

Carolyn H. Cottrell (SBN 166977)
Esther L. Bylsma (SBN 264208)
Sandra Acosta Tello (SBN 315616)
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
ccottrell@schneiderwallace.com
ebylsma@schneiderwallace.com
sacostatello@schneiderwallace.com

Attorneys for Plaintiff

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento

03/06/2024

By: H. Thomas Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

MICHAEL ALLEN, on behalf of himself,
the putative Class, and the State of
California,

Plaintiff,

vs.

PRIDE INDUSTRIES; and DOES 1-100,
inclusive,

Defendants.

Case No. **24CV004368**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATIONS OF:**

- (1) Failure to Pay Minimum Wages for All Hours Worked (Labor Code §§ 1182.12, 1194, 1197, 1197.1 and 1198);
- (2) Failure to Pay Overtime Wages (Labor Code § 510);
- (3) Failure to Provide and/or Make Available Meal Periods (Labor Code §§ 226.7 and 512);
- (4) Failure to Authorize and Permit Rest Periods (Labor Code § 226.7)
- (5) Failure to Provide Timely and Accurate Itemized Wage Statements (Labor Code § 226);
- (6) Waiting Time Penalties (Cal. Lab. Code §§ 201-203);
- (7) Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*);
- (8) Private Attorneys General Act (Labor Code § 2699(a) and (f))

DEMAND FOR JURY TRIAL

INTRODUCTION

1. This is a class and Labor Code Private Attorneys General Act (“PAGA”) action filed by Plaintiff Michael Allen (“Plaintiff”) against PRIDE Industries (“PRIDE Industries” or “Defendant”), for violations of California wage and hour laws. Plaintiff brings his class claims on behalf of himself and all current and former hourly and/or non-exempt employees of PRIDE Industries who worked in California at any time during the period from December 22, 2019 to the resolution of this action (the “Class Period”) (the “Class”). Plaintiff brings his PAGA claims on behalf of the State of California.

2. PRIDE Industries is an organization that provides facilities operations and maintenance services, custodial services, contract manufacturing, supply chain management, packaging and fulfillment services, and placement services to other private and public organizations nationwide. Plaintiff is a current employee and works as a job coach in Sacramento.

3. During the relevant period, PRIDE Industries maintained and engaged in unlawful policies and practices in violation of the California Labor Code, the applicable Industrial Welfare Commission (“IWC”) Wage Order(s), and California Business and Professions Code § 17200 *et seq.* PRIDE Industries: (1) failed to pay Employees¹ (defined below) minimum wage for all hours worked; (2) failed to pay Employees overtime wages; (3) failed to provide or make available legally-compliant meal periods to Employees, or premium wages in lieu thereof; (4) failed to authorize and permit legally-compliant rest periods to Employees, or premium wages in lieu thereof; (5) failed to provide Employees accurate, itemized wage statements; (6) failed to timely pay all wages to Employees upon separation from employment; and (7) and engaged in unfair business practices.

4. Plaintiff seeks monetary damages, statutory penalties, and interest to the fullest extent permitted by the California Labor Code and IWC Wage Orders, as well as other relief requested herein, on behalf of the Class. Plaintiff seeks civil penalties to the fullest extent permitted by the

¹ “Employees” refer collectively to Class members and Aggrieved Employees. “Aggrieved Employees” are all current and former hourly and/or non-exempt workers employees of PRIDE Industries who worked in California at any time from December 26, 2022 to the resolution of this action (the “PAGA Period”).

1 PAGA, as well as other relief requested herein, on behalf of the state of California and Aggrieved
2 Employees.

3 **PARTIES**

4 5. Plaintiff Michael Allen is an individual over the age of eighteen, and at all times
5 mentioned in this Complaint was a resident of the State of California.

6 6. Plaintiff is employed by Defendant as a Job Coach since approximately August 2019.
7 Plaintiff works for Defendant in Sacramento, California.

8 7. Plaintiff is informed, believes, and thereon alleges that PRIDE Industries is a
9 California non-profit corporation headquartered in Roseville, California. PRIDE Industries is
10 registered to do business in California, does business in California and employs and/or employed
11 hourly, non-exempt employees, including Plaintiff and Employees in California. PRIDE Industries
12 may be served with process by serving its registered agent, Corporate Creations Network Inc., 5901
13 West Century Boulevard, Los Angeles, California 90045.

14 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
15 of DOES 1-100, inclusive, are unknown to Plaintiff, who therefore sues the DOE Defendants by
16 fictitious names. Plaintiff is informed, believes, and thereon alleges that each of these fictitiously
17 named Defendants are responsible in some manner for the occurrences and violations as herein
18 alleged. Plaintiff will amend this Complaint to show their true names and capacities when they have
19 been ascertained.

20 9. Plaintiff is informed, believes, and thereon alleges that Defendant employs and/or
21 employed Plaintiff and Employees because Defendant, directly or indirectly, control the
22 employment terms, including pay practices, of Plaintiff and Employees.

23 10. Plaintiff is informed, believes, and thereon alleges that each and every one of the acts
24 and omissions alleged herein were performed by, and/or attributable to, Defendant, acting through
25 its agents and/or employees, and/or under the direction and control of each other, and that said acts
26 and failures to act were within the course and scope of said agency, employment, and/or direction
27 and control.

11. Plaintiff is informed, believes, and thereon alleges that Defendant directly controls the operations of their agents, managers, and employees throughout all of their locations in California.

12. Plaintiff is informed, believes, and thereon alleges, that Defendant is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

13. At all material times, Defendant has done business under the laws of California, has places of business in California, including in the jurisdiction of this court, and has employed Employees in this County of Sacramento and elsewhere in California. Defendant is a “person” as defined in Labor Code § 18 and an “employer” as that term is used in the Labor Code, the IWC Wage Orders regulating wages, hours, and working conditions, and the California Business and Professions Code § 17201.

JURISDICTION AND VENUE

14. This Court has jurisdiction over Plaintiff's claims pursuant to the California Labor Code, the applicable IWC Wage Order, and California Business and Professions Code. The Court also has jurisdiction over Defendant because it is a company authorized to do business in the State of California, and because Defendant, does in fact, conducts business and employs workers in the State of California.

15. Venue is proper in this County pursuant to Cal. Code Civ. Proc. §§ 395(a) and/or 395.5. Defendant conducts business, has a jobsite, and employs Employees in the County, and as a result, the causes of action asserted arose in whole or in part in the County.

FACTUAL ALLEGATIONS

16. Upon information and belief, PRIDE Industries is an organization that provides facilities operations and maintenance services, custodial services, contract manufacturing, supply chain management, packaging and fulfillment services, and placement services to other private and public organizations nationwide. PRIDE Industries operates approximately 45 locations in the State

1 of California. Plaintiff is informed, believes, and thereon alleges that PRIDE Industries employs
2 hundreds of hourly, non-exempt workers in California.

3 17. Plaintiff works for Defendants as a job coach in Sacramento, California since
4 approximately August 2019. Plaintiff is classified as an hourly, non-exempt employee and is paid
5 an hourly rate of \$19 per hour.

6 18. Although Plaintiff's shifts varied in length, Plaintiff usually works approximately
7 between ten (10) to twelve (12) hours or more per shift, for approximately five (5) or more shifts
8 per week. Plaintiff's weekly hours vary, but on average, Plaintiff works approximately fifty (50)
9 hours per week, or more.

10 19. Defendant routinely requires Plaintiff and Employees to perform work off-the-clock
11 and without compensation. This includes but is not limited to Defendant requiring Plaintiff and
12 Employees to go through security checks prior to clocking in and starting their daily shifts. Plaintiff
13 estimates that these security checks take approximately 15-20 minutes every day. The time spent
14 undergoing security checks goes unrecorded and uncompensated.

15 20. Plaintiff is informed, believes, and thereon alleges that Defendant utilizes and applies
16 these security checks and similarly fails to pay for such time across all work locations throughout
17 California.

18 21. Defendant's common course of wage-and-hour abuse also includes routinely failing
19 to maintain accurate records of the hours worked by Plaintiff and Employees. In particular,
20 Defendant has failed to record all hours worked by Plaintiff and Employees, including overtime.
21 Even when Defendant pays overtime, it fails to do so at the appropriate rate.

22 22. Defendant regularly fails to provide Plaintiff and Employees with compliant meal
23 and rest breaks. Defendant's policies, practices, and procedures require Plaintiff and Employees
24 are not allowed to leave the premises and are expected to remain on-duty during their meal periods
25 and rest periods. Plaintiff and Employees must continue to work, including attending to
26 Defendant's clients, during their meal periods and rest periods.

1 23. Plaintiff and Employees are routinely denied legally compliant meal breaks for the
2 following additional reason, Defendant does not provide or make available timely meal breaks to
3 Plaintiff and Employees, and does not pay premium wages for late meal periods. Defendant does
4 not allow Plaintiff and Employees to take an uninterrupted, off-duty meal period. Instead,
5 Defendant encourages Plaintiff and Employees to work during breaks, including assisting
6 Defendant's clients. Thus, Employees are expected to remain on duty and work for the benefit of
7 Defendant.

8 24. When Plaintiff and Employees do attempt to take a meal breaks, such meal breaks
9 are untimely and/or shortened. As a result, Plaintiff and Employees are not provided duty-free,
10 uninterrupted, and timely thirty-minute meal periods during which they are completely relieved of
11 any duty and/or free from Defendant's control.

12 25. For each day Plaintiff and Employees work shifts of more than ten hours, Defendant
13 systematically denies Plaintiff and Employees with a timely, full, uninterrupted, or otherwise
14 compliant second meal break. Plaintiff and Employees must remain on duty during their second
15 meal periods. Plaintiff and Employees do not receive requisite premium payments for these missed
16 second meal breaks.

17 26. Plaintiff is informed, believes, and thereon alleges that Defendant utilizes and applies
18 these meal break policies and practices to Employees throughout California.

19 27. Plaintiff and Employees are routinely denied legally authorized rest breaks because
20 Defendant does not provide or make available compliant rest breaks to Plaintiff and Employees.
21 Defendant requires Plaintiff and Employees to continue working during their rest breaks, including
22 assisting clients. Thus, Employees must remain on duty during their 10-minute rest periods,
23 including by continuing to attend to clients of the Defendant.

24 28. When Plaintiff and Employees do attempt to take a rest break, such rest breaks are
25 untimely and/or shortened. As a result, Plaintiff and Employees are not provided duty-free,
26 uninterrupted, and timely ten-minute rest breaks during which they should be completely relieved
27 of any duty and/or free from Defendant's control.

1 29. Plaintiff is informed, believes, and thereon alleges that Defendant utilizes and applies
2 these rest break policies and practices to Employees throughout California.

3 30. Defendant's failure to record all hours worked, and failure to provide compliant meal
4 breaks also results in a failure to provide Employees, including Plaintiff, accurate itemized wage
5 statements as required by California law. The wage statements Defendant provides are not accurate
6 because they do not reflect all hours worked, and all earned gross and net wages, including earned
7 wages for off-the-clock work, overtime wages and premium wages for missed and noncompliant
8 meal breaks and rest breaks.

9 31. Additionally, Plaintiff and Employees did not receive all wages during employment
10 and following separation from employment, including earned wages for off-the-clock work,
11 overtime wages and premium wages for missed and noncompliant meal breaks and rest breaks.

12 32. On information and belief, putative Employees report to facilities owned, operated,
13 or managed by Defendant to perform their jobs.

14 33. On information and belief, Employees perform their jobs under Defendant's
15 supervision using materials and technology approved and supplied by Defendant.

16 34. On information and belief, putative Employees are required to follow and abide by
17 Defendant's common work, time, and pay policies and procedures in the performance of their jobs.

18 35. On information and belief, at the end of each pay period, Employees receive wages
19 from Defendant that are determined by common systems and methods that Defendant selects and
20 controls.

21 36. On information and belief, Defendant pays Employees on an hourly rate basis.

22 37. On information and belief, Defendant's failure to pay Plaintiff and Employees is
23 willful and not based on a good faith and reasonable belief that its conduct complied with California
24 law.

25 38. On information and belief, Defendant's unlawful conduct has been widespread,
26 repeated, and consistent in California.

27
28

1 39. Defendant knows or should know that its policies and practices are unlawful and
2 unfair.

3 40. Defendant's conduct is willful, carried out in bad faith, and caused/causes significant
4 damages to Class members in an amount to be determined at trial.

5 **CCP 382 CLASS ACTION ALLEGATIONS**

6 41. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
7 herein.

8 42. Plaintiff brings this case as a class action on behalf of himself and all Class members
9 pursuant to California Code of Civil Procedure § 382. The putative Class that Plaintiff seeks to
10 represent is defined as follows:

11 All current and former hourly and/or non-exempt employees of PRIDE Industries who
12 worked in California at any time during the period from December 22, 2019 to the
 resolution of this action.

13 43. This action has been brought and may properly be maintained as a class action under
14 California Code of Civil Procedure § 382 because there is a well-defined community of interest in
15 the litigation and the putative class is ascertainable.

16 (a) **Numerosity:** The potential members of the putative Class as defined are so
17 numerous that joinder of all the members of the putative Class is impracticable.

18 (b) **Commonality:** There are questions of law and fact common to Plaintiff and
19 the putative Class that predominate over any questions affecting only individual members of the
20 putative Class. These common questions of law and fact include, but are not limited to:

21 (i) Whether Defendant fails to compensate putative Class members for
22 all hours worked, including minimum wages and overtime compensation, in violation of the Cal.
23 Lab. Code and applicable Wage Order(s);

24 (ii) Whether Defendant fails to make available and/or provide putative
25 Class members with compliant meal periods to which they are entitled in violation of Cal. Lab.
26 Code and applicable Wage Order(s);

1 (iii) Whether Defendant fails to authorize and permit, make available,
2 and/or provide Class members with compliant rest periods to which they are entitled in violation of
3 Cal. Lab. Code and applicable Wage Order(s);

4 (iv) Whether Defendant fails to provide putative Class members with
5 timely, accurate itemized wage statements in violation of the Cal. Lab. Code and applicable Wage
6 Order(s);

7 (v) Whether Defendant fails to pay to provide putative Class members
8 with all wages owed upon separation of employment in violation of the Cal. Lab. Code and Wage
9 Order(s);

10 (vi) Whether Defendant violates Business and Professions Code §§ 17200
11 *et seq.*, by:

12 1) failing to compensate putative Class members for all hours
13 worked, including minimum wages and overtime wages;

14 2) failing to authorize and permit, make available, and/or provide
15 putative Class members compliant meal periods to which they are entitled;

16 3) failing to authorize and permit, make available, and/or provide
17 putative Class members compliant rest periods to which they are entitled.

18 4) failing to provide putative Class members with timely,
19 accurate itemized wage statements; and

20 5) failing to provide putative Class members with all wages owed
21 upon separation of employment.

22 6) The proper formula for calculating restitution, damages, and
23 penalties owed to Plaintiff and the putative Class as alleged herein.

24 (c) **Typicality:** Plaintiff's claims are typical of the claims of the Class.
25 Defendant's common course of conduct in violation of law as alleged herein has caused Plaintiff
26 and putative Class members to sustain the same or similar injuries and damages. Plaintiff's claims
27 are thereby representative of and co-extensive with the claims of the Class.

1 (d) **Adequacy of Representation:** Plaintiff is a member of the putative Class,
2 does not have any conflicts of interest with other putative Class members, and will prosecute the
3 case vigorously on behalf of the putative Class. Counsel representing Plaintiff is competent and
4 experienced in litigating large employment class actions, including wage and hour cases. Plaintiff
5 will fairly and adequately represent and protect the interests of the Class members.

6 (e) **Superiority of Class Action:** A class action is superior to other available
7 means for the fair and efficient adjudication of this controversy. Individual joinder of all putative
8 Class members is not practicable, and questions of law and fact common to the putative Class
9 predominate over any questions affecting only individual members of the putative Class. Each
10 putative Class member has been damaged and is entitled to recovery by reason of Defendant's
11 illegal policies and/or practices. Class action treatment will allow those similarly situated persons
12 to litigate their claims in the manner that is most efficient and economical for the parties and the
13 judicial system.

14 44. The putative Class may also be certified because the prosecution of separate actions
15 by the individual members of the putative Class would create a risk of inconsistent or varying
16 adjudication with respect to individual members of the putative Class, and, in turn, would establish
17 incompatible standards of conduct for Defendant.

18 45. If each individual putative Class member were required to file an individual lawsuit,
19 Defendant would necessarily gain an unconscionable advantage because Defendant would be able
20 to exploit and overwhelm the limited resources of each member of the putative Class with
21 Defendant's vastly superior financial legal resources.

22 46. Requiring each individual putative Class member to pursue an individual remedy
23 would also discourage the assertion of lawful claims by the putative Class members who would be
24 disinclined to pursue these claims against Defendant because of an appreciable and justifiable fear
25 of retaliation and permanent damage to their lives, careers, and well-being.

26 47. Plaintiff also seeks certification of the putative Class to the extent applicable under
27 California Code of Civil Procedure § 382 on the grounds that the party opposing the putative Class
28

1 has acted or refused to act on grounds that apply generally to the putative Class, so that final
2 injunctive relief or corresponding declaratory relief is appropriate respecting the putative Class as
3 a whole.

4
5 **FIRST CAUSE OF ACTION**

6 **Failure to Pay Minimum Wages for All Hours Worked**
7 **Pursuant to California Labor Code §§ 1182.12, 1194, 1197, 1197.1 and 1198**
8 **(On Behalf of Plaintiff and the Putative Class Against Defendant)**

9 48. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
10 herein.

11 49. During the applicable period, California Labor Code §§ 1182.12 and 1197 (and
12 corresponding IWC Wage Orders) were in full force and effect, and required that Defendant's
13 hourly employees receive at least minimum wage for all hours worked; at the rate of twelve dollars
14 (\$12.00) per hour commencing January 1, 2019; at the rate of thirteen dollars (\$13.00) per hour
15 commencing January 1, 2020; at the rate of fourteen dollars (\$14.00) commencing January 1, 2021;
16 at the rate of fifteen dollars (\$15.00) commencing January 1, 2022; and at the rate of fifteen dollars
17 and fifty cents (\$15.50) commencing January 1, 2023.

18 50. Labor Code § 1197.1 provides, in relevant part:

19 (a) Any employer or other person acting either individually or as an officer, agent, or
20 employee of another person, who pays or causes to be paid to any employee a wage
21 less than the minimum fixed by an applicable state or local law, or by an order of the
22 commission, shall be subject to a civil penalty, restitution of wages, liquidated
23 damages payable to the employee, and any applicable penalties imposed pursuant to
24 Section 203 as follows: (1) For any initial violation that is intentionally committed,
25 one hundred dollars (\$100) for each underpaid employee for each pay period for which
26 the employee is underpaid. This amount shall be in addition to an amount sufficient to
27 recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any
28 applicable penalties imposed pursuant to Section 203. (2) For each subsequent
violation for the same specific offense, two hundred fifty dollars (\$250) for each
underpaid employee for each pay period for which the employee is underpaid
regardless of whether the initial violation is intentionally committed. This amount
shall be in addition to an amount sufficient to recover underpaid wages, liquidated
damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant
to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed
pursuant to Section 203, recovered pursuant to this section shall be paid to the affected
employee.

1 51. California Labor Code §1194 states:

2 Notwithstanding any agreement to work for a lesser wage, any employee receiving
3 less than the legal minimum wage or the legal overtime compensation applicable to
4 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 attorney's fees, and costs of suit.

5 52. Applicable IWC Wage Order(s) defines hours worked as "the time during which an
6 employee is subject to the control of an employer and includes all the time the employee is suffered
7 or permitted to work, whether or not required to do so."

8 53. Labor Code § 1198 makes it unlawful for employers to employ employees under
9 conditions that violate the Wage Orders.

10 54. Labor Code §1194.2 provides that, in any action under Section 1194 to recover wages
11 because of the payment of a wage less than minimum wage fixed by an order of the commission,
12 an employee shall be entitled to recover liquidated damages in an amount equal to the wages
13 unlawfully unpaid and interest thereon.

14 55. Plaintiff and putative Class members were denied minimum wage compensation,
15 which they are lawfully owed.

16 56. Defendant willfully engaged in and continues to engage in a policy and practice of
17 not compensating Plaintiff and putative Class members for all hours worked and time spent in
18 Defendant's control. Defendant requires Plaintiff and putative Class members to work off-the-clock
19 without compensation. In other words, Plaintiff and putative Class members are forced to perform
20 work for the benefit of Defendant without pay.

21 57. Defendant regularly requires Plaintiff and the putative Class members to complete
22 work off-the-clock, without compensation. For instance, and as mentioned above, Defendant
23 requires Plaintiff and putative Class members to undergo security checks prior to clocking in and
24 starting their daily shift. This takes approximately 15-20 minutes in the morning and occurs daily
25 before the beginning of each shift. Defendant does not compensate Plaintiff and putative Class
26 members for their time spent undergoing security checks.

58. In violation of California law, Defendant knowingly and willfully refuses to perform their obligations to provide Plaintiff and putative Class members with at least minimum wage compensation for all time worked.

59. Defendant committed, and continues to commit, the acts alleged herein knowingly and willfully, and in conscious disregard of the Plaintiff and putative Class members' rights. Plaintiff and putative Class members are thus entitled to recover nominal, actual, and compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit.

60. Defendant has maintained policies and procedures which create a working environment where hourly employees are routinely compensated at a rate that is less than the statutory minimum wage.

61. As a direct and proximate result of the unlawful acts and/or omissions of Defendant, Plaintiff and putative Class members have been deprived of minimum wages in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

62. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

SECOND CAUSE OF ACTION

**Failure to Pay Overtime Wages
Pursuant to Labor Code § 510
(On Behalf of Plaintiff and the Putative Class Against Defendant)**

63. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

64. Defendant does not compensate Plaintiff and putative Class members all their earned overtime wages, including at the appropriate overtime rate, as required by California law.

65. Labor Code § 510 provides, in pertinent part, that:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any

work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

66. Applicable IWC Wage Order(s) states:

The following overtime provisions are applicable ... employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than: . . . One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and ... [d]ouble 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 (8) hours on the seventh (7th) consecutive day of work in a workweek.

67. Labor Code § 1194(a) provides that:

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.

68. Labor Code § 200 defines wages as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation." All such wages are subject to California's overtime requirements, including those set forth above.

69. Defendant regularly does not compensate Plaintiff and putative Class members for their overtime hours. For instance, Plaintiff and putative Class members do not receive overtime compensation for time spent going through daily security checks prior to clocking in and when the hours worked are in excess of eight (8) hours per day and forty (40) hours per week.

70. Plaintiff and putative Class members work overtime hours for Defendant without being paid overtime premiums in violation of the Labor Code, the applicable IWC Wage Order, and other applicable law.

71. Defendant has knowingly and willfully refused to perform their obligation to provide Plaintiff and putative Class members with premium wages for all overtime work. As a proximate

1 result of the aforementioned violations, Defendant has damaged Plaintiff and putative Class
2 members in amounts to be determined according to proof at time of trial.

3 72. Defendant is liable to Plaintiff and putative Class members alleged herein for the
4 unpaid overtime and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an
5 award of attorneys' fees and costs as set forth below.

6 73. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

7 **THIRD CAUSE OF ACTION**

8 **Failure to Provide and/or Make Available Meal Periods**
9 **Pursuant to Labor Code §§ 226.7 and 512**
10 **(On Behalf of Plaintiff and the Putative Class Against Defendant)**

11 74. Plaintiff re-alleges and incorporates the foregoing paragraphs at though fully set forth
12 herein.

13 75. Defendant routinely fails to provide or make available timely, uninterrupted, duty-
14 free, control-free, compliant meal periods and compliant second meal periods to Plaintiff and
15 putative Class members.

16 76. Plaintiff and Class members do not receive the requisite premium pay for their missed
17 or noncompliant meal breaks as required by California law.

18 77. Labor Code §§ 226.7 and 512 and the applicable Wage Order require Defendants to
19 provide or make available meal periods to its employees. Labor Code §§ 226.7 and 512 and the
20 Wage Orders prohibit employers from employing an employee for more than five (5) hours without
21 a meal period of not less than thirty minutes, and from employing an employee more than ten (10)
22 hours per day without providing the employee with a second meal period of not less than thirty
23 minutes.

24 78. Unless the employee is relieved of all duty during the thirty-minute meal period, the
25 employee is considered "on duty" and the meal period is counted as time worked under the
26 applicable Wage Orders 4-2001(11)(A) and 5-2001(11)(A).

27 79. Under Labor Code § 226.7(b) and the applicable Wage Order, an employer who fails
28 to provide or make available a required meal period must, as compensation, pay the employee one

1 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
2 period was not provided or made available.

3 80. Despite these requirements, Defendant knowingly and willfully refuses to perform
4 their obligations to provide or make available to Plaintiff and putative Class members the ability to
5 take the off-duty meal periods to which they are entitled.

6 81. Defendant requires Plaintiff and putative Class members to remain on premises and
7 on duty during their meal periods, including attending and staying with Defendant's clients.
8 Putative Class members are pressured to, and expected to, remain on duty during their meal breaks
9 and work for the benefit of Defendant.

10 82. Defendant also fails to pay Plaintiff and putative Class members one (1) hour of pay
11 for each day a compliant first and/or second meal period was denied. Defendant conduct described
12 herein violates Labor Code §§ 226.7 and 512. Therefore, pursuant to Labor Code § 226.7, Plaintiff
13 and putative Class members are entitled to compensation for the failure to provide or make available
14 meal periods, plus interest, attorneys' fees, expenses and costs of suit.

15 83. As a proximate result of the aforementioned violations, Plaintiff and putative Class
16 members have been damaged in an amount according to proof at time of trial.

17 84. Wherefore, Plaintiff and putative Class members request relief as hereinafter
18 provided.

19 **FOURTH CAUSE OF ACTION**

20 **Failure to Authorize and Permit Rest Periods**
21 **Pursuant to Labor Code § 226.7**
22 **(On Behalf of Plaintiff and the Putative Class Against Defendant)**

23 85. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
24 herein.

25 86. Defendant requires Plaintiff and putative Class members to remain on premises and
26 routinely fails to authorize and permit rest periods to Plaintiff and putative Class members.
27
28

87. California Labor Code § 226.7 and the applicable Wage Order(s) require employers to authorize and permit employees to take ten (10) minutes of net rest time per four (4) hours or major fraction thereof of work, and to pay employees their full wage during those rest periods.

88. Under Labor Code § 226.7(b) and IWC Wage Orders 4-2001(12)(B) and 5-2001(12)(B), an employer who fails to provide or make available a required rest period must, as compensation, pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period was not provided or made available.

89. Despite these requirements, Defendant knowingly and willfully refused to perform their obligations to authorize or permit Plaintiff and putative Class members the ability to take the off-duty rest periods to which they are entitled.

90. Defendant also fails to pay Plaintiff and putative Class members one (1) hour of pay for each day an off-duty rest period was denied. Defendant's conduct described herein violations Labor Code § 226.7. Therefore, pursuant to Labor Code § 226.7, Plaintiff and putative Class members are entitled to compensation for the failure to authorize and permit rest periods, plus interest, attorneys' fees, expenses, and costs of suit.

91. As a proximate result of the aforementioned violations, Plaintiff and putative Class members have been damaged in an amount according to proof at time of trial.

92. Wherefore, Plaintiff and putative Class members request relief as hereinafter provided.

FIFTH CAUSE OF ACTION

**Failure to Provide Accurate Itemized Wage Statements
Pursuant to Labor Code § 226
(On Behalf of Plaintiff and the Putative Class Against Defendant)**

93. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

94. Defendant does not provide Plaintiff and putative Class members with accurate itemized wage statements as required by California law.

95. Labor Code § 226(a) provides that:

1 Every employer shall, semimonthly or at the time of each payment of wages, furnish
2 each of his or her employees, either as a detachable part of the check, draft, or voucher
3 paying the employee's wages, or separately when wages are paid by personal check or
4 cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
5 total hours worked by the employee, except for any employee whose compensation is
6 solely based on a salary and who is exempt from payment of overtime under
7 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
8 Commission, (3) the number of piece-rate units earned and any applicable piece rate
9 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all
10 deductions made on written orders of the employee may be aggregated and shown as
11 one item, (5) net wages earned, (6) the inclusive dates of the period for which the
12 employee is paid, (7) the name of the employee and his or her social security number,
13 (8) the name and address of the legal entity that is the employer, and (9) all applicable
14 hourly rates in effect during the pay period and the corresponding number of hours
15 worked at each hourly rate by the employee. The deductions made from payments of
16 wages shall be recorded in ink or other indelible form, properly dated, showing the
17 month, day, and year, and a copy of the statement or a record of the deductions shall
18 be kept on file by the employer for at least four years at the place of employment or at
19 a central location within the State of California.

20 96. The IWC Wage Orders also establish this requirement. *See e.g.*, IWC Wage Orders
21 4-2001(7)(B) and 5-2001(7)(B).

22 97. Labor Code § 226(e) provides:

23 An employee suffering injury as a result of a knowing and intentional failure by an
24 employer to comply with subdivision (a) is entitled to recover the greater of all actual
25 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
26 one hundred dollars (\$100) per employee for each violation in a subsequent pay
27 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) and is
28 entitled to an award of costs and reasonable attorney's fees.

98. Defendant does not provide timely, accurate itemized wage statements to Plaintiff
and putative Class members in accordance with Labor Code § 226(a) and the IWC Wage Orders.
The wage statements Defendant provides their employees, including Plaintiff and putative Class
members, do not accurately reflect all hours actually worked, actual gross wages earned and/or
actual net wages earned, including minimum wages and overtime, as a result of the Defendant's
failure to pay for time worked off-the-clock, and the resulting violations described herein. In
addition, the wage statements Defendant provides do not include premium pay for missed meal
periods, rest periods, and second meal periods.

99. Defendant is liable to Plaintiff and the putative Class members for the amounts
described above in addition to the civil penalties set forth below, with interest thereon.

Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs as set forth below, pursuant to Labor Code § 226(e).

100. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

SIXTH CAUSE OF ACTION

Waiting Time Penalties Pursuant to Labor Code §§ 201-203 (On Behalf of Plaintiff and the Putative Class Against Defendant)

101. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

102. Defendant does not provide putative Class members with their wages when due under California law after their employment with Defendant ends.

103. Cal. Lab. Code § 201 provides: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

104. Cal. Lab. Code § 202 provides:

If 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.

105. Cal. Lab. Code § 203 provides, in relevant part:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

106. Defendant owes them unpaid wages to putative Class members that left their employment with Defendant during the relevant period. These earned, but unpaid, wages derive from time spent working for the benefit of Defendants off-the-clock, working for the benefit of Defendant while being paid less than minimum wage, unpaid overtime premiums resulting from off-the-clock work during security checks, and unpaid meal and rest period premiums.

107. Wherefore, Plaintiff and putative Class members request relief as hereinafter provided.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

4

6

8

10

15

19

22

24

26

1 113. The violations of these laws and regulations, as well as of the fundamental California
2 public policies protecting wages, serve as unlawful predicate acts and practices for purposes of
3 Business and Professions Code §§ 17200 *et seq.*

4 114. The acts and practices described above constitute unfair, unlawful, and fraudulent
5 business practices, and unfair competition, within the meaning of Business and Professions Code
6 §§ 17200 *et seq.* Among other things, the acts and practices have taken from Plaintiff and the
7 putative Class wages rightfully earned by them, while enabling Defendant to gain an unfair
8 competitive advantage over law-abiding employers and competitors.

9 115. Business and Professions Code § 17203 provides that a court may make such orders
10 or judgments as may be necessary to prevent the use or employment by any person of any practice
11 which constitutes unfair competition.

12 116. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
13 and putative Class members have suffered a loss of money and property, in the form of unpaid
14 wages, which are due and payable.

15 117. Business and Professions Code § 17203 provides that the Court may restore to any
16 person in interest any money or property which may have been acquired by means of such unfair
17 competition. Plaintiff and putative Class members are entitled to restitution pursuant to Business
18 and Professions Code § 17203 for all wages and payments unlawfully withheld from employees
19 during the four-year period prior to the filing of this Complaint. Plaintiff's success in this action
20 will enforce important rights affecting the public interest and, in that regard, Plaintiff sues on behalf
21 of himself as well as others similarly situated. Plaintiff and putative Class members seek and are
22 entitled to unpaid wages, declaratory relief, and all other equitable remedies owing to them.

23 118. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.

24 119. There is a financial burden involved in pursuing this action, the action is seeking to
25 vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by
26 forcing her to pay attorneys' fees from any recovery thereof. Attorneys' fees are appropriate
27 pursuant to Code of Civil Procedure § 1021.5 and otherwise.

28

120. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

EIGHTH CAUSE OF ACTION

Penalties Pursuant to § 2699(a) and 2699(f) of the Private Attorneys General Act (On Behalf of the State of California)

121. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

122. Under the PAGA, an aggrieved employee may bring a representative action as a private attorney general to recover civil penalties for an employer's violations of the California Labor Code and IWC Wage Orders. These civil penalties are in addition to any other relief available under the California Labor Code, and must be allocated 75% to California's Labor and Workforce Development Agency ("LWDA") and 25% to aggrieved employees.

123. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

124. Plaintiff alleges that Defendant's failure to provide timely compensation due for all hours worked by Aggrieved Employees, including minimum wage and overtime, failure to provide timely and compliant meal and rest breaks to Aggrieved Employees (or premium wages in lieu thereof), failure to provide Aggrieved Employees accurate wage statements, failure to provide Aggrieved Employees full payment of wages upon separation - give rise to civil penalties pursuant to the PAGA.

125. Plaintiff alleges that Defendant violated the following provisions of the California Labor Code that are actionable through the PAGA: Cal. Lab. Code §§ 201-203, 204, 226, 226.3, 226.7, 256, 510, 512, 1182.12, 1197, 1197.1, 1198, and the applicable IWC Wage Orders.

126. Each of these violations entitles Plaintiff to recover the applicable civil penalties as a private attorney general, to be distributed to the State of California and Aggrieved Employees under the PAGA.

1 127. Plaintiff is entitled to civil penalties, to be paid by Defendant and allocated as PAGA
2 requires, pursuant to California Labor Code § 2699(a) for Defendant's violations of the California
3 Labor Code and IWC Wage Orders for which violations a civil penalty is already specifically
4 provided by law. Furthermore, Plaintiff is entitled to civil penalties, to be paid by Defendant and
5 allocated as PAGA requires, pursuant to California Labor Code § 2699(f) for Defendant's violations
6 of the California Labor Code and IWC Wage Orders for which violations a civil penalty is not
7 already specifically provided.

8 128. Labor Code § 2699(f) provides:

9 For all provisions of this code except those for which a civil penalty is specifically
10 provided, there is established a civil penalty for a violation of these provisions, as
11 follows: . . . (2) If, at the time of the alleged violation, the person employs one or more
12 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
employee per pay period for the initial violation and two hundred dollars (\$200) for
each aggrieved employee per pay period for each subsequent violation.

13 129. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA with
14 notice of his intention to file this claim on December 22, 2023. At least sixty-five calendar days
15 have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to
16 commence this civil action in compliance with § 2699.3(a).

17 130. Plaintiff seeks the aforementioned penalties, with interest thereon, and an award of
18 attorneys' fees and costs under the PAGA. *See* Labor Code § 2699(g)(1). Wherefore, Plaintiff
19 requests relief as hereinafter provided.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for relief as follows:

- 22 a. Damages and restitution according to proof at trial for all unpaid wages and other
23 injuries, as provided by the California Labor Code and California Business and
24 Professions Code;
- 25 b. For an equitable accounting to identify, locate, and restore to all current and former
26 employees the wages they are due, with interest thereon;
- 27 c. For an order awarding Plaintiff and putative Class members compensatory damages,
28 including lost wages, earnings, liquidated damages, and other employee benefits,

1 restitution, recovery of all money, actual damages, and all other sums of money owed
2 to Plaintiff and putative Class members, together with interest on these amounts,
3 according to proof;

- 4 d. For an order awarding the State of California and Aggrieved Employees civil
5 penalties provided under the PAGA;
6 e. For an award of reasonable attorneys' fees as provided by the California Labor Code,
7 including California Code of Civil Procedure § 1021.5 and/or other applicable law;
8 f. For all costs of suit;
9 g. For interest as provided by applicable law; and
10 h. For such other and further relief as this Court deems just and proper.

11
12 Dated: March 4, 2024

Respectfully submitted,

13 

14 Carolyn H. Cottrell
15 Esther L. Bylsma
16 Sandra Acosta Tello
17 SCHNEIDER WALLACE
18 COTTRELL KONECKY LLP

19 *Attorneys for Plaintiff*
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28