chapter 8.76 - Minimum Wage, Section, 8.76.020 (D) (increasing the minimum wage rate for the city of Daly to \$16.07, effective January 1, 2023).

Moreover, based on information and belief, DEFENDANTS failed to pay PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES split shift premium wages when they worked split shifts during the relevant period. For example, based on information and belief, at times, DEFENDANTS required PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES to work two separate shifts in the same day. Based on information and belief,

DEFENDANTS failed to pay PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES split shift compensation whenever PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' work schedules were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday..."). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment). DEFENDANTS also failed to separately itemize these split shift premium wages on PLAINTIFF's and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on the pay stub provided to the employee, and it should be shown as a separate category such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus, etc. DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that as applied systematically deprived PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by DEFENDANTS would almost always, if not always, result in understating actual compensable work time. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding practices resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

DEFENDANTS' failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject DEFENDANTS, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, DEFENDANTS violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, DEFENDANTS' automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to DEFENDANTS' premises and/or subject to DEFENDANTS' control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, DEFENDANTS failed to pay all due overtime wages due to including but not limited to, DEFENDANTS' failure to calculate the owed overtime rate(s) based on the applicable minimum wage rates in effect for the city and/or county in which the

⁵ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

NON-EXEMPT AGGRIEVED EMPLOYEE worked and/or the applicable minimum wage rate in effect for the State of California.

Based on information and belief, DEFENDANTS failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

For example, NON-EXEMPT AGGRIEVED EMPLOYEES earned non-discretionary bonuses/incentive pay shift differential pay, and/or other non-discretionary compensation during pay periods in which they worked overtime, yet DEFENDANTS failed to incorporate all non-discretionary compensation into the regular rate(s) used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁶

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, DEFENDANTS failed to provide proper paid sick leave to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, DEFENDANTS further failed to provide notice of the correct sick leave amount balance available to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statements.

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Based on information and belief, DEFENDANTS failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, DEFENDANTS failed to provide notice of sick leave amount balance left for PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and PLAINTIFF seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, DEFENDANTS further failed and continue to fail to comply with Labor Code section 246, by failing to provide PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

DEFENDANTS unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of DEFENDANTS' failure to properly institute a paid sick leave program.

On information and belief, PLAINTIFF alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

PLAINTIFF requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to DEFENDANTS' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. PLAINTIFF requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

DEFENDANTS violated and continue to violate Labor Code section 216 by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As DEFENDANTS failed to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

⁷ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

DEFENDANTS' issued wage statements to PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a).

Separately, and independent of the above allegations, based on information and belief, DEFENDANTS issued wage statements to NON-EXEMPT AGGRIEVED EMPLOYEES that failed to list the total hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

Based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE or EXEMPT AGGRIEVED EMPLOYEE is being paid.

For example, based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE is being paid. For example, based on information and belief, at times, DEFENDANTS issued wage statements to NON-EXEMPT AGGRIEVED EMPLOYEES containing payment for hours worked during previous pay periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate pay period for that retroactive pay, further failing to list the total hours worked for the pay period, including but not limited to, the total hours worked for the pay period the retroactive pay corresponds with.

For example, based on information and belief, at times, DEFENDANTS issued wage statement(s) to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES, that list a category for "Retro" pay without including the inclusive dates of the accurate pay period for that "Retro" pay, further failing to list the total hours worked for the pay period, including but not limited to, the total hours worked for the pay period the retroactive pay corresponds with, in violation of including but not limited to, Labor Code section 226(a)(2) and/or Labor Code section 226(a)(6).

DEFENDANTS' failure to accurately list all hours worked on all wage statements caused confusion to PLAINTIFF and caused and continue to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by DEFENDANTS' failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper

rates, and failing to provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

For example, based on information and belief, wage statements issued by DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9) due to DEFENDANTS' failure to list an overtime rate category at all and/or failure to list a category containing the proper overtime rate.

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

Unlawful Deductions: Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee.” Based on information and belief DEFENDANTS made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period, including but not limited to, deducting costs of uniforms and/or other business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully deducting wages for negligently damaged property. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the

⁸ See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

statute provisions were violated. See Lab. Code §225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. DEFENDANTS violated this section by, including but not limited to, failing to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject DEFENDANTS to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute’s provisions were violated.

Reporting Time Pay Violations:

Section 5 of all applicable IWC Wage Orders, provides as follows:

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting

NON-EXEMPT AGGRIEVED EMPLOYEES were not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order. For example, based on information and belief, at times, PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES reported to work for a scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting time pay wages in accordance with California law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California law, including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS’ failure to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 5(A)-(B) and the California Labor Code, including but not limited to section 1198.

Violation of California Day of Rest Law

Under California law, every employee in California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" their employees "to work more than six days in seven." *See* Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

Based on information and belief, DEFENDANTS have and continue to have a uniform policy and practice of requiring NON-EXEMPT AGGRIEVED EMPLOYEES to work at least seven days

consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551. Based on information and belief, PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES were suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code

section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, DEFENDANTS' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, seating, suitable resting facilities, reporting time pay, split shift premium wages, and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, DEFENDANTS willfully and systematically denied PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, DEFENDANTS paid PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials) to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

⁹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, DEFENDANTS failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, DEFENDANTS untimely provide final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES’ final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials).

Based on further information and belief, DEFENDANTS failed to timely provide all owed wages immediately upon discharge of employment. Based in information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES experienced breaks in employment caused by DEFENDANTS whereby NON-EXEMPT AGGRIEVED EMPLOYEES would not be called in for work for longer than a single pay period due to including but not limited to DEFENDANTS’ lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED

EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

Violation of Labor Code Section 208:

Labor Code Section 208 provides: Every employee who is discharged shall be paid at the place of discharge, and every employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. All payments shall be made in the manner provided by law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to provide NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES who are terminated with their final paychecks at the place of discharge and/or of failing to provide NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES with their final paychecks at the office or agency of DEFENDANTS in the county where the work was performed, in violation of Labor Code Section 208.

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145

California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code § 2804.

¹⁰ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

Based on information and belief, PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES' personal cell phones/mobile devices, internet and/or data usage for work-related purposes, including but not limited to, to receive and respond to work-related messages and/or phone calls. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were required to receive and respond to work-related calls and/or messages from supervisors and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of purchasing and/or maintaining their own hand tools and/or equipment (e.g., flashlights, utility belts) required to perform their assigned job duties and/or for the costs of purchasing and/or maintaining work uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

For example, DEFENDANTS required PLAINTIFF to supply his own flashlight and/or other hand tools and/or uniforms/work clothing/work shoes/equipment required to carry out the job duties assigned to PLAINTIFF while working for DEFENDANTS as a security guard and/or similar title(s) and/or position(s), further requiring PLAINTIFF to supply his own non-slip shoes and/or other uniforms/work clothing/shoes/protective/safety equipment and/or tools for carrying out his assigned job duties as a kitchen helper and/or dishwasher and/or other similar title(s) and/or position(s). However, DEFENDANTS failed to provide any and/or full reimbursement to PLAINTIFF for the business expenses PLAINTIFF incurred in connection with being required to purchase and/or maintain uniforms/work clothing/work shoes/equipment and/or hand tools required to carry out PLAINTIFF's assigned job duties.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the business use of their personal vehicles, including mileage, wear and tear and/or cost of fuel when they were required to drive around and/or between job sites, and/or otherwise use their personal vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES at the legally mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

As explained above, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of

using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

As a pattern and practice, DEFENDANTS regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

As described herein, DEFENDANTS regularly failed to reimburse and indemnify PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. DEFENDANTS' failure to provide PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

Labor Code section 432.6(a), provides that "a person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right..."Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to sign meal period waivers that were universally signed as a condition of employment, including but not limited to, during the onboarding process. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES to sign unlawful meal period waivers as a condition of obtaining and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these invalid waivers are otherwise unlawful under Labor Code section 432.6.

Moreover, the California Labor Code places certain procedural and substantive limit on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, DEFENDANTS ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to DEFENDANTS to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, DEFENDANTS knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, DEFENDANTS asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, DEFENDANTS, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual

PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

DEFENDANTS have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys’ fees, and costs. The civil penalties PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, PLAINTIFF will seek these penalties in a civil action, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of DEFENDANTS within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco, Esq.
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301

Beverly Hills, CA 90210
Main: 866.276.7637
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, reading "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Manny Martinez <manny@crosnerlegal.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "prelit@crosnerlegal.com" <prelit@crosnerlegal.com>

Fri, Dec 1, 2023 at 2:42 PM

12/1/2023

LWDA Case No. LWDA-CM-997341-23
Law Firm : Crosner Legal, PC
Plaintiff Name : Randy Good
Employer: Senior Resource Group LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT

3

EXHIBIT

4

Randy Goad v. SRG Operating, Inc. et. al.
(Santa Barbara County Superior Court Case No. 24CV00643)

Crosner Legal Time Report

Tasks	Zachary Crosner	Jamie Serb	Sepideh Ardestani	Kiara Bramasco	Branden Hamilton	J. Kirk Donnelly
Pre-filing Case Investigation	4.2	0.0	0.0	5.7	5.6	0.0
Pleadings and Law and Motion	4.6	2.6	0.0	0.0	8.6	7.5
Discovery and Post-Filing Investigation	2.5	5.4	10.5	0.0	0.0	0.0
Court Appearances	0.0	0.0	3.5	0.0	0.0	0.0
Case Management; Litigation Strategy & Analysis	9.4	36.2	55.6	0.0	0.0	1.0
Mediation and Settlement	5.2	16.1	16.5	0.0	0.0	0.0
Total Hours	25.9	60.3	86.1	5.7	14.2	8.5
Hourly Rate	\$800	\$750	\$700	\$650	\$600	\$900
Lodestar	\$20,720	\$45,225	\$60,270	\$3,705	\$8,520	\$7,650

Total Hours: 200.7

Total Lodestar: \$146,090.00