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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

SHAUNA STALNAKER, an individual and
on behalf of other aggrieved employees,

Plaintiffs,

vs.

BLUE PACIFIC ENGINEERING AND
CONSTRUCTION, INC., a California
corporation, SHAHRAM ELIHU, an
individual, and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 37-2024-00022124-CU-WT-CTL

COMPLAINT FOR:

- 1. RETALIATION AGAINST WHISTLEBLOWER**
(Labor Code § 1102.5);
- 2. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**
- 3. VIOLATION OF LABOR CODE § 98.6;**
- 4. FAILURE TO PAY OVERTIME WAGES** (Labor Code §§ 510, 1194, and Applicable Wage Order);
- 5. FAILURE TO PAY MINIMUM WAGES** (Labor Code § 1197 and Applicable Wage Order);
- 6. UNPAID MEAL PERIOD WAGES** (Labor Code §§ 226.7, 512, and Applicable Wage Order);
- 7. UNPAID REST PERIOD WAGES** (Labor Code §§ 226.7, and Applicable Wage Order);
- 8. FAILURE TO PAY TIMELY WAGES** (Labor Code § 204, 1194 and 1198, and Applicable Wage Order);
- 9. IMPROPER WITHHOLDING OF WAGES** (Labor Code §§ 221, 223, and 224);

10. **FAILURE TO PAY ALL WAGES DUE AT TIME OF DISCHARGE (Labor Code §§ 201- 203);**
11. **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS (Labor Code §§ 226 and 1174);**
12. **UNFAIR COMPETITION (Bus. & Prof. Code § 17200 et seq.); and**
13. **PRIVATE ATTORNEYS GENERAL ACT PENALTIES (Labor Code § 2698 et seq.).**

[JURY TRIAL DEMANDED]

COMES now Plaintiff SHAUNA STALNAKER who, on behalf of herself and all other aggrieved employees, by and through her counsel, hereby files this Complaint against Defendants, BLUE PACIFIC ENGINEERING AND CONSTRUCTION, INC., SHAHRAM ELIHU, and DOES 1 to 50, inclusive, and each of them, and complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this individual action against Defendants for, inter alias, wrongful termination after whistleblowing her reasonably held belief that Defendants were involved in unlawful practices including noncompliance with prevailing wage laws, thereby constituting a violation of Labor Code § 1102.5. Plaintiff further alleges Defendants engaged in a pattern of wage and hour violations under the California Labor Code, the Industrial Welfare Commission (“IWC”) Wage Orders, and the California Business & Professions Code by willfully misclassifying Plaintiff as exempt.

2. Plaintiff also brings this representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. (“PAGA”) against Defendants for engaging in a pattern of wage and hour violations under the California Labor Code and the applicable IWC Wage Orders. Plaintiff brings this action on behalf of herself and all other current and former employees of Defendants in the State of California who have suffered at least one of the Labor Code violations described herein during the relevant time period (hereinafter “aggrieved employees”).

4. Defendants' pattern of Labor Code and IWC Wage Order violations against Plaintiff stem from Defendants' misclassification of Plaintiff as exempt and include, but are not limited to: failure to pay overtime wages, failure to pay all minimum and regular wages for all hours worked, failure to pay meal and rest premium wages, failure to provide a wage theft notice, failure to pay timely wages, improper withholding of wages, failure to timely pay all earned wages due upon separation of employment, and failure to provide accurate itemized wage statements. Upon information and belief, Defendants' unlawful behaviors toward *other* aggrieved employees include, but are not limited to: failure to pay timely wages, failure to pay prevailing wages, improper withholding of wages, failure to pay all wages due at time of discharge, and failure to provide accurate itemized wage statements.

5. Plaintiff SHAUNA STALNAKER (hereinafter “Plaintiff”), is a natural person who is, and at all relevant times was, a resident of San Diego County, California.

6. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2699(c) because she was employed by Defendants and has suffered one or more of the Labor Code violations committed by Defendants.

7. At all relevant times, Plaintiff and on information and belief, other aggrieved employees of Defendants in California, were subject to the same policies, practices, and procedures governing their employment and their payment of wages and hours worked.

8. Plaintiff is informed and believes, and based thereon alleges, Defendant BLUE PACIFIC ENGINEERING AND CONSTRUCTION, INC. (hereinafter “BLUE PACIFIC”), is and at all times mentioned herein was, a California corporation authorized to do business in the State of California and an entity subject to suit under the California Labor Code. BLUE PACIFIC employs numerous individuals in the State of California, including Plaintiff and other aggrieved employees.

11. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants herein was, at all times relevant to this action, the agent, employee, representing partner, joint venturer, or alter ego of the remaining Defendants and was acting within the course and scope of that relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the Defendants herein gave consent to, ratified, and authorized the acts alleged herein to each of the remaining Defendants.

JURISDICTION & VENUE

14. This Court has jurisdiction over Plaintiff's claims, which are brought under, *inter alia*, the California Labor Code, applicable Wage Orders, and the California Business and Professions Code.

15. Plaintiff also filed a timely notice of labor code violations with the LWDA against Defendants, and each of them, and thereafter received an authorization to file this PAGA suit.

FACTUAL BACKGROUND

16. Plaintiff re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as though fully set forth herein.

17. This action involves a series of harmful acts and omissions by Defendants, and each of them, against Plaintiff and on information and belief, other aggrieved employees of Defendants. The factual allegations set forth hereinafter are made for the sole purpose of stating causes of action against Defendants, and each of them, and are not intended to be an inclusive list of all of the harmful acts and omissions performed by Defendants, and each of them, against Plaintiff and on information and belief, other aggrieved employees of Defendants.

18. On July 20, 2020, Plaintiff commenced employment with BLUE PACIFIC and Palm Engineering Construction, Inc. (hereinafter referred to as “Palm Engineering”). Plaintiff was initially paid solely by Palm Engineering, even though she performed work for and under the direction of both companies. The companies shared a work space, resources, and employees. Both also provide general contracting services for public works projects. In or around October 2021, Plaintiff began receiving wages from BLUE PACIFIC, in addition to the wages she received from Palm Engineering.

19. On or around January 1, 2022, BLUE PACIFIC and Palm Engineering decided to separate their shared physical work space, but continued to share resources and personnel, including Plaintiff.

20. In or around April 2022, Plaintiff discontinued performing work for Palm Engineering and worked solely for BLUE PACIFIC. However, the companies continued to share resources and personnel.

21. At the time of her termination on November 20, 2023, Plaintiff earned an annual salary of eighty-two thousand and five hundred dollars (\$82,500).

Plaintiff is Misclassified as an Exempt Employee

22. Plaintiff was initially hired as an “accountant” for both BLUE PACIFIC and Palm Engineering. However, Plaintiff’s job duties were primarily general bookkeeping that did not

1 include managing the companies' taxes. Such professional tasks were handled by an external CPA.
2 Plaintiff's starting salary was \$65,000. Plaintiff competently performed these duties.

3 23. However, by early 2021, both companies began instructing Plaintiff to undertake
4 Human Resource (HR) tasks in addition to her financial tasks, without any increase in pay. Plaintiff
5 was overworked, working 60-hour weeks with little-to-no help.

6 24. Eventually, BLUE PACIFIC agreed to pay Plaintiff by the hour. But this was short-
7 lived. After one or two months of receiving hourly pay, Palm Engineering panicked at how much
8 overtime pay Plaintiff was earning. The companies then reverted to paying Plaintiff a salary of
9 approximately \$75,000.

10 25. Although Plaintiff was overworked and unable to meet the duties piled onto her,
11 BLUE PACIFIC and Palm Engineering added even more to her plate. Before the decision to
12 physically separate their workspaces in or around January 1, 2022, Plaintiff was assigned the labor-
13 intensive duty of migrating both companies' data from QuickBooks to a new software management
14 platform called Foundation. The task required Plaintiff to manually input voluminous amounts of
15 the most granular bits of information relating to the companies' operations with no discretion or
16 participation in deciding whether or how to implement the transition. Plaintiff merely automated
17 the migration of data to Foundation. The task consumed the majority of Plaintiff's time during
18 certain periods of her employment. And while this data entry task consumed the majority of
19 Plaintiff's time, making clear that Plaintiff could not be properly paid a salary, Plaintiff was not
20 paid overtime wages, despite the fact that she regularly worked in excess of eight hours per day and
21 in excess of 40 hours per week. Plaintiff worked on the data migration for nearly two years, until
22 her wrongful termination.

23 ***Unpaid Wages, Whistleblowing, and Retaliation***

24 26. Throughout 2023, BLUE PACIFIC failed to timely pay wages to 50-70 employees
25 on at least five (5) or six (6) separate occasions. After Plaintiff became aware of this serious
26 problem, she approached ELIHU to assess why employees were not being paid. ELIHU responded
27 that BLUE PACIFIC simply did not have the money to make payroll. Plaintiff was dismayed and
28 did her best in assisting BLUE PACIFIC to pay employees. Multiple employees complained

1 directly to Plaintiff about the improper denial of wages. The stress of untimely pay led at least one
2 (1) BLUE PACIFIC employee to resign after receiving several bounced checks. Plaintiff, herself,
3 was denied wages. She received several paychecks from BLUE PACIFIC that did not clear with
4 the bank.

5 27. In the summer of 2023, Plaintiff received the first in a series of concerning
6 communications from a third-party that handles BLUE PACIFIC's subaccounts (i.e., fringe
7 benefits BLUE PACIFIC's crewmember employees receive on prevailing wage jobs). The email
8 indicated that several BLUE PACIFIC employees complained about not receiving wages for
9 approximately the last six (6) months. Plaintiff directed these concerns to ELIHU. ELIHU
10 responded by paying for only the seventh (7th) month that was due. The prior six (6) months
11 remained unpaid. Plaintiff believed that BLUE PACIFIC owed, on average, between \$100,000-
12 110,000 total for all of its employees' subaccounts on a monthly basis. Plaintiff believed BLUE
13 PACIFIC owed \$600,000-660,000 in backpay due to employees at that time.

14 28. Eventually, in 2023, the third-party indicated to BLUE PACIFIC it was considering
15 reporting the ongoing violation(s) to the Department of Industrial Relations. Plaintiff became
16 increasingly concerned. Her reports to ELIHU went without effect.

17 29. In an effort to assist the best and only way she could, Plaintiff began, in around
18 October 2023, to provide *daily* financial reports to ELIHU regarding how much BLUE PACIFIC
19 owed to its employees and subcontractors in overdue or otherwise late wages or other obligations.
20 She provided these daily reports until her employment was wrongfully terminated.

21 30. Increasingly concerned with BLUE PACIFIC's ongoing failure to timely pay wages
22 or meet its financial obligations, and in the face of repeated complaints by employees about late or
23 withheld wages, and fearful that she may be retaliated against for whistleblowing about her
24 employer's illegal conduct, Plaintiff, on Friday, November 10, 2023, privately emailed a third-party
25 broker who handled BLUE PACIFIC's pension plans to seek advice on whether BLUE PACIFIC
26 was in trouble for failing to deposit wages into the subaccounts and pension plans. On Monday,
27 November 13, 2023, the broker informed Plaintiff that BLUE PACIFIC was approximately \$1
28 million behind in payroll taxes and behind in depositing an estimated \$500,000 of employee wages

1 into their pension plans. He further warned Plaintiff of the potential that she and BLUE PACIFIC's
2 Head of Accounts Payable (another employee) could be blamed. The broker then told Plaintiff that
3 he would speak directly to ELIHU about BLUE PACIFIC withholding wages. The situation was
4 increasingly stressful to Plaintiff.

5 31. Panicked, Plaintiff wrote to ELIHU that same day about BLUE PACIFIC's ongoing
6 failure to meet its financial obligations and denial of employee wages. Plaintiff wrote to ELIHU
7 that she expressed fear of being blamed for ELIHU's decision to withhold employee wages, which
8 she believed to be illegal. ELIHU failed to respond. Plaintiff's fear and stress over the situation
9 increased.

10 32. The following day, Tuesday, November 14, 2023, Plaintiff reported to the office
11 distressed about what the day would bring. She saw BLUE PACIFIC's in-house attorney, Mr.
12 Danaher, and informed him of BLUE PACIFIC's withholding of wages. Mr. Danaher, responded
13 indicating his own awareness, but said, "Wow, I didn't realize we were at that bad a point." Plaintiff
14 estimates that BLUE PACIFIC owed \$700,000-800,000 in unpaid wages by that point in time.

15 33. Later that day, ELIHU entered Plaintiff's office and addressed Plaintiff's fear of
16 being blamed for ELIHU's decision to illegally deny employees their wages. ELIHU told Plaintiff
17 that he had spoken with an attorney who would prepare releases for all potential claims that
18 employees might have against Plaintiff and the Head of Accounts Payable for the illegal
19 withholding of wages. Plaintiff requested ELIHU's permission to pay employees in cash out of
20 concern BLUE PACIFIC's checks would not clear, and in an effort to reduce further risk of
21 delaying employee wages. ELIHU immediately rejected her proposal.

22 34. As the week proceeded, ELIHU continued to ignore Plaintiff. He excluded her from
23 meetings and discussions that would typically have required her involvement. ELIHU did not
24 communicate with her on the normal basis as they had before her whistleblowing took place. Prior
25 to the November 14, 2023 conversation, Plaintiff and ELIHU regularly discussed BLUE
26 PACIFIC's finances on a daily basis. This stopped. Nor did ELIHU inquire into the status of the
27 data migration project that Plaintiff had been working on as detailed hereinabove. BLUE
28 PACIFIC's Head of Accounts Payable also stopped communicating with Plaintiff. The situation

1 became awkward. Plaintiff's stress level and concern increased from worry about BLUE
2 PACIFIC's financial condition, and concern about the delay in paying employees, to outright fear
3 that her own employment had become jeopardized.

4 35. On Friday, November 17, 2023, and even though she was nominally a salaried
5 employee, Plaintiff obtained ELIHU's permission to leave work early to pick up her children. When
6 she returned to work the following Monday, November 20, 2023, ELIHU asked to meet in her
7 office, without warning. During this unscheduled meeting, ELIHU terminated Plaintiff's
8 employment. ELIHU told Plaintiff the termination was due to her purported failure to complete
9 the data migration, and a handful of other seemingly non-critical and easily resolved oversights
10 (some of which Plaintiff immediately pointed out had in fact already been resolved/completed).
11 While Plaintiff had become concerned about BLUE PACIFIC and ELIHU's decision-making,
12 being terminated nevertheless shocked her, especially for reasons that paled in comparison to the
13 accelerating financial problems and illegalities she recently and directly raised to ELIHU. Plaintiff
14 never received verbal or written warning(s) for poor performance during the entirety of her
15 employment. ELIHU said another reason Plaintiff's employment was terminated was a non-
16 specific need to "cut costs." ELIHU then handed Plaintiff her final paycheck of \$6,000. Plaintiff
17 requested that Defendants also pay her health insurance and pension plan. Plaintiff explained that
18 receiving payment for healthcare insurance held significant importance to her, especially since she
19 and her husband were actively pursuing conception through assisted reproductive technology.
20 ELIHU promised to provide ongoing health care coverage but failed to do so. Defendants also
21 failed to provide information on COBRA for continued health insurance coverage or a notice of
22 change in circumstances. Shocked and dismayed, Plaintiff quietly collected her belongings and left
23 the premises without so much as a goodbye.

24 **PRIVATE ATTORNEYS GENERAL ACT ("PAGA") ALLEGATIONS**

25 36. The Causes of Action alleged herein are appropriately suited for a Labor Code
26 Private Attorneys General Act of 2004 ("PAGA") action because:

27 37. Pursuant to California Labor Code § 2699(a), any provision of the Labor Code that
28 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development

1 Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or
2 employees, for a violation of the California Labor Code, may, as an alternative, be recovered
3 through a civil action brought by an aggrieved employee on behalf of himself or herself and all
4 other current or former employees pursuant to the procedures specified in § 2699;

5 38. This action involves allegations of violations of provisions of the California Labor
6 Code that provide or do not provide for a civil penalty to be assessed and collected by the LWDA
7 or any departments, divisions, commissions, boards, agencies or employees;

8 39. Plaintiff is an "aggrieved employee" because she was employed by the alleged
9 violators and had one or more of the alleged violations committed against her;

10 40. Plaintiff satisfied the procedural requirements of § 2699.3 by serving the LWDA
11 electronically and Defendants BLUE PACIFIC via Certified Mail with notice for wage and hour
12 violations and penalties, including the facts and theories to support each violation.

13 41. More than 65 calendar days have passed since Plaintiff served notice electronically
14 to the LWDA and via Certified Mail to Defendants. Therefore, Plaintiff satisfied all the
15 administrative requirements to pursue civil penalties against Defendants pursuant to Labor Code §
16 2698, et seq.

17 42. Plaintiff filed this action pursuant to Labor Code § 2699(a) and (f), on behalf of
18 herself and all other aggrieved employees of Defendants to recover civil penalties, including unpaid
19 wages, which are to be paid to the affected employees pursuant to Labor Code §§ 558, 1197.1, and
20 1775.

21 43. Defendants are Plaintiff's former employer or person acting on behalf of Plaintiff's
22 former employer, within the meaning of California Labor Code § 558, who violated or caused to
23 be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
24 hours and days of work in any order of the Industrial Welfare Commission and, as such, is subject
25 to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant
26 times.

27 44. Defendants are Plaintiff's former employer or person acting on behalf of Plaintiff's
28 former employer either individually or as an officer, agent, or employee of another person, within

1 the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a
2 wage less than the minimum fixed by California state law, and as such, is subject to civil penalties
3 for each underpaid employee, as well as liquidated damages pursuant to Labor Code § 1194.2, and
4 any applicable penalties imposed pursuant to Labor Code § 203.

5 45. Defendants are Plaintiff's former employer or person acting on behalf of Plaintiff's
6 former employer either individually or as an officer, agent, or employee of another person, within
7 the meaning of California Labor Code § 1771 *et seq.*, who paid or caused to be paid to any employee
8 a prevailing wage less than the minimum fixed by California state law, and as such, is subject to
9 civil penalties pursuant to Labor Code § 1775 and any applicable penalties imposed pursuant to
10 Labor Code §§ 1771 and 1774.

11 46. Plaintiff seeks to recover all applicable civil penalties under PAGA on behalf of
12 herself and all other aggrieved employees of Defendants in California, but only those civil penalties
13 that are required to be shared with the LWDA and no individual relief or underpaid wages.

14 **FIRST CAUSE OF ACTION**
15 **Retaliation Against Whistleblower**
16 **Labor Code § 1102.5**
(By Plaintiff Against All Defendants)

17 47. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of
18 this complaint as though fully set forth herein.

19 48. As set forth herein, Plaintiff was, at all times material hereto, an employee of
20 Defendants.

21 49. As discussed in detail herein, Plaintiff engaged in activities protected under Cal.
22 Lab. Code § 1102.5 when she raised complaints to Defendants related to her reasonably held belief
23 that BLUE PACIFIC was unlawfully withholding wages.

24 50. As set forth herein, instead of remedying the situation, Defendants subjected
25 Plaintiff to unlawful retaliatory treatment, including the following: ELIHU and the Head of
26 Account Payable distanced themselves from Plaintiff, Plaintiff's employment was terminated
27 without any legitimate reason, Plaintiff's employment was terminated only days after Plaintiff
28 stood up and objected to Defendant's unlawful practices. Accordingly, Plaintiff is informed and

1 believes and thereupon alleges that her protected activity was a substantial motivating reason for
2 the abusive treatment of her and the termination of her employment.

3 51. At all times mentioned herein, Cal. Lab. Code § 1102.5 was in full force and effect.
4 Cal. Lab. Code § 1102.5 prohibits retaliation against employees who report the violation of and/or
5 noncompliance with state or federal statutes or local, state or federal rules or regulations or seek to
6 exercise their rights under Cal. Lab. Code § 1102.5. Breach of Cal. Lab. Code § 1102.5 holds
7 employers accountable and may also attribute personal liability to directors. *De La Torre v.*
8 *Progress Rail Servs. Corp.*, No. CV154526FMOGJSX, 2015 WL 4607730, at *4 (C.D. Cal. July
9 31, 2015); *see also Lewis v. Wells Fargo Bank, N.A.*, No. LACV167377PARAOX, 2016 WL
10 7107760, at *2 (C.D. Cal. Dec. 5, 2016).

11 52. Defendants' conduct, as alleged herein, constituted unlawful retaliation in violation
12 of Cal. Lab. Code § 1102.5.

13 53. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
14 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
15 incidental financial losses, including without limitation loss of income, salary, commissions and
16 benefits, and the intangible loss of employment-related opportunities for growth in her field and
17 damage to her professional reputation, all in an amount according to proof at the time of trial.

18 54. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
19 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish,
20 and emotional distress. Plaintiff has experienced emotional, mental, and physical symptoms arising
21 from the wrongful acts of Defendant, and each of them. Plaintiff is informed and believes and
22 thereon alleges that she will continue to experience emotional and physical suffering for a period
23 of time in the future she cannot presently ascertain. Plaintiff has suffered past, present, and future
24 damages in an amount to be shown according to proof at the time of trial.

25 55. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
26 has been forced to hire counsel to prosecute her claims as pleaded herein, and has incurred and is
27 expected to continue to incur attorneys' fees and costs in connection therewith. Accordingly,
28 Plaintiff requests attorneys' fees and costs under Cal. Lab. Code § 1102.5(j).

1 56. The above-recited actions of Defendants were done with malice and oppression, and
2 in reckless disregard of Plaintiff's rights under California law, in that Defendant engaged in such
3 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
4 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
5 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge
6 that Plaintiff's emotional and physical distress would thereby increase, and with a wanton and
7 reckless disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an
8 amount to be determined at trial is justified against Defendants, and each of them.

9 **SECOND CAUSE OF ACTION**
10 **Wrongful Termination in Violation of Public Policy**
 (By Plaintiff Against All Defendants)

11 57. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of
12 this complaint as though fully set forth herein.

13 58. It is against the public policy of the State of California to terminate an employee
14 because of the employee's exercise of rights protected by regulation or statute. *See, e.g.,* Cal. Lab.
15 Code § 1102.5. It is also against the fundamental public policy of the State of California to
16 terminate an employee in retaliation for reporting an alleged violation of a statute, regulation, or
17 law of public importance or for threatening or because the employer believes the employee may
18 report the employer for actual or reasonably perceived unlawful conduct whether directed at
19 Plaintiff or other employees. *See* Cal. Lab. Code § 1102.5; *see also Tameny v. Atlantic Richfield*
20 (1980) 27 Cal. 3d 167.

21 59. As set forth above, Plaintiff engaged in protected activity on multiple occasions,
22 including complaining to ELIHU on behalf of herself and other employees who were not receiving
23 their wages, and that BLUE PACIFIC was therefore violating the law.

24 60. As set forth herein, instead of remedying the situation, Defendants subjected
25 Plaintiff to unlawful retaliatory harassment and treatment, including the following: ELIHU and the
26 Head of Account Payable distanced themselves from Plaintiff, Plaintiff's employment was
27 terminated without any legitimate reason, Plaintiff's employment was terminated only days after
28 Plaintiff stood up and objected to Defendant's unlawful practices. Accordingly, Plaintiff is

1 informed and believes and thereupon alleges that her protected activity was a substantial motivating
2 reason for the abusive treatment of her and termination of her employment.

3 61. As a direct, legal, and proximate result of Defendants' conduct, as alleged above,
4 Plaintiff endured economic and non-economic damages, including emotional distress, loss of wages
5 and benefits for which Plaintiff is entitled to recover in an amount according to proof.

6 62. Plaintiff is informed and believe and thereupon alleges that the actions of
7 Defendants, and each of them, were taken with malice, oppression, fraud, and/or willful and
8 conscious disregard of Plaintiff's rights, and were carried out by Defendants' managing agents
9 and/or ratified by Defendants. Plaintiff is therefore entitled to punitive damages in an amount to
10 be determined at trial.

11 **THIRD CAUSE OF ACTION**
12 **Violation of Labor Code § 98.6**
13 **(By Plaintiff Against All Defendants)**

14 63. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of
15 this complaint as though fully set forth herein.

16 64. Under Cal. Labor Code § 98.6, it is unlawful for an employer to "discharge an
17 employee or in any manner discriminate, retaliate, or take any adverse action against any
18 employee...because the employee...engaged in any conduct..." protected by the California Labor
19 Code.

20 65. As set forth above, Plaintiff repeatedly reported to Defendants about Defendants'
21 unlawful withholding of wages.

22 66. In retaliation for Plaintiff's protected activities under the California Labor Code,
23 Defendants subjected Plaintiff to adverse employment actions, including the termination of
24 Plaintiff's employment.

25 67. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
26 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
27 incidental financial losses, including without limitation loss of income, salary, commissions and
28 benefits, and the intangible loss of employment-related opportunities for growth in her field and
damage to her professional reputation, all in an amount according to proof at the time of trial.

69. The above-recited actions of Defendants were done with malice and oppression, and in reckless disregard of Plaintiff's rights under California law, in that Defendants engaged in such despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be determined at trial is justified against Defendants, and each of them.

Failure to Pay Overtime Wages
Labor Code §§ 510, 1194, and IWC Wage Order 4-2001 § 3
(By Plaintiff Against all Defendants)

70. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

71. Under California law, any work in excess of eight (8) hours in a workday or forty (40) hours in a workweek is considered overtime and entitles the worker to overtime compensation. Further, employees are entitled to additional overtime compensation for any work in excess of twelve (12) hours in a workday. Breach of California Labor Code section 1194 holds employers accountable and may also attribute personal liability to directors under California Labor Code section 558.1.

72. Wage Order 4-2001, paragraph 3, requires an employer to pay an employee one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight hours

up to and including 12 hours in any workday and for the first eight hours worked on the seventh consecutive day of work in a workweek, and double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight hours on the seventh consecutive day of work in a workweek.

73. Plaintiff regularly worked in excess of eight (8) hours in a workday, twelve (12) hours in a workday, and forty (40) hours in a workweek during her employment.

74. Defendants misclassified Plaintiff as being exempt from the overtime pay entitlement under California law, and thus failed and refused to pay her overtime compensation for her overtime hours worked as and, in the manner, required by California law.

75. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff has sustained damages, including loss of earnings for hours of overtime worked on behalf of Defendants, in an amount to be established at trial, and is entitled to recover these damages, as well as interest thereon, costs, and reasonable attorneys' fees pursuant to statute.

FIFTH CAUSE OF ACTION
Failure to Pay Minimum Wages
Labor Code § 1197 and IWC Wage Order 4-2001 § 4
(By Plaintiff Against All Defendants)

76. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

77. Cal. Labor Code § 1197 states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum so fixed is unlawful." The applicable minimum wage for the relevant time period can be found in the applicable wage orders.

78. Wage Order 4-2001, paragraph 4, requires an employer to pay each employee not less than the mandated minimum wage and must pay that amount on the established payday for the period involved.

79. Plaintiff was required to work without proper compensation as a derivative of Defendants' misclassification of her. Defendants had the ability to pay minimum wages for all time

1 worked by Plaintiff, but willfully refused to pay such wages with the intent to annoy, harass,
2 oppress, hinder, delay, and/or defraud Plaintiff.

3 80. As a direct and proximate result of Defendants' unlawful conduct, as set forth
4 herein, Plaintiff has sustained damages, including loss of earnings for minimum wages for all hours
5 worked on behalf of Defendants, in an amount to be established at trial, and are entitled to recover
6 these damages, as well as interest thereon, costs, and reasonable attorneys' fees pursuant to statute.

7 **SIXTH CAUSE OF ACTION**

8 **Unpaid Meal Period Wages**

9 **Labor Code §§ 226.7, 512, and IWC Wage Order 4-2001 § 11**

10 **(By Plaintiff Against All Defendants)**

11 81. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of
12 this complaint as though fully set forth herein.

13 82. As alleged herein, Defendants willfully misclassified Plaintiff as being exempt from
14 meal period entitlement under California law. As such, Plaintiff regularly worked in excess of five
15 (5) hours in a workday without being authorized or permitted to take a meal period of at least thirty
16 (30) minutes during which she was relieved of all duty, as required by Cal. Lab. Code §§ 226.7 and
17 512 and IWC Wage Order 4-2001, § 11. Breach of Cal. Lab. Code § 226.7 holds employers
18 accountable and may also attribute personal liability to directors under Cal. Lab. Code § 558.1.

19 83. Wage Order 4-2001, paragraph 11, requires an employer to pay an employee an
20 additional hour of compensation for every workday that a mandated meal period is not provided.
21 Cal. Lab. Code § 226.7, subdivision (b), likewise requires an employer to pay an employee an
22 additional hour of compensation for every workday that a meal period required by the California
23 Wage Orders is not provided.

24 84. Defendants failed and/or refused to provide Plaintiff with the additional
25 compensation for missed meal periods required by Cal. Lab. Code § 226.7 and Wage Order 4-2001.

26 85. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained
27 damages, including loss of earnings from unpaid premium wages for missed meal periods, in an
28 amount to be established at trial, and is entitled to recover these damages, as well as interest, costs,
and reasonable attorneys' fees, pursuant to statute.

SEVENTH CAUSE OF ACTION

**Unpaid Rest Period Wages
Cal. Lab. Code § 226.7, and IWC Wage Order 4-2001, § 12
(By Plaintiff Against All Defendants)**

86. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

87. As alleged herein, Defendants willfully misclassified Plaintiff as being exempt from rest period entitlement under California law. As such, Defendants failed and/or refused to authorize or permit Plaintiff to take an uninterrupted 10-minute rest break for every 4 hours worked or major fraction thereof, as guaranteed to them as an employee under Cal. Lab. Code § 226.7 and Wage Order 4-2001. Breach of Cal. Lab. Code § 226.7 holds employers accountable and may also attribute personal liability to directors under Cal. Lab. Code § 558.1.

88. Wage Order 4-2001, paragraph 12, requires an employer to pay an employee an additional hour of compensation for every shift in which said employee was not authorized or permitted to take a mandated rest period. Cal. Lab. Code § 226.7, subdivision (b), likewise requires an employer to pay an employee an additional hour of compensation for every shift that a rest period mandated by the California Wage Orders is not provided.

89. Defendants failed and/or refused to provide Plaintiff with the additional compensation for missed rest periods required by Cal. Lab. Code § 226.7 and Wage Order 4-2001.

90. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained damages, including loss of earnings from unpaid premium wages for missed rest periods, in an amount to be established at trial, and are entitled to recover these damages, as well as interest, costs, and reasonable attorneys' fees, pursuant to statute.

EIGHTH CAUSE OF ACTION

**Failure to Pay Timely Wages
Labor Code §§ 204, 1194, 1198, and IWC Wage Order 4-2001 § 4
(By Plaintiff Against All Defendants)**

91. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

1 92. Cal. Labor Code § 204 requires that all wages earned are due and payable twice
2 during each calendar month. The Department of Industrial Relations clarifies that if an employee
3 does not receive full payment, the payment is considered late under Cal. Labor Code § 204.

4 93. Wage Order 4-2001, paragraph 4, requires an employer to pay each employee not
5 less than the mandated minimum wage and must pay that amount on the established payday for the
6 period involved.

7 94. As discussed herein, Defendants failed to timely pay Plaintiff's wages, and meal and
8 rest premium wages owed, and continue to withhold other benefits promised to Plaintiff, including
9 health care coverage.

10 95. As a direct and proximate result of Defendants' unlawful conduct, as set forth
11 herein, Plaintiff has sustained damages, including loss of earnings for hours of overtime worked on
12 behalf of Defendants, in an amount to be established at trial, and is entitled to recover these
13 damages, as well as interest thereon, costs, and reasonable attorneys' fees pursuant to statute.

14 **NINTH CAUSE OF ACTION**
15 **Withholding of Wages**
16 **Labor Code §§ 221, 223, and 224**
 (By Plaintiff Against All Defendants)

17 96. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of
18 this complaint as though fully set forth herein.

19 97. Under California law, it is unlawful for an employer to withhold from an employee
20 any part of the wage agreed upon.

21 98. Defendants failed to timely pay Plaintiff's wages, and meal and rest premium wages
22 owed, and continue to withhold other benefits promised to Plaintiff, including health care coverage.

23 99. As a direct and proximate result of Defendants' unlawful conduct, as set forth
24 herein, Plaintiff has sustained damages in an amount to be established at trial, and is entitled to
25 recover these damages, as well as interest thereon, costs, and reasonable attorneys' fees pursuant
26 to statute.

TENTH CAUSE OF ACTION
Waiting Time Penalties
Cal. Lab. Code §§ 201-203
(By Plaintiff Against All Defendants)

100. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

101. Cal. Lab. Code §§ 201-203 require employers, such as Defendants, to pay their employees all wages due immediately upon discharge, or within seventy-two (72) hours of quitting without notice. Breach of Cal. Lab. Code § 203 holds employers accountable and may also attribute personal liability to directors under Cal. Lab. Code § 558.1.

102. Defendants willfully misclassified Plaintiff as exempt from various wage and hour entitlements under California law, thereby denying Plaintiff's wages that were due and owing to her, including, without limitation, overtime pay, premium pay for missed meal and rest breaks, and other benefits, which amounted to unpaid wages due to her at the time of separation of employment.

103. Plaintiff was terminated from employment with Defendants without being paid all earned and unpaid wages within the time required by Cal. Lab. Code §§ 201 and 202.

104. At all times pertinent hereto, Defendants had it within their abilities to consult their business records and properly calculate and pay all of the said unpaid wages at the time of Plaintiff's termination of employment with Defendants. However, Defendants, and each of them, willfully and intentionally failed and refused to pay the earned and unpaid wages to Plaintiff.

105. Pursuant to California law, Plaintiff is entitled to a penalty equal to their regular daily rate of pay, up to a maximum of thirty (30) days.

106. Plaintiff seeks penalties pursuant to Cal. Lab. Code § 203 in an amount to be determined at trial and attorneys' fees, costs, and interest pursuant to Cal. Lab. Code § 218.5.

ELEVENTH CAUSE OF ACTION
Failure to Provide Accurate Itemized Wage Statements
Cal. Lab. Code §§ 226, 1174
(By Plaintiff Against All Defendants)

107. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

108. Cal. Lab. Code § 226, subdivision (a) requires employers to furnish to employees, at the time of each payment of wages, an accurate itemized statement showing: (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 pay period; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number; (8) the name and address of 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. Breach of California Cal. Lab. Code § 226 holds employers accountable and may also attribute personal liability to directors under Cal. Lab. Code § 558.1.

109. Cal. Lab. Code § 1174, subdivision (d) requires employers to keep adequate time records.

110. Defendants knowingly and intentionally failed to furnish to Plaintiff accurate itemized wage statements, including the information required by Cal. Lab. Code § 226.

111. By failing to keep adequate records and furnish accurate itemized statements as required by Cal. Lab. Code §§ 226 and 1174, Defendants have injured Plaintiff by depriving her of wage and hour earnings information to which she is entitled, making it difficult to calculate the unpaid wages due, causing Plaintiff to not be paid wages to which she was entitled and violating her rights under Cal. Lab. Code § 226 to review itemized wage statement information by inspecting the employer's underlying records.

112. Plaintiff seeks actual damages pursuant to Cal. Lab. Code § 226, subdivisions (e) and (g), in addition to interest and reasonable attorneys' fees and costs pursuant to Cal. Lab. Code §§ 218.5, 218.6, and 1194(a).

TWELFTH CAUSE OF ACTION
Violation of California Unfair Competition Laws
Business & Professions Code §§ 17200 *et seq.*
(By Plaintiff Against All Defendants)

113. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

114. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing, and utilizing the policies, customs, and practices outlined above, including, to wit: (1) failing to pay all wages earned, including overtime and bonus compensation; (2) failing to pay all earned wages in a timely fashion; and (3) failing to pay premium wages for meal and rest periods not provided.

115. Plaintiff is informed and believes, and based thereon alleges, that at all times pertinent hereto, Defendants have engaged in unlawful, deceptive, and unfair business practices, as proscribed by Business & Professions Code §§ 17200 *et seq.*, including those set forth hereinabove, thereby depriving Plaintiff, and on information and belief, other BLUE PACIFIC employees, the minimum working standards and conditions due to them under California's laws and IWC wage orders as specifically described therein.

116. Defendant's utilization of such unfair and unlawful business practices constitutes unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

117. The acts complained of herein occurred within the last four (4) years preceding the filing of this action.

118. Plaintiff seeks on behalf of herself and on behalf of the general public, full restitution of all monies withheld, acquired, and/or converted by Defendants by means of the unfair practices complained of herein.

119. Plaintiff further seeks cumulative damages pursuant to California Business & Professions Code § 17205, thereby entitling her to recover two times the amount of wages owed to her, in addition to any other damages recoverable in this complaint.

THIRTEENTH CAUSE OF ACTION
Civil Penalties Under Private Attorneys General Act
(By Plaintiff On Behalf of Herself and On Behalf of
Aggrieved Employees Against All Defendants)

120. Plaintiff incorporates by reference and realleges all of the preceding paragraphs of this complaint as though fully set forth herein.

121. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,

1 commissions, boards, agencies or employees for violation of the code may, as an alternative, be
2 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself
3 and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

4 122. This cause of action involves allegations of violations of Labor Code §§ 98.6, 201,
5 202, 203, 204, 221, 223, 224, 226(a), 226.7, 510, 512, 1102.5, 1174, 1194, 1197, 1198, 1771, 1774,
6 1776, and 2810.5 which, pursuant to Labor Code § 2699.5, provide for a civil penalty to be assessed
7 and collected by the LWDA or recovered through a civil action brought by an aggrieved employee
8 on behalf of himself or herself and other current or former employees pursuant to the procedures
9 specified in Labor Code § 2699.3.

10 123. Defendants employed Plaintiff and Plaintiff has one or more of the alleged violations
11 committed against her. Therefore, Plaintiff is an “aggrieved employee” under PAGA because the
12 alleged violators employed her and she had one or more of the alleged violations committed against
13 her. As such, Plaintiff is properly suited to represent the interests of other aggrieved employees in
14 a PAGA Representative action.

15 124. Plaintiff seeks to recover civil penalties, but only those civil penalties that are
16 required to be shared with the LWDA and no individual relief or underpaid wages, on behalf of
17 herself and other aggrieved employees for Defendants’ violations of the Labor Code, including but
18 not limited to Defendants’ violations of Labor Code §§ 98.6, 201, 202, 203, 204, 221, 223, 224,
19 226(a), 226.7, 510, 512, 1174, 1194, 1197, 1198, 1771, 1774, 1776, and 2810.5.

20 125. For all provisions of the Labor Code for which a civil penalty is not specifically
21 provided, Labor Code § 2699(f) imposes upon Defendants, and each of them, a penalty of one
22 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and
23 two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
24 violation.

25 126. Defendants violated Labor Code §§ 1102.5 and 98.6 by unlawfully retaliating
26 against Plaintiff when she raised complaints to Defendants related to her reasonably held belief that
27 BLUE PACIFIC was unlawfully withholding prevailing wages. Soon thereafter, Defendants
28 subjected Plaintiff to unlawful retaliatory harassment and treatment as described herein above,

1 which culminated in her wrongful termination. Under Labor Code § 2699(f)(2), Defendants are
2 subject to a civil penalty of \$100 for each aggrieved employee per pay period for each initial
3 violation of Labor Code §§ 1102.5 and 98.6, and \$200 for each aggrieved employee per pay period
4 for each subsequent violation.

5 127. Defendants violated Labor Code §§ 510, 1194, and 1198, by willfully misclassifying
6 Plaintiff and thereby failing to pay Plaintiff all overtime wages earned for all the time she was
7 suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein.
8 At all relevant times, Plaintiff was not paid all overtime when she worked in excess of eight hours
9 a workday or forty hours in a workweek. Thus, under Labor Code § 2699(f)(2), Defendants are
10 subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation
11 of Labor Code §§ 510, 1194, and 1198, and \$200 for each aggrieved employee per pay period for
12 each subsequent violation.

13 128. Defendants violated Labor Code § 1197 by willfully misclassifying Plaintiff and
14 thereby failing to pay or cause Plaintiff to be paid less than the minimum wage earned for all the
15 time she was suffered or permitted to work, engaged in work and/or under Defendants' control, as
16 alleged herein. At all relevant times, Plaintiff was not paid all hours worked when she worked in
17 excess of eight hours a workday or forty hours in a workweek. Thus, under Labor Code 1197.1,
18 Defendants are subject to civil penalty of \$100.00 for each underpaid employee for each pay period
19 for which the employee is underpaid. Furthermore, Labor Code § 1197.1 imposes upon Defendants
20 for each subsequent violation a civil penalty of \$250.00 for each underpaid employee for each pay
21 period for which the employee was underpaid.

22 129. Defendants violated Labor Code §§ 1194 and 1198 by not paying Plaintiff at least
23 minimum and regular wages for all the time she was suffered or permitted to work, engaged in
24 work and/or under Defendant's control, as alleged herein. Thus, under Labor Code § 2699(f)(2),
25 Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for
26 the initial violation of Labor Code §§ 1194 and 1198, and \$200 for each aggrieved employee per
27 pay period for each subsequent violation.
28

130. Defendants violated Labor Code §§ 226.7, 512, and 1198 by failing to provide Plaintiff lawfully compliant meal periods and by failing to pay her meal period premium wages for each day a meal period was not provided. Under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 226.7, 512, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

131. Defendants violated Labor Code §§ 226.7 and 1198 by failing to authorize and permit Plaintiff to take duty-free rest periods and by failing to pay her rest period premium wages for each day a rest period was not provided. Under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 226.7 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

132. Defendants violated Labor Code §§ 204, 1194, and 1198 by not timely paying Plaintiff and aggrieved employees all minimum, regular, and overtime wages owed, and all meal and rest premium wages owed by the time set forth by law during their employment, as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 204, 1194, and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

133. Under Labor Code § 210(a), Defendants, in addition to, and entirely independent and apart from any other penalty, is subject to a civil penalty for failing to pay the wages of each aggrieved employee as provided in Labor Code § 204, as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each aggrieved employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each aggrieved employee, plus 25 percent of the amount unlawfully withheld. This amount shall be recovered on behalf of the Labor Commissioner.

134. Defendants violated Labor Code §§ 1771 and 1774, by, on information and belief, failing to pay aggrieved employees all prevailing wages earned for all the time they were suffered or permitted to work, engaged in work and/or under Defendants' control, as alleged herein. At all

1 relevant times, on information and belief, aggrieved employees were not paid all prevailing wages
2 when Defendants withheld depositing their wages into their respective pension and subaccounts.
3 Thus, under Labor Code § 2699(f)(2), Defendants are subject to civil penalties of \$100 for each
4 aggrieved employee per pay period for the initial violation of Labor Code §§ 1771 and 1774, and
5 \$200 for each aggrieved employee per pay period for each subsequent violation.

6 135. Defendants violated Labor Code §§ 221, 223, and 224 by not paying Plaintiff, and
7 on information and belief, other aggrieved employees all minimum, regular, overtime, and
8 prevailing wages owed, and all meal and rest premium wages owed, by the time set forth by law,
9 as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a civil penalty
10 of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code §§ 221,
11 223, and 224, and \$200 for each aggrieved employee per pay period for each subsequent violation.

12 136. Defendants violated Labor Code §§ 201, 202, 203, and 1198 by not paying Plaintiff
13 and on information and belief, other aggrieved employees all minimum, regular, overtime, and
14 prevailing wages owed, and all meal and rest premium wages owed by the time set forth by law
15 upon their separation of employment, as alleged herein. Thus, under Labor Code § 2699(f)(2),
16 Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for
17 the initial violation of Labor Code §§ 201, 202, 203, and 1198, and \$200 for each aggrieved
18 employee per pay period for each subsequent violation.

19 137. Defendants violated Labor Code §§ 226(a), 1174(d), 1198, and 1776 by failing to
20 maintain records detailing the start and end times of meal and rest periods, and knowingly and
21 intentionally failing to maintain and provide Plaintiff and other aggrieved employees of Defendants
22 with wage statements itemizing accurately all information required by Labor Code §§ 226(a) and
23 1776, as alleged herein, including the total hours worked, all regular hours worked, all overtime
24 hours worked, the corresponding gross and net wages earned, the applicable hourly rate per hour
25 worked, the corresponding number of hours worked at each hourly rate, any sort of employee
26 identification number, the address of the legal entity that is the employer, and, where relevant, the
27 actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed
28 by the contractor or subcontractor in connection with the public work. Thus, under Labor Code §

1 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay
2 period for the initial violation of Labor Code §§ 226(a), 1198, and 1776, and \$200 for each
3 aggrieved employee per pay period for each subsequent violation.

4 138. Alternatively, Labor Code § 226.3 provides for a civil penalty in the amount of \$250
5 per violation in an initial citation and \$1,000 for each violation in a subsequent citation, for which
6 the employer fails to provide the employee a wage deduction statement or fails to keep the records
7 required in subdivision (a) of § 226.

8 139. Labor Code § 1174.5 provides for a civil penalty of \$500 for any person employing
9 labor who willfully fails to maintain accurate and complete records required by subdivision (d) of
10 § 1174.

11 140. Defendants violated Labor Code § 2810.5 by willfully misclassifying Plaintiff as
12 exempt from various wage and hour entitlements under California law, and thereby failed to
13 provide Plaintiff with a written wage theft notice. Under Labor Code § 2699(f)(2), Defendants are
14 subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial violation
15 of Labor Code § 2810.5, and \$200 for each aggrieved employee per pay period for each subsequent
16 violation.

17 141. Defendants were Plaintiff's and other aggrieved employees' employers, or persons
18 acting on their behalf, within the meaning of Labor Code § 558, who violated or caused to be
19 violated, a section of Part 2, Chapter 1 of the Labor Code or any provision regulating hours and
20 days of work in any IWC Wage Order and, as such, is subject to civil penalties for each underpaid
21 employee as set forth in Labor Code § 558.

22 142. Pursuant to Labor Code § 558, Defendants are subject to a civil penalty of \$50.00
23 for an initial violation of Labor Code §§ 510 and 512, for each aggrieved employee, for each pay
24 period for which the aggrieved employee was not provided with a timely off-duty 30-minute meal
25 period, all overtime wages for all hours worked, and the required days of rest, as alleged herein.
26 Furthermore, Labor Code § 558 imposes upon Defendants for each subsequent violation of Labor
27 Code §§ 510 and 512, a civil penalty of \$100.00 for each aggrieved employee for each pay period
28

1 for which the aggrieved employee was not provided with a timely off-duty 30-minute meal period,
2 and all overtime wages for all hours worked, as alleged herein.

3 143. Labor Code § 558 also imposes upon Defendants for each initial violation of the
4 Hours and Days of Work section of the applicable IWC Wage Order a civil penalty of \$50.00 for
5 each aggrieved employee for each pay period for which the aggrieved employee was not provided
6 with a paid uninterrupted 10-minute rest period, as alleged herein. Furthermore, Labor Code § 558
7 imposes upon Defendants for each subsequent violation of the Hours and Days of Work section of
8 the applicable IWC Wage Order a civil penalty of \$100.00 for each aggrieved employee for each
9 pay period for which the aggrieved employee was not provided with a paid uninterrupted 10-minute
10 rest period, as alleged herein.

11 144. Labor Code § 558.1 also imposes personal liability upon Defendants for violating,
12 or causing to be violated, any provision regulating minimum wages or hours and days of work in
13 any order of the Industrial Welfare Commission, or for violating, or for causing to be violation
14 Labor Code §§ 203, 226, 226.7, and 1194.

15 145. For bringing this action, Plaintiff is additionally entitled to attorneys' fees and costs
16 incurred herein.

17 146. Plaintiff seeks to recover civil penalties on behalf of herself and other aggrieved
18 employees for Defendant's violations of the Labor Code, including but not limited to Defendants'
19 violations of Labor Code §§ 98.6, 201, 202, 203, 204, 221, 223, 224, 226(a), 226.7, 510, 512,
20 1102.5, 1174, 1194, 1197, 1198, 1771, 1774, 1776, and 2810.5, pursuant to Labor Code § 2698, et
21 seq. The exact amount of the applicable penalties is in an amount to be shown according to proof
22 at trial and within the jurisdictional limitations of this Court.

23 **PRAYER**

24 WHEREFORE, Ms. Stalnaker prays for judgment against Defendants, and each of them, as
25 follows:

- 26 1. For payment of past and future lost wages, income and benefits, and other
27 compensatory relief according to proof;
28 2. For general damages in an amount according to proof at trial;

3. For medical expenses according to proof at trial;
4. For punitive damages;
5. For pre-judgment and post-judgment interest;
6. For costs of suit incurred herein;
7. For all civil penalties available at law;
8. For attorneys' fees;
9. For interest on the sum of damages awarded at the maximum legal rate; and
10. For such other and further relief as the Court may deem just and proper.

Dated: May 13, 2024

DUNN DESANTIS WALT & KENDRICK, LLP

By:



David D. Cardone, Esq.
Adam J. Yarbrough, Esq.
Nathanel Ghinghis, Esq.

Attorneys for Plaintiff
Shauna Stalnaker